

**CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE
STOP QIP CHAPTER 3.5 PETITION PUBLIC HEARING
HEARING PROCEDURES**

On May 8, 2020, the California Department of Food and Agriculture published formal notice calling a public hearing to consider the immediate suspension of Chapter 3.5 of the Food and Agricultural Code (sections 62750 *et seq*). The hearing is called in response to a verified Petition submitted by the STOP QIP Tax Coalition (Petitioners) on January 29, 2020.

This notice expands and clarifies the hearing procedures provided in the May 8, 2020 Notice as deemed necessary and appropriate for this matter.

Call of the Hearing

The call of the hearing is dictated by the STOP QIP Petition as follows, "Immediately suspend() California Food and Agriculture Code §§ 62750 to 62757 ("Chapter 3.5"). Suspension of Chapter 3.5 would be subject to the language of §§ 62751 and 62756 that provide for continuation of § 62756 if Chapter 3.5 is suspended. Suspension of Chapter 3.5 would also terminate the Quota Implementation Plan, also known as the Quota Administration Program. Any pooling plan adopted subsequent to suspension of Chapter 3.5 would not be subject to the \$0.195 pounds per solid fixed differential between quota and non-quota prices."

The Department seeks stakeholder and public comment on whether a producer referendum should be conducted pursuant to Chapter 3.5, specifically Food and Agricultural Code sections 62753-62755.

Hearing Dates, Place and Time

June 9, 2020 9:00 am – 4:00 pm
June 10, 2020 9:00 am – 12:00 pm (Subject to change based on the number of commenters)

The hearing will be conducted via webinar by the Office of Administrative Hearings (OAH) using Microsoft Teams Meeting. For detailed instructions on the Teams videoconference system, see the OAH Order Setting Remote Public Hearing. Attachment I.

Hearing Officer

An administrative law judge shall preside over the hearing as Hearing Officer. The Hearing Officer will administer an oath to each commenter, receive evidence into the record, and may question witnesses.

Questioning of Commenters

In addition to the Hearing Officer, a representative of the Attorney General's Office (AGO) will have the opportunity to question commenters on behalf of the Secretary. No other questioning of commenters will be allowed.

Department Exhibits

Department exhibits and proposals, if any, shall be entered into evidence by the Quota Administration Program Custodian of Records. This material shall be limited to explanatory and statistical material relevant to the Petition. Exhibits which the Department anticipates introducing at the hearing shall be available on the Department's website not less than seven (7) calendar days prior to the hearing.

Testimony by Petitioners

Petitioners shall provide testimony immediately after the Department has introduced its evidence into the record. Petitioners shall explain the purpose and intent of the Petition and shall provide written comments and supporting documents to the Department at least seven (7) calendar days in advance of the public hearing.

All submissions shall be available on the Department's website five (5) calendar days prior to the hearing.

Petitioners shall be allowed up to one (1) hour for testimony. Petitioner may not call witnesses.

Testimony by Dairy Producer Organizations

Any organization representing dairy producers may pre-register to testify at the hearing. Pre-registration requires notification to the Department including identification of the organization, its representative speaker, and submission of all supporting documents at least seven (7) calendar days in advance of the public hearing. A list of pre-registered organization shall be posted on the Department's website five (5) calendar days prior to the hearing.

Pre-registered organizations will receive thirty (30) minutes to present testimony and will immediately follow Petitioners testimony. Organizations may not call witnesses.

Organizations that do not pre-register will receive five (5) minutes to testify and be called in order of the queue.

Individual Testimony

Individual commenters shall be allowed up to five (5) minutes to testify. Commenters may supplement oral testimony by submitting a written statement any time prior to the conclusion of the public hearing. Commenters are encouraged to submit written testimony and evidence prior to the hearing. All written statements and evidence will be posted on the Department's website. Commenters may not call witnesses.

Questioning of Witnesses

At the conclusion of their testimony, commenters will be subject to questioning by the Hearing Officer and the representative of the Attorney General's Office on the Secretary's behalf.

The Department will not provide witnesses for questioning by the Hearing Officer, Petitioners, or public participants.

Written Statements

Any interested person may file a written statement concerning the call of the hearing. Written statements may be of any length but limited to relevant matters and must be signed by the author. Written statements will be available for review on the Department's website.

