

## Quota Implementation Plan

Public Forum Notes

August 9, 2024

Tulare County Agricultural Commissioner's Office

4437 S. Laspina St.

Tulare, CA 93274

Nineteen producers and/or interested parties were in attendance along with Department staff. The forum began with a brief introduction by John Suther, forum moderator.

David Ko then gave the Department presentation on the proposed changes to the QIP. He also reported that a request was received at the Sonoma meeting to add language to the QIP to give the PRB the authority to review the Quota differential every 5 years and recommend to the Secretary to adjust without an industry referendum if needed. An additional request was made in Modesto, to have the ability to vote separately on each proposed change. He announced that due to these requests, the virtual hearing originally scheduled for August 15<sup>th</sup> was postponed. This will allow the Department time to carefully consider all concepts and to notify the industry of the final version of the amendments to the QIP to be considered. The final language will be sent to the industry prior to the virtual hearing to be rescheduled in the coming weeks.

The Department also stressed the importance of each producer verifying the information printed on their ballot is correct and inform QAP staff if any corrections or changes are needed. Ballots will be weighted based on each eligible producer's production so producer feedback will ensure that each ballot is tallied correctly during the referendum. Mr. Suther then opened the floor to producers that had signed up to provide comments/ask questions about the proposal.

*Comments made by producers and/or interested parties have not been verified. This summary includes information about a presentation Mr. Frank Konyyn made during the forum as well as his feedback to questions asked by attendees. Mr. Konyyn is a member of the PRB but he was not delegated authority by the Board or the Department to speak on their behalf. Accordingly, all his statements should be considered his personal opinion as a California milk producer. Finally, in the interest of brevity, questions that were asked multiple times are only listed in this summary one time.*

**Question:** Why are we not using a 3<sup>rd</sup> party vendor to conduct this vote?

**Department Answer:** The Marketing Services Division, of which the QAP is part of, conducts continuation processes for all of the marketing programs, councils and commissions in the State, including the Dairy Council, CMAB, etc. The Division has experienced staff on hand with strict processes in place to ensure the integrity of the vote. In addition, like prior votes, the Department's Audit Office will also review the tallying of the ballots.

**Question:** Is there a 2<sup>nd</sup> verification process where the votes are seen? Like an online process where votes are shown with an ID number instead of names? So a producer is able to view all of the votes received and also verify that their vote was received and counted.

**Department Answer:** Currently, the Department does not post referenda tallies online. Usually, a summary of the results is posted but does not include a breakdown by producer. The Department will consider the concept; would need additional staff to perform these new steps.

**Question:** If I receive my ballot and there is incorrect information on it, I can call and get it corrected. Was this done on the prior votes?

**Department Response:** Yes, this is the standard procedure

**Question:** Only unique producers can vote?

**Department Response:** Yes, only unique producers can vote. This means one vote per entity, as defined by the exact legal ownership.

**Question:** What production time frame will be used to qualify someone as a producer?

**Department Response:** You must have production in the month prior to the start of the referendum and continue to have production during the referendum period.

**Question:** If a producer votes and realizes after sending in the ballot, they did not sign the ballot, would the producer be notified that their vote is invalid because they did not sign it?

**Department Response:** No, we are not opening ballots until the end of the voting period. If a producer has doubts about how they completed their ballot, they can contact CDFA and request a duplicate ballot. The Department will then only count the duplicate ballot.

**Question:** Do you have an estimated count of the number of producers that will be eligible to vote in the referendum?

**Department Response:** There were 842 unique producers in 2023 when we conducted the 5-year effectiveness survey. The exact number of eligible producers will not be known until the ballots are mailed out as updates are made to the list daily.

**Summary of Presentation by Frank Konyn:** This concept was first presented to the PRB 2.5 years ago. Over time, the PRB continued to discuss the concept and on May 1, 2024, voted by super majority to recommend to the Secretary to send the proposal to the industry to vote. Industry members were present in the audience at each of these PRB meetings and provided input and feedback. Members of the PRB considered the industry as a whole when moving this proposal forward.

Quota was established in the mid-60s to bring in shippers that had fluid contracts into a pooling system. The hope was that by the mid-80s it would be equalized and everyone would be 100% quota holders as consumption of Class 1 in the State grew. However, this didn't happen. The last change to the Quota program was in the mid-90s when the industry arrived at the \$1.70 Quota differential. Previous to that there were times that the overbase was higher than Quota and there were times where Quota was \$2 or \$3 higher than overbase and the committee that met in the mid-90s found that a reasonable number was \$1.70. Over the last 30 years, Class 1 sales continue to decrease. Currently in CA, Class 1 sales are 21% of the pool. As Class 1 sales decrease, so too does Class 1 income.

Originally, the concept was Class 1 income would go to those that were Quota holders. But as that Class 1 income continues to shrink, the assessment is taken from the other classes of milk to make up the difference. As a member of the PRB, I started creating spreadsheets to monitor how much money was in the QIP fund and how much is being paid out. Over time, columns of additional data were added by requesting publicly available data to build a robust spreadsheet. The information contained in the spreadsheet showed in the last five years, the Class 1 location differential has generated about \$1 cwt in Class 1 revenue yet Quota holders are paid at \$1.70 creating a shortfall of \$0.70. In the last two-year period, it is closer to \$0.96 cwt and \$0.92 at the beginning of 2024 highlighting how Class 1 sales continue to decrease.

This proposal puts forward a happy medium of \$1. The purpose of this proposal is to find a true compromise between Quota and non-Quota holders. In the early 2000s, I was a member of a Quota advisory committee that was looking at ways to do away with Quota. However, simply voting out Quota altogether was not an option. We had to look at the economics of buying out the Quota holders, even considering a state bond but it was impossible. This proposal provides a compromise for both Quota holders