

Petition to Terminate the QIP



Secretary Ross,

We, the undersigned submit the following petition in support of immediately suspending 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 (“QAP”). 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.

Factual Justification for Suspension of Chapter 3.5 and Termination of QAP:

The QAP, established purportedly pursuant to Chapter 3.5, implements a fixed differential quota adjuster of \$0.195 per pound. This fixed differential quota assessment carried out through the QAP burdens California dairies and hurts both dairy families and the entire California dairy industry. All Grade A shippers are currently paying \$433,000 a day because of the QAP assessment. The costs exceeds the benefit for most dairy producers in California. We no longer wish to pay a small group of quota holders over \$12 million per month. Suspension of Chapter 3.5 would result in an end to this quota assessment, unless and until a new pooling plan were adopted under Chapter 3.

Legal Justification for Suspension of Chapter 3.5 and the Resulting Termination of QAP:

The California legislature authorized the establishment of a pooling plan in California Food and Agriculture Code §§62700 to 62731 (“Chapter 3”). The purpose of a pooling plan created under Chapter 3 is to “develop and maintain satisfactory marketing conditions and bring about and maintain a reasonable amount of stability and prosperity in the production of fluid milk and fluid cream...” Cal. Food & Agric. Code §62702. The legislature created pool quota as part of the pooling plan.

Chapter 3 includes a provision directly addressing the potential adoption of a Federal Milk Marketing Order, stating that “the provisions of this chapter, or any part thereof which is in conflict with such federal order, or which is unnecessary or is a duplication thereof, shall be suspended in the geographical area covered by and during the existence of such federal order.” Cal. Food & Agric. Code § 62726.

The California legislature passed Chapter 3.5 to modify the original method of calculating the quota payment under Chapter 3, instead establishing the fixed differential. Chapter 3.5 also includes a provision addressing the potential adoption of a federal order.

Such a federal order was proposed and California dairy farmers voted to adopt the order. Prior to its implementation, CDFA developed and proposed a stand-alone quota program. The proposed independent quota program was certified on January 5, 2018, and is now called the QAP. Subsequently, on November 1, 2018, the California Federal Milk Marketing Order “FMMO” went into effect.

The California legislature developed quota as part of the California state regulatory program. An underlying theory supporting quota creation was that without quota, there would be insufficient supplies of milk for fluid uses. Today there is more than a sufficient supply of milk for fluid use. Moreover, fluid milk consumption is decreasing. The CA FMMO does not include quota, but permits California to retain quota if the dairy farmers and California so choose. However, there is no need for quota today and quota is not necessary for the continued regulation of minimum milk prices and pooling under the CA FMMO.

A stand-alone quota program cannot effectuate this purpose. It has no ability or mechanism to support or generate a supply of fluid milk outside of a state pooling plan, and Chapter 3 never contemplated a quota program that operates independent of the pooling plan. The historical context of the adoption of Chapters 3 and 3.5 only further emphasize this point. Chapter 3 requires immediate suspension of aspects of the code that do not further the purposes of the legislation; Chapter 3.5 can no longer further the purposes of the original legislation. Thus, Chapter 3.5 must be suspended immediately.

Thus, there is no need for Chapter 3.5 and suspension of Chapter 3.5 will result in the QAP being terminated.

Dairy Name

Dairy Physical Address (no PO boxes)

Phone Number

Email Address

Owner/Producer Name*

Pool Producer Number *State-Issued Number*

Average Monthly Milk Volume

Signature* _____ Date _____

*The listed owner and signer of the petition must be the owner of the record as reported to the CDFA and the QIP program.

**Sign and return to: PO Box 1431, Bakersfield, CA 93302 or scan and email to
info@stopqipdairytax.com**