Written statements may be delivered or emailed any time up to the conclusion of the hearing. Written statements should be addressed to:

California Department of Food and Agriculture
Legal Office
1220 N Street, Suite 315
Sacramento, California 95814
CDFA.LegalOffice@cdfa.ca.gov

Post Hearing Briefs

Any individual or organization representative who has testified under oath may request permission to submit a written post hearing comments or evidence in amplification, explanation, or withdrawal of their testimony. The Hearing Officer will grant or deny the request at the time of the request.

Any post hearing submission granted by the Hearing Officer shall be provided to the Hearing Officer by the Department for consideration in this matter.

All such post hearing submissions shall be made available on the Department's website.

Hearing Transcripts

The hearing shall be recorded by a court reporter and audio recording. The Department shall maintain and make available for public inspection a hearing transcript at its Legal Office at the address provided above. Written copies of the transcript may be obtained from the Department Legal Office at no charge.

Reference Materials

All documents referenced in this document may be found on the Department's website at: https://www.cdfa.ca.gov/dairy/dairy_hearings_matrix.html

**BEFORE THE
DEPARTMENT OF FOOD AND AGRICULTURE
STATE OF CALIFORNIA**

**In the Matter of the Public Hearing to Suspend Chapter 3.5
of the Food and Agricultural Code**

OAH No. 2020020788

ORDER SETTING REMOTE PUBLIC HEARING

This matter is set for public hearing on **June 9 and 10, 2020, at 9:00 a.m.** The California Department of Food and Agriculture (CDFA) is represented by Matthew Goldman, Deputy Attorney General. Petitioners are represented by Chip English, Attorney at Law.

Because of the ongoing public health crisis, proceedings will be conducted by video and telephone conference, rather than in person. All parties, witnesses, counsel, the court reporter, and the public shall appear by videoconference or by telephone.

VIDEO/TELECONFERENCE USING MICROSOFT TEAMS

Proceedings will occur using the Microsoft TEAMS videoconferencing system, which is available as an App or free downloadable software. The web address from which the software can be downloaded is: <https://www.microsoft.com/en-us/microsoft-365/microsoft-teams/download-app>. Prior to hearing, OAH will email counsel for each party and the court reporter, a TEAMS electronic meeting invitation. The TEAMS invitation will include information needed to either join the meeting by video link or by telephone. Each party is responsible to: (1) forward the email Link to

all witnesses and other participants who will appear by video, (2) forward the telephone number and conference I.D. to participants who will appear by telephone, and (3) ensure each participant is instructed on when and how to access the meeting via video or telephone.

To join the meeting by videoconference: At least 15 minutes prior to hearing, open the TEAMS email invitation, click the link "**Join Microsoft Teams Meeting**" and follow instructions to either download the TEAMS app or join via your web browser.

To join the meeting by telephone: Call **(916) 245-8850**, and when prompted, enter **Conference ID: 923 784 401 #**

TIPS: You should familiarize yourself with the mute and video/camera buttons prior to hearing. Minimize distractions including noises, pets, music or televisions. Light in front of you makes it easier for others to see you. Try to avoid windows or bright lights behind you.

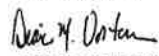
FILING OF EXHIBITS/REFERENCE MATERIALS

Prior to the hearing, the parties shall exchange all exhibits/reference materials that may be offered into the record and ensure that the Administrative Law Judge (ALJ) has copies. **Exhibits/reference materials shall be pre-marked in the bottom right hand corner and the pages within each Exhibit shall be numbered so that they are easily identified over videoconference or the telephone.** CDCF shall use numbers (1, 2, 3, etc.) to identify their exhibits; petitioners shall use letters (A, B, C, etc.) to identify their exhibits. At least seven (7) days prior to the public hearing (by **Monday, June 2, 2020, at 5:00 p.m.**), the parties shall file their pre-marked exhibits/reference materials with OAH, via the OAH Secure e-File at www.applications.dgs.ca.gov/oah/oahsftweb. Pursuant to the CDFA's hearing

procedures, "all submissions shall be available on the CDFA's website five (5) calendar days prior to the public hearing."

COURT REPORTER: A court reporter will record proceedings remotely via telephone. To facilitate such reporting, each participant on the call shall identify themselves before speaking and shall avoid interrupting other participants.

DATE: May 15, 2020

DocuSigned by:

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DIAN M. VORTERS

Presiding Administrative Law Judge

Office of Administrative Hearings

