

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:

Myra A. Pish CSR  
Certificate No. 11613

Transcript of Proceedings  
February 22, 2017

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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

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

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

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

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

23 We also ask that you take a few minutes to register  
24 your attendance here. We have a couple of sign-in sheets over  
25 to the -- to my right. And just put your name and your

1 affiliation and that will just help us have an idea of who is  
2 attending the meeting. If there are any press in the room, I  
3 would ask that you would register under the press registration.

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

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

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

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

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

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

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

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

10 MS. COALE: Thank you, Candace.

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

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

21 It's essential that you understand what this Federal  
22 Milk Marketing Order will do. This is a provision that will  
23 impact the California Dairy Industry and we want to make  
24 certain that you understand it. During the course of today we  
25 will answer any questions that you have regarding those general

1 operations. We'll talk about the application and the actual  
2 administration, and then we'll conclude with our question and  
3 answer session.

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

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

21 Part 916 in the Code of Federal Regulations  
22 specifically sets forth the provisions on Ex Parte. Ex Parte  
23 are communication restrictions that apply to all USDA  
24 employees. And basically, this prevents us from having any  
25 off-the-record conversations. An off-the-record would be a

1 private conversation not in a public setting.

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

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

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

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

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

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

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



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

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

17 One additional item that was included in the  
18 Recommended Decision has to do with the Paperwork Reduction Act  
19 Information Collection. That's a mouthful. And basically, in  
20 very simplistic terms, this is a process of that we must go  
21 through with the Federal Government in order to create forms  
22 where we would be collecting information. The forms are the  
23 same that would be utilized in the other Federal Orders. This  
24 is a process that must be completed. The comment period on the  
25 Paperwork Reduction Act forms is April 17th. The rules that

1 apply to it are slightly different than the rules that apply in  
2 a Formal Rule Making Process, so there are two different  
3 comment periods. April 17th is the opportunity to submit  
4 comments on the forms. Again, the forms that we are seeking  
5 approval for would be the same forms that are used in the other  
6 Orders. We have to go through this process even though we  
7 don't know what the end result is, but we're required to do  
8 this so that we will be prepared to implement an Order if it is  
9 approved by producers in California.

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

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

1 information regarding this proceeding.

2 Again, the most important date for you is May 15th.

3 And if you want to provide comments on the Information  
4 Collection -- April 17th.

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

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

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

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

24 So I am the lucky one who gets to attempt to explain,  
25 orally, what was in the Final Decision, what are the Order

1 provisions that we have proposed. I do want to let you know  
2 that, first, this presentation will go up on our website  
3 probably next week. So you can refer back, you will be able to  
4 see these slides later. And if you have questions on any  
5 particular -- I'm sure you will -- slide, we do have slide  
6 numbers that you can write down so you can easily come back to  
7 the slide maybe where you had a question in the question and  
8 answer section.

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

22           Okay. So currently the Quota Program is producer  
23 funded. Currently how it works is, CDFA pools all the money in  
24 the market for the month, takes off the quota value off the top  
25 of that pool, and then determines that the overage price, and

1 pays that out to everyone, and then you get your quota price.

2 But the money that comes to pay the quota is producer funded.

3 How it would work in the Federal Order system is, quota  
4 would continue to remain producer funded. And CDFA, instead of  
5 taking an aggregate amount from the pool, or instead of a  
6 Federal Order taking the aggregate amount from the pool, CDFA  
7 would announce a per hundredweight deduction that would stay on  
8 all milk that CDFA determined was part of that Quota Program,  
9 and that would be used to fund the Program, to pay out your  
10 \$1.70.

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

23 Right now, this will -- as the Federal Order would  
24 operate, we enforce that minimum payment. And we tell the  
25 handler, we would tell the handler, you have to pay that

1 minimum price. This would allow that authorized deduction to  
2 come off of that minimum price. Okay? And so that money, CDFA  
3 would have to determine how to collect that money, the Federal  
4 Order would not collect that money. And CDFA would determine  
5 how that quota money would be disbursed to the quota holders.

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

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

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

1 to do that.

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

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

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

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

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

25 There is terms for a plant where a milk or milk

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

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

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

24 And we also have exempt plants, which are typically  
25 small plants that have minimal distribution in the marketing



1 area of no more than 150,000 pounds a month, or plants that are  
2 operated by a government agency or college or a university.  
3 They are exempt from the pricing and pooling regulations. They  
4 would be exempt from the pricing and pooling regulations of the  
5 Order.

