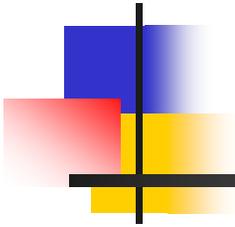
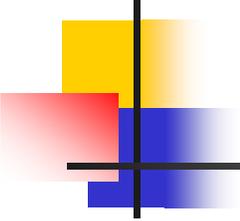


Recap of Action Items and Information Requests from the May 30, 2017 Meeting



Producer Review Board Meeting
California Department of Food and Agriculture

Modesto, CA
June 15, 2017



Topics

Department Comments

Milk Subject To Assessment

How The Quota Payment Will Be Calculated

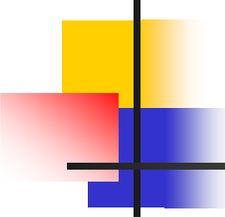
Producer-Handler Exempt Quota

Data Collection

Revenue Distribution

Funding To Operate A Stand-Alone Quota Program

Other Quota Issues



Department Comments

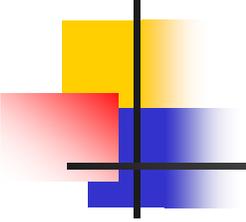
Trailer Bill Language / Authority

New Section 62757:

(a) If a federal milk marketing order is established in California, the secretary is authorized to establish a stand-alone quota program, the details of which shall be included in the pooling plans. The stand-alone quota program may be funded by an assessment on milk produced in this state.

(b) The secretary may require handlers, including cooperative associations acting as handlers, to make reports necessary for the operation of the stand-alone quota program.

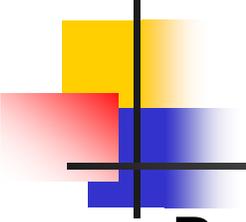
(c) The stand-alone quota program shall be pursuant to a recommendation by the review board established pursuant to Section 62719 and approved by a statewide referendum of producers pursuant to Sections 62716 and 62717.



Department Comments

Process to create and implement a Stand-Alone Quota Program

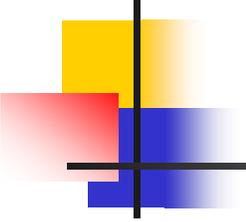
- ❖ PRB creates framework of Stand-Alone Quota Program
- ❖ CDFA staff drafts language based on framework from PRB
- ❖ Draft language presented to PRB for formal adoption
- ❖ Recommendation submitted to Secretary
- ❖ CDFA Producer Referendum (Anticipated Fall 2017)
- ❖ Implementation of new Program and Suspension of Current Program if CA FMMO is adopted.



Department Comments

Producer Referendum Details and Criteria

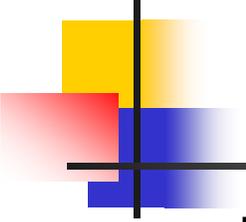
- ❖ Referendum Details are outlined in FAC Sections 62716 and 62717
 - ❖ No block voting allowed; only individual votes shall be cast
 - ❖ Not less than 51 percent of eligible producers in the state must vote
 - ❖ Referendum is approved if:
 - ❖ (1) 65 percent or more of total producers producing 51 percent or more of milk, or
 - ❖ (2) 51 percent or more of total producers producing 65 percent or more of milk



Department Comments

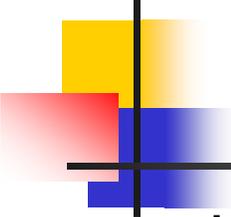
Milk Producers Security Trust Fund

- ❖ Separate Board established under Chapter 2.5, FAC Sections 62540 – 62543.
- ❖ PRB lacks authority to handle Trust Fund issues
- ❖ Review of Milk Producers Security Trust Fund will include a stakeholder process that will occur after PRB completes work on the Stand-Alone Quota Program