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

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

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

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

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

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

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

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

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

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

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

25           Pricing. We're going to talk handler pricing and then

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

8 In the California Federal Order we proposed that the  
9 make allowances would be uniform with all Federal Orders -- and  
10 they are up on your screen -- \$0.2003 per pound for cheese,  
11 \$0.1715 per pound for butter, \$0.1678 per pound for nonfat dry  
12 milk, and \$0.1991 per pound for dry whey.

13 Commodity prices. The Federal Order system uses the  
14 Dairy Product Mandatory Reporting Program for prices that are  
15 going to get commodity prices used in the formula. It's a  
16 survey of plants producing cheddar cheese, butter, nonfat dry  
17 milk, and dry whey, and each of these four commodities have  
18 specific specifications in the program in order to be included  
19 in the survey. There is an exemption for plants producing and  
20 marketing less than one million pounds of product a year. In  
21 California, plants already participate in this survey. Those  
22 prices are collected on a weekly basis and they are announced  
23 in the National Dairy Product Sales Report, and it announces  
24 the current week and the previous four weeks, announces five  
25 week's quota of prices. And the link at the bottom, and this

1 will up on the web, will provide to a website, it goes to the  
2 Dairy Mandatory Reporting Program page where you can view price  
3 announcements. And this is an example of our announcement that  
4 went out in February 15th. This is just the first page, it  
5 shows the butter price. It shows the butter price here for  
6 January 14th up until February 11. And these are the prices  
7 that are used to come up with the monthly weighted average to  
8 go into our formats.

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

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

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

25 The Class III price considers three components: The

1 protein price, the other solids price, and the butterfat price.  
2 And the Class IV price has two components: The nonfat solids  
3 price and a butterfat price.

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

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

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

20 The map up there shows the differential structure  
21 throughout the United States. California Class I differentials  
22 range from anywhere from a \$1.60 to \$2.10. And differentials  
23 are based on plant location. So the differential applicable to  
24 the plant is based on where the plant is located, it is not  
25 based on where that plant has sales. So that is the

1 differential that would apply to a plant that would be fully  
2 regulated distributing plant in the California Order.

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

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

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

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

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

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

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

19           Under producer paycheck, I'll get into PPD again on  
20  another slide so we'll come back to that. Also on the  
21  producer's paycheck there would be an authorized quota  
22  deduction. This would be a line item on your milk check. It  
23  would say, for this month the authorized quota deduction  
24  determined by CDFA is \$1.00, and then it would show you the  
25  gross value then based on however many hundredweights of milk



1 your milk that was pooled during that month. If you are quota  
2 holder, it would not reflect payments that you received for  
3 quota, that's something that needs to be determined how to --  
4 that needs to be determined by CDFA, but it will show the  
5 authorized deduction. Okay?

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

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

23 Now, here's the important thing to remember. This  
24 occurs because of the way prices are announced. So Class I  
25 prices announced before the month; Class III prices are

1 announced after the month. If component values increase during  
2 the month, you could have Class III component values that you  
3 are actually paid out of be higher than what the Class I values  
4 that they were priced at before the month. So if component  
5 values increase during the month, it can result in a negative  
6 PPD, but, in essence, your component values are worth more. I  
7 think I'm going to have to show you a slide at the end to kind  
8 of explain that.

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

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

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

1 Program.

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

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

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

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

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

1 sales.

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

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

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

1           Okay. Plants not subject to a State Order with  
2           classified pricing in the marketwide pooling have two options  
3           for accounting to the pool. They are called .76(a) and .76(b).  
4           .76(a), they would pay the difference between the Federal Order  
5           Class I price and the applicable blend price. The difference  
6           would be paid into the Federal Order pool for the sales in the  
7           marketing area.

8           .76(b), which is referred to as a Wichita option,  
9           allows them to pay the difference in whatever the utilization  
10          value of the plant is in what they pay producers. So if they  
11          can show that they pay producers whatever the aggregate  
12          utilization is at their plant, all that value, then they would  
13          not have a payment into the pool. Okay? If they didn't pay  
14          the producers that amount, then they would pay the difference  
15          into the marketwide pool, which would then be shared by all  
16          producers through the blend price.

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

25          Then we have pool supply plants. These plants will

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

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

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

25 We also have provisions for Cooperative handlers. We

1 refer to them in the Federal Order system as 9(c) handlers.  
2 Cooperatives can be the pooling handler. Remember, the pooling  
3 handler has two accounts to the marketwide pool for minimum  
4 classified value and who pays their producers the minimum blend  
5 price.

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

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

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

22 So in the Federal Order system we can look at  
23 cooperatives under the Handler Act and the Producer Act. So  
24 under the Handler Act, if the coop services the nonpool plant,  
25 they can opt to be the handler on that milk and pool that milk,



1 and then they would pay minimum prices on that milk. But in  
2 their capacity as producers, once the Cooperative receives the  
3 draw from the pool, whatever milk they choose to pool that  
4 month, the Federal Order would consider the producer paid for  
5 their member milk, and that's why they can be pooled.

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

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

24 So we have pooling standards for producer. Producer  
25 has to qualify to be eligible to participate in the program and

1 the pooling standards for producers lay out what those  
2 standards are. It is: Producer must produce Grade A milk, it  
3 must be received at a pool plant, or diverted by a pool plant  
4 to nonpool plant, or received by a cooperative handler.

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

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

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

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

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

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

22 The California Order would also contain some repooling  
23 limits as in some other applicable Federal Orders. As we said,  
24 pooling is a monthly decision, it is not a yearly decision. It  
25 is a monthly decision made by the pooling handler. And the

1 pooling handlers are limited in the amount they can pool based  
2 on the previous month's decision to pool milk.

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

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

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

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

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

24           And I think the easiest -- the next one I put is an  
25 example, so this is for January. Okay? In January, advanced

1 prices were announced on or before December 23rd. January  
2 31st, a partial payment was due to producers for the first 15  
3 days of the milk production, and that had to be, in the Federal  
4 Order system, partial payments must be not less than the  
5 previous month's lowest class price. That's a partial payment.

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

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

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

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

25 In the Federal Order system, payments to Cooperatives

1 are due one day earlier so that the Cooperatives can pay the  
2 milk, pay the producers for the milk that they market.

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

5 Okay. That's actually all I have.

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

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

1 comments on that to look at the assumptions. The documentation  
2 on that Econometric Model is also posted on our website, and I  
3 would encourage you to take a look at that as well.

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

6 Now, we realize we have thrown a whole lot of  
7 information out there for you to process, and I am certain that  
8 there are many questions that you are processing in your mind,  
9 or attempting to process to figure out how you might pose  
10 those. What we will do at this time is, we will take a  
11 30-minute break to give you an opportunity to converse with  
12 your colleagues, make certain that you understand, or if you  
13 need clarification, you take an opportunity to write down those  
14 questions. Michael, Cliff, and Melissa will be walking around,  
15 please feel free to give those questions to them. And we will  
16 return in 30 minutes to reconvene and answer those questions.  
17 So I believe that should be around 10:45.

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

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

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

24 MS. COALE: We will go ahead and reconvene our public  
25 meeting. Again, we're here to explain the how's and the what's



1 of the Recommended Decision regarding a California Federal Milk  
2 Marketing Order.

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

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

23 I do want to go on the record and compliment Erin  
24 Taylor. I think she did a fantastic job being our professor  
25 this morning, explaining a Federal Milk Marketing Order. For

1 all of the producers in the room and processors who are not  
2 familiar with the Federal Order, she did a great job of giving  
3 you a 101.

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

8 (Applause.)

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

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

19 And this is a great question to start out with. Yes,  
20 they are considered interested parties. We are not able to  
21 have any conversations with CDFA. As Candace mentioned in her  
22 opening comments, they saw the Recommended Decision on  
23 February 14th when we issued it. So we are not able to have  
24 any off-the-record conversations with CDFA, that is why they  
25 are here today, just like the rest of you, attempting to gain a

1 better understanding of what it is that USDA has proposed in  
2 their Recommended Decision. They will be able to take this  
3 information back and use that for any further determinations  
4 that they need to make with regards to the Quota Program. So  
5 we did not have conversations with CDFA. While it may be  
6 easier if we did, it is not allowed under the regulations that  
7 govern this rule making process.

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

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

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

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

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

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

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

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

18 MS. COALE: Thank you, Erin.

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

23 MS. TAYLOR: So in Federal Orders classification, there  
24 is no different pricing for exports. So in the UHD example, if  
25 the UHD plant is located in the marketing area, and 25% of its

1 milk was packaged in Class I products, regardless of where it  
2 was sold, that milk would all be classified as Class I.