Milk Subject to Assessment

- ❖ Motion: To assess all Grade A and Grade B milk produced in the state of California in order to generate funds for the quota payout.
 - ❖ Motion passed 9 to 4.
- ❖ Data and information requests
 - ❖ In April 2017, 43 facilities produced Grade B milk
 - ❖ 15 of the 43 facilities have never produced Grade A milk
 - ❖ These 15 facilities produced 3,095,156 pounds of milk
 - ❖ 28 of the 43 facilities produced Grade A milk at some point
 - ❖ These 28 facilities produced 85,913,126 pounds of milk



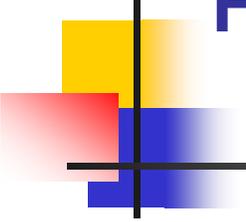
Milk Subject to Assessment

Legal Considerations

- ❖ Assessment of Grade B milk
 - ❖ Vulnerable to legal challenge because it results in the imposition of a tax upon producers in the absence of a direct benefit as required by the California Constitution.

- ❖ Assessment of Grade A milk shipped out-of-state for processing
 - ❖ Likely violates Commerce Clause
 - ❖ Same imposition of tax concern as above
 - ❖ Will require contract conditions between producer and handler

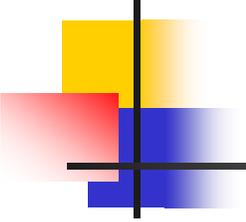
- ❖ Assessment of Grade A milk shipped in from out-of-state
 - ❖ Likely violates Commerce Clause
 - ❖ Will require full participation in the quota program



How the Quota Payment will be Calculated

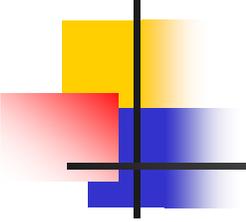
- ❖ Motion: The existing fixed spread of \$0.195/pound of solids-not-fat (\$1.70/cwt equivalent) and the current Regional Quota Adjusters remain the same under a stand-alone quota program.
 - ❖ Motion passed 10 to 3.

- ❖ Data and information requests
 - ❖ Previously released data and analysis
 - ❖ Milk movement incentives document – RQA's and location differentials; transportation allowances and credits; and location differentials of a potential CA Federal Order



Producer-Handler Exempt Quota

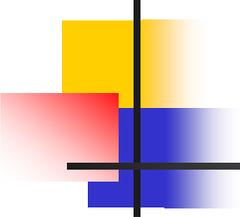
- ❖ Motion: Exempt quota should receive the same payout as producer quota and be funded through assessments on the same grouping of milk (Grade A and Grade B) that would fund producer quota.
 - ❖ Motion tabled 11 to 2.
- ❖ Data and information requests
 - ❖ Calculation of the historical producer-handler benefit: difference between pool obligation priced at the Class 1 price and a pool payout at the quota price.
 - ❖ Estimated assessment rate to fund different levels of exempt quota payouts under a Stand-Alone Quota Program.



Producer-Handler Exempt Quota

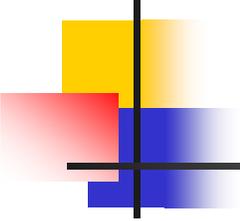
Legal Considerations

- ❖ Section 62708.5 (producer-handler language) is found in Chapter 3, which may be subject to suspension pursuant to the creation of a Federal Milk Marketing Order.
- ❖ Suspension applies to provisions that are found to be:
 - ❖ In Conflict with the Federal Order, or
 - ❖ Unnecessary due to the Federal Order, or
 - ❖ Duplicative of the Federal Order



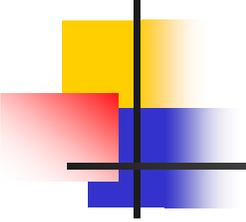
Data Collection

- ❖ Motion: CDFA obtains the necessary information from the CA dairy industry by requiring entities to report directly to CDFA with just the specific information required to run a stand-alone quota program.
 - ❖ Motion passes 13 to 0.



Revenue Distribution

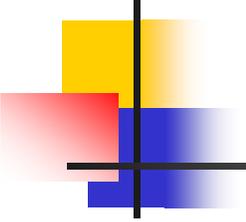
- ❖ Motion: CDFA will use a quota settlement pool (similar to the current settlement fund) and require handlers to help manage the quota payout monies.
 - ❖ Motion passes 13 to 0.