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

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

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

16 MS. TAYLOR: So, I'm not quite sure I understand that  
17 question, but I will try to answer it in that, as we have  
18 proposed, CDFA would operate the Quota Program. And so however  
19 they determine whatever amount of money they need to pay quota  
20 values -- and in the record, I think the record showed  
21 somewhere in the realm now of \$12 to \$13 million a month.  
22 Okay? So that was the case when a Federal Order was proposed.  
23 However they determine they, what they needed to collect on a  
24 per hundredweight basis from all eligible milk for their  
25 program, they would put that on kind of like a per

1 hundredweight deduction. That would be applicable to whatever  
2 milk the CDFA said could participate in Quota Program. Right  
3 now, as I understand it, that's only California produced milk  
4 can participate in the Quota Program. So, but whether that  
5 milk is pooled or not pooled, you know, that's up to CDFA to  
6 kind of determine back how they would get that money. We are  
7 just saying, the Federal Order would just allow a deduction on  
8 the milk check for pooled milk. Okay?

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

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

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

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

13 MS. COALE: Did you all understand that?

14 Bill, why don't you try again?

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

25 MS. COALE: So, I think their question, Bill, is

1 getting at if there is no State Order to compare that to.

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

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

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

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

17 The next question: Will California keep its current  
18 milk standards for fluid milk sold? California, solids nonfat,  
19 8.7%; Federal, 8.25%. California, milkfat, 3.5%; Federal,  
20 3.25%?

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

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



1 depooling could impact PPD's.

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

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

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

1 all of your producers would be receiving a similar price that  
2 you would normally receive because that milk still went to  
3 those plants that were be depooled, if you understand that.  
4 Okay?

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

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

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

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

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

1 here.

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

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

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

23 So, Erin, go to the --

24 MS. TAYLOR: Well, I do want to add in. Okay? So you  
25 have to remember, Class I milk has to be pooled. The Class I

1 milk is announced before the month at component prices  
2 reflected before the month, but your Class III price isn't  
3 announced until after the month. So you could have component  
4 values your Class I milk is paid on that are here -- low, for  
5 those who can't see where my hand is -- but during the month,  
6 those component values increase. Well, only the Class I milk  
7 has to pool, that's the only thing required. But in the end,  
8 all the milk that is pooled is paid on these components, okay?  
9 Up here.

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

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

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

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

25 MR. HUNTER: So normally your classes line up like

1 this, you know, Class I is the higher price, and then Class II,  
2 and then III and IV. But as Erin said, because of timing and  
3 the way we announce prices, they can get out of whack a little  
4 bit in the relationship. But normally what you have is an  
5 average price that's somewhere between, you know, your Class I  
6 prices and other classes there. And so in this case we have an  
7 average price, and then we pay out the Class III value and  
8 there's dollars left over. And in this case, there's a PPD of  
9 \$1.27. So you paid your Class III value, or your Class III  
10 components, there's still money left over, we take that dollar,  
11 divide it by the hundredweights in the pool, and that becomes  
12 your PPD. Okay?

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

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

24 So, generally, in that case, when you have a negative  
25 PPD like that, there's a -- it's an indication that milk prices

1 are going up because your component values are going up quick.  
2 Okay? So if you have a very large PPD, that's an indication  
3 probably that the milk prices are going down.

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

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

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

17 AUDIENCE MEMBER: To the PPD.

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

20 MR. WISE: Well, I guess clearly the more money in the  
21 pool, the higher -- given if the producer milk was constant,  
22 more money in the pool you are going to have a higher price.  
23 So if the highest value uses are taken out of the pools and  
24 those respective pounds are taken out of the pool, they are  
25 then dividing a dollar amount that is reduced by not having

1 that higher value use. It's also reduced by not having as many  
2 pounds of milk in there, so there's less total dollars in the  
3 pool. Whether that results in a less of an average PPD because  
4 there's less pounds in there, I don't know. It would be the  
5 relationship of what the prices are left in there.

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

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

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

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

17 That due date is May 15th, and those comments need to  
18 be submitted to [Californiainfo@ams.usda.gov](mailto:Californiainfo@ams.usda.gov). And as our  
19 attorney advised us, we will remind you that any of the  
20 comments that are submitted with regards to the Economic Impact  
21 Statement or comments on the Recommended Decision that are  
22 submitted to the [regulations.gov](http://regulations.gov) will all be filed with the  
23 Hearing Clerk and we will take care of that process.

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

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

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

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

22           What we will be doing once we receive input on our  
23          Recommended Decision, if there are changes that are made in any  
24          provisions contained within the Recommended Decision, we will  
25          go in and we will readjust our model to adopt what is proposed



1 in the Final Decision, and then we will issue a Final  
2 Regulatory Impact Analysis that will provide the basis of what  
3 the impacts of the Final Decision, the final recommended -- the  
4 final order that you will be voting on for California, what  
5 those impacts are to producers, both in California and in the  
6 other ten orders, as well as impacts to processors and  
7 consumers. And again, the Regulatory Impact Analysis is on the  
8 Dairy Programs website under the California section.