Funding To Operate a Stand-Alone Quota Program

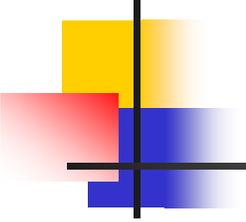
- ❖ Motion: Use the current Milk Pooling authority and assessment rate as the basis for establishing the assessment provisions to operate the stand-alone quota program.
 - ❖ Motion passes 13 to 0.

- ❖ Data and information requests
 - ❖ The current assessment rate and authority to operate the Milk Pooling Branch are as follows:



Funding To Operate a Stand-Alone Quota Program

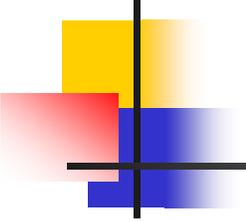
- ❖ The CA Food & Ag Code (Section 62718) allows the Milk Pooling Branch to collect an assessment up to 2.0 cents/cwt to operate the program.
- ❖ The current Milk Pooling assessment is 1.2 cents/cwt.
- ❖ It is anticipated the governmental cost to operate a stand-alone quota program would be approximately \$800,000 - \$900,000 per year.
- ❖ This would equal an assessment of approximately 0.2 cents/cwt to 0.3 cents/cwt.



Funding To Operate a Stand-Alone Quota Program

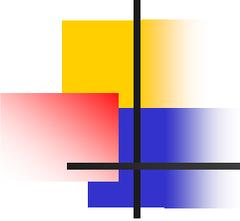
Legal Considerations

- ❖ Section 62718 (assessment language) is found in Chapter 3, which may be subject to suspension pursuant to the creation of a Federal Milk Marketing Order.
- ❖ Suspension applies to provisions that are found to be:
 - ❖ In Conflict with the Federal Order, or
 - ❖ Unnecessary due to the Federal Order, or
 - ❖ Duplicative of the Federal Order



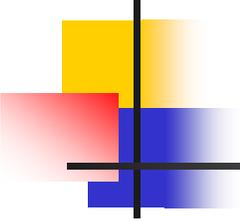
Other Quota Issues

- ❖ The current provisions of the CA Food & Ag Code and the Pool Plan provide requirements for the ownership of quota and the eligibility to receive a quota payout from the pool. Since a stand-alone quota program will differ from the current Pooling program, criteria relating to a Stand-Alone Quota Program are required.
- ❖ Current CA quota provisions include:
 - ❖ Only dairies holding a market milk permit may own and receive a quota payout from the pool.
 - ❖ A dairy must ship to a qualified CA pool handler in order in order to receive a quota payout from the pool



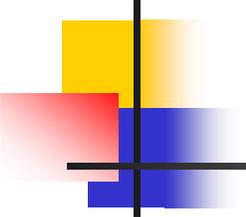
Other Quota Issues

- ❖ Current CA quota provisions continued:
 - ❖ Quota payments cannot be made without a Grade A milk shipment associated with it to a qualified CA pool plant.
 - ❖ A dairy must ship milk to a pool plant or cooperative association every 60 days to retain ownership of quota.
 - ❖ After 60 days, quota reverts back to the pool or CDFA
 - ❖ A producer may not purchase quota if the dairy has sold any quota within the last 24-month period.



Other Quota Issues

- ❖ Current CA quota provisions continued:
 - ❖ A producer may not sell any quota if the dairy has purchased quota within the last 24-month period.
 - ❖ The PRB hears hardship cases regarding shipping and ownership requirements and provides the Secretary a recommendation either for or against relief.



Other Quota Issues

Continuation Hearing: Stand-Alone Quota Program

- ❖ Assessment funded programs at CDFA are required to be reviewed every 5 years to determine if industry supports the continuation of the program.
- ❖ CDFA holds a continuation hearing where witnesses provide testimony regarding whether the program should be continued.
 - ❖ If the hearing record contains overwhelming support for the continuation of the Stand-Alone Quota Program, the Secretary will announce its continuation.
 - ❖ If the hearing record contains a mixture of both support and opposition, CDFA will hold a producer referendum to determine if the Stand-Alone Program will continue.