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

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

23 Are they paying at least that amount to their producers  
24 in total? If they are, there is no compensatory payment. If  
25 they are paying more, they will get a credit. If they are

1 paying less, the compensatory payment would be the difference.  
2 So the Wichita 76(b) looks at the plant in its entirety, just  
3 like we look at pool price.

4 MS. COALE: Along that line, how will USDA enforce  
5 76(b) rules for proving plant utilization?

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

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

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

19 But maybe -- we -- again, we're going to go in and  
20 audit the plant. Sometimes at pool time, you know, we have to  
21 go, we're in real time, so we go with best available  
22 information in real time, so as Erin had a slide up there about  
23 shrinkage and talked about how excess shrinkages is placed at  
24 the highest utilization of the plant. If at pool time they  
25 have excess shrinkage, we bill them accordingly. If we go in

1 there and audit and we find what the problem was, then they get  
2 their money back in an audit adjustment. So we're auditing  
3 plant's books and records to verify what their obligation, if  
4 any, is is accurate.

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

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

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

21 Order 131 says that -- sorry, Arizona. The Arizona  
22 Order says that if a producer milk is delivered to a plant that  
23 only has Class III or IV utilization, that milk cannot be  
24 pooled and it will not affect the rest of that producer's milk.  
25 If the plant has any Class I or II, and that milk is not

1 pooled, then the rest of the milk cannot be pooled. The idea  
2 being that a producer could have access to the higher value  
3 uses somewhere of Class I and II and they're not going to share  
4 that with the pool if they didn't get the blend prices from the  
5 rest of the milk, the Order won't permit that.

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

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

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

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

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

24 MR. WISE: The skim or fat Orders, producers are paid  
25 on skim and fat. And which is also components, if necessary,

1 all, in essence, all orders are component Orders, but I believe  
2 it's in five of the Orders are skim or butterfat, in the other  
3 Orders it's protein, butterfat, and other solids.

4 MS. COALE: Yes?

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

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

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

13 AUDIENCE: Yeah. Correct.

14 MS. COALE: What factors?

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

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

25 Now, in that program there's a section in the code book

1 that outlines the specifications for the certain -- for those  
2 products. For example, cheese is in 40-pound blocks, in  
3 500-pound barrels. There's packages specifications for nonfat  
4 dry milk. There is specific specifications for those four  
5 products, so it's not just any cheddar cheese, but it is a  
6 commodity wholesale prices that they report. And so it is  
7 those reported prices that are published weekly in the National  
8 Dairy Product Sales Report, and then those averages, monthly  
9 averages, four to five week averages are what feeds into our  
10 product price form.

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

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

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

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

22 MS. TAYLOR: So you have your commodity price, a make  
23 allowance, and then a yield factor. Generally, those are the  
24 three parts of that. And those -- and those prices reported to  
25 us are audited. It's a mandatory program. And those plants

1 are audited. So we do have auditors that go into those plants  
2 to audit their efforts and ensure that what they report to us  
3 is accurate.

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

12 So we take protein times 3.1, and other solids times  
13 5.9, and we come up to a value for the skim value. But they  
14 are basically, the skim Order, skim fat Order or the component  
15 Order, they are all derived from these same prices that we are  
16 talking about in values. Okay? They are all built from the  
17 base up based on these values.

18 MS. TAYLOR: I want to add one additional thing. So on  
19 the page where we have the reporting program, there is a  
20 website at the bottom of that in red. So if you go to that  
21 link, it lists -- it shows you where all the price  
22 announcement, you can see the current announcement, you can see  
23 historical, you know, all the announcements previously. And I  
24 just showed you the first page of the announcement. If you go  
25 through those it will list -- in the back pages it lists all

1 the price formulas in all the, you know, minute detail of what  
2 factors went into those. I attempted to give you very general  
3 outline of what's in those formulas. Okay? So I do know that  
4 they were simplistic, but for today's purposes we tried to just  
5 generally explain what are in those. All the details you can  
6 find, though, through those announcements and go through those  
7 pages.

8 MS. COALE: The website for your reference is  
9 [www.ams.usda.gov/rules-regulations/mmr/bmr](http://www.ams.usda.gov/rules-regulations/mmr/bmr). That information  
10 can be found there.

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

14 MR. WISE: The Section 10 which defines the  
15 producer-handler, it starts out as a producer-handler means a  
16 person who operates a dairy farm at a distributing plant, at  
17 their own sole risk and enterprise. So a person can be an  
18 individual, a partnership, a corporation, or some other  
19 business unit. So the Market Administrator, in terms of  
20 satisfying the Market Administrator, that the entire operation  
21 is under the sole risk and enterprise of the person, it really  
22 kind of starts with what person. If it is an individual, it  
23 might be a little bit easier to do than if it is another type  
24 of business unit. So it really depends on the type of business  
25 structure, the type of records. So it's really, there's no



1 timeline, per se. It's still the market share is satisfied  
2 based on all the information he or she can get, but a lot of it  
3 depends on the business structure of the producer.

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

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

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

20 MS. TAYLOR: No. So typically, you know, what goes in  
21 a Class I product is priced at Class I. Okay? So the  
22 fortification says, well, if you use powder condensed to price,  
23 to fortify your product, then you only have to pay Class IV.  
24 It is allocated to Class IV, that's what you pay for. But  
25 because you're fortifying, you either there's extra Class I

1 product that you are able to sell. Right? Your volume  
2 increases by some amount. So it is only on that difference,  
3 because you are selling extra units of Class I into the market  
4 that you have to pay the Class I price on.

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

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

20 So in this case, the powder used to fortify Class I is  
21 a Class IV use, up to the part where you have the volume  
22 increase in I. So if you think about it, the plant is  
23 reporting to us, okay, we used ten pounds to fortify Class I,  
24 if you bought that much milk. So your Class IV utilization has  
25 that powder but that's not producer milk, that's another

1 receipt, so we subtract that out, so it's a wash. It's a  
2 utilization handler receipt. So the only thing you are being  
3 charged for is the Class I volume increase.

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

7 MS. COALE: Does that help?

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

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

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

1 question as asked.

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

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

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

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

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

21 Since CDFA is considered an interested party, just as  
22 everyone else in the room, they will have until May 15th to  
23 submit comments on how they anticipate the Quota Program to be  
24 working. And if there are issues related to that, they would  
25 have to make certain that they are submitted and part of the

1 record. USDA will not wait for CDFA to make their  
2 determinations. We will have to move forward and we would move  
3 forward based on the assumptions and the expectations that are  
4 contained in the Final Decision as to how CDFA would operate  
5 their state program.

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

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

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

23 USDA has provided a 90-day comment period on this  
24 Recommended Decision. Typically, Recommended Decisions have a  
25 60-day comment period. Due to the significance of this

1 decision, we have already granted 90 days. If the industry  
2 determines that there is a significant basis and a reason for  
3 extending the comment period, the industry, any interested  
4 party can submit a request to USDA asking for an extension.  
5 They can ask for that extension for any number of days that  
6 they believe is necessary, but do need to provide some kind of  
7 basis for which to request that extension. At that time, USDA  
8 will make a determination as to whether or not the extension  
9 will be granted. As of now, the comment deadline is May 15th.

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

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

17 MS. TAYLOR: I'll attempt an answer.

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

1 definition, which means it is allowed to be pooled.

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

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

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

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

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

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

19 MS. TAYLOR: No. And I would assume that if this  
20 Federal Order was voted in, you know, we would -- that's kind  
21 of one of those things we would have to work out  
22 administratively. But we would just ensure that the minimum  
23 blend price is paid by the handler to the producer. Whether  
24 the handler, in that same check, pays the quota value to that  
25 producer, that's fine. We're not going to -- we wouldn't

1 require that to be segregated into a different check. But on a  
2 producer payroll check it would need to show the minimum blend  
3 price has been paid.

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

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

10 MS. COALE: Please review the process of meeting the  
11 10% shipping standard.

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

22 AUDIENCE MEMBER: That's why I said that.

23 MS. TAYLOR: I think somewhere -- so they have to ship  
24 it to distributing plants, fully-regulated distributing plants  
25 or partially-regulated distributing plants. I think the Order



1 language also allows them to ship to a producer-handler. But  
2 remember, the producer-handler can only purchase so much  
3 outside milk. I was trying to simplify things. But generally  
4 it would have to ship 10% to either a fully-regulated  
5 distributing plant or a partially-regulated plant.

6 Does that clarify it?

7 MS. COALE: Okay. Another fortification question.

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

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

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

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

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

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

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

23           And that money, then, would be somehow collected and  
24 disbursed to quota members. But how that would operate, you  
25 know, that's something that CDFA would have to say that this is

1 a path they chose. And clearly, we would need to work together  
2 with them and have working relationships onto what milk was  
3 pooled or not pooled, and what milk, then the assessment would  
4 come off of, etcetera. And that's kind of more in  
5 administrative fashion, figuring out how that would all work  
6 together.

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

9 MS. TAYLOR: So I'm not --

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

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

19 AUDIENCE MEMBER: Would come off the minimum price.

20 MS. TAYLOR: Would come off the minimum price.

21 So for nonpool milk, a handler, I would think, you  
22 know, a handler would have some, if this is a supply plant,  
23 pool milk or nonpooled milk, I mean, that would kind of -- it  
24 is complicated, but it would all kind of get -- you would have  
25 to work that part out. We are just saying when it came to

1 pooled milk, we would authorize that deduction to come away  
2 from the minimum blend price.

3 Did I beat that dead horse?

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

7 MS. TAYLOR: Yeah.

8 MS. COALE: I think you answered that.

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

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

15 So we're going to be announcing the price in the way it  
16 is proposed, at the L.A. zone, which is \$2.10, and that's the  
17 highest price zone in the market. And so if you shipped your  
18 milk to, say, you know, an area here in the valley, it is  
19 \$1.60, so it is \$.50 less. Right? And so what happens, since  
20 those dollars, are the producer that ships to the valley, his  
21 price is going to be \$.50 less. Those dollars are not paid to  
22 him, so they are added back into the pool. And in effect, it  
23 raises the PPD. You just redistribute across the whole group.

24 MR. WISE: It is paid back into the pool. Because  
25 again, remember that a handler's cost of milk is always the

1 class prices. The handler always owes the producers the  
2 producer price. And if the class value is greater than the  
3 producer price, the handler pays into the fund. If it is less,  
4 it draws out.

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

9 MS. COALE: Is that clear?

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

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

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

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

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

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

20 Again, it's only those votes cast that determine the  
21 approval. So if there are approximately 1400 producers who are  
22 determined to be eligible to participate in the vote, and only  
23 500 of them elect to vote, then that 500 will be the basis for  
24 which we'll look to determine if 2/3 of the producers have  
25 approved it, or if 2/3 of the volume of milk voting in the

1 referendum has approved it.

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

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

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

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

18 The first question is: On January 30th, 2017,  
19 President Trump signed an Executive Order on reducing  
20 regulation and controlling the Regulatory Cost, AKA, the  
21 2-for-1 Order. What impact, if any, does this Executive Order  
22 have on this proceeding? And if the answer is we don't know,  
23 will you inform the industry when you do know?

24 So, yes, it is true that President Trump did issue this  
25 Executive Order. At this particular point in time, we are

1 awaiting further guidance and clarification as to how that  
2 Executive Order is to be implemented and carried forward. Once  
3 we know that, we will provide information out, if it is  
4 possible for us to do so.

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

8 And I believe this, again, is referring back to the  
9 2-for-1 regulatory Executive Order that was issued. And,  
10 again, we're still waiting further clarification for that.

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

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

25 If the producers are nonmembers, then we verify that



1 each nonmember received at least the minimum Order value for  
2 their milk.

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

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

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

24 MS. TAYLOR: So I attempted to answer that generally.  
25 But, specifically, yes. This has to do with your location

1 pricing. So Los Angeles is in the \$2.10 zone and the blended  
2 price is supposed to be amounts in the \$2.10 zone. Okay?

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

9 The producer who delivered to a plant in Tulare County  
10 and that milk was pooled, would get the announced price at the  
11 \$1.60 zone, so it would be \$.50 less for that milk. Okay?

12 I think I answered that specific example.

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

17 MS. TAYLOR: Yes.

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

21 MS. TAYLOR: No.

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

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

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

7 MS. TAYLOR: No.

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

14 MS. TAYLOR: Four. In the first month they could pool  
15 62.5%; in the second month they could pool 78.13%; in the third  
16 month they could pool 97.65%; and then in the fourth month they  
17 could pool it all again.

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

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

25 AUDIENCE MEMBER: 10 million pounds.

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

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

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

7 MS. COALE: Were all the pooling questions answered?

8 MS. TAYLOR: Yes.

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

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

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

25 MS. COALE: Hopefully you will be able to take the

1 information we provided today and the information in this  
2 decision and pull up the California State Order payment  
3 provisions and make that comparison.

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

7 MS. TAYLOR: I think we have answered that.

8 MS. COALE: Is that answer sufficient? Okay.

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

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

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

25 If the question is getting at how is the actual Federal

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

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

25 MR. HUNTER: We put this together, so as an example of

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

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

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

25           True protein is approximately about .19 lower than a

1 total nitrogen test. So the nonprotein nitrogen is about .19  
2 of your test. So just keep that in mind, okay?

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

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

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

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

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

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



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

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

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

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

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

14 AUDIENCE MEMBER: Thank you.

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

21 AUDIENCE MEMBER: Yeah. Just for Mr. Hunter. When  
22 you -- the question was about standard, and the answer was 3.1  
23 true protein; 5.9 other solids; 9%. Is that 9% of the 100 or  
24 9% of the remaining, after you take the butterfat out of the  
25 skim?

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

3 MR. HUNTER: You repeat it.

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

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

8 MS. COALE: What does the 9% represent?

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

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

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

15 MS. COALE: Yes? No?

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

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

21 AUDIENCE MEMBER: If I could give context.

22 MS. COALE: The context of?

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

25 MS. COALE: They are looking at the Payment to

1 Producers Cooperatives Pricing Slide.

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

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

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

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

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

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

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

25 So the producer's going to receive a payment for

1 whatever his test was, okay? So we're talking about two  
2 different things.

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

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

10 MS. COALE: California standard is 3.587 --

11 AUDIENCE MEMBER: Butterfat, yeah.

12 MS. COALE: Off of a hundred pounds.

13 AUDIENCE MEMBER: Correct.

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

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

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

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

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

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

24 MS. COALE: 8.7 pounds of SNF.

25 AUDIENCE MEMBER: Yeah. So my question, which Cary

1 answered, was, what is the standard in the announced, in the  
2 standard price of a hundred pounds, right?

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

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

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

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

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

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

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

19 AUDIENCE MEMBER: Correct or not?

20 MR. HUNTER: No, but you are close.

21 So the 3.1 and 5.9 is what we use. That's the standard  
22 pricing that we use to come up with the skim value. Okay? So  
23 if you are going to add fat back into that equation, all  
24 right -- at 3.5%, then if you are looking for a similar number  
25 to that 8.7, it would be 96.5% of 9, because we have 9% skim,

1 that's our standard factor, which comes out to 8.685, which is  
2 very similar to your 8.7. That's clear as mud I'm sure.

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

5 AUDIENCE MEMBER: I'll get there.

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

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

10 MS. COALE: The 8.67 at farm is --

11 AUDIENCE MEMBER: At 5.7 or whatever --

12 MS. COALE: 2.9% protein and 5.7 other solids. Okay.  
13 Are we good? Mud.

14 Is there any other clarification you can provide, Cary?

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

25 MS. COALE: Okay. Thank you, Mr. Hunter. Thank you

1 for the follow up questions. Hopefully it will become clearer  
2 as we have an opportunity to read this transcript.

3 Okay. Moving along to the next question.

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

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

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

14 MS. TAYLOR: Yes.

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

19 MS. TAYLOR: So I think that's combining two different  
20 things. We're talking about a one-day touch base and a 10%  
21 shipping standard. Okay? The 10% standard applies to a supply  
22 plant -- applies to the plant. If the plant wants to pool its  
23 milk, it has to ship 10% of its milk to a distributing plant.  
24 The one-day touch base standard applies to a producer milk. In  
25 order for the milk of a producer to be pooled and have its milk

1 that might be diverted to a nonpool plant remain pooled and  
2 priced in the Order, the producer has to ship one-day's --  
3 one-day's milk production to a pool plant. So those are two  
4 different standards. The 10% applies to a supply plant. The  
5 one-day touch base applies to producer milk. So the producer's  
6 milk needs to go to a pool plant, at least one-day's milk  
7 production during the month.

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

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

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

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



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

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

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

7 MS. COALE: Answer?

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

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

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

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

21 Then we at USDA would undertake a series of producer  
22 meetings and processor meetings to ensure that everybody  
23 understands what the Federal Order is that has been put forward  
24 in the Final Decision. And once we completed those  
25 informational meetings, we would then proceed with a vote. And

1 based on the determination of the vote, we would determine if  
2 the Order were to be approved, again by 2/3 of the producers  
3 voting in the referendum or producers representing 2/3 of the  
4 volume of milk voting in the referendum, we would then work to  
5 establish an effective date for that Order.

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

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

1 forward. So with that, I hope you all have a great day and  
2 thanks for being with us.

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

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1 STATE OF CALIFORNIA )  
 ) ss.  
2 COUNTY OF FRESNO )

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

8

9 DATED: March 3, 2017

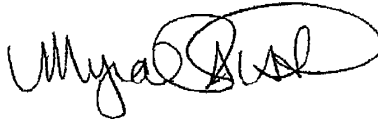
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Transcript of Proceedings  
February 22, 2017

<hr/> <b>\$</b> <hr/>	<b>10</b> 64:14 83:25	<b>2-for-1</b> 79:21 80:9	<hr/> <b>5</b> <hr/>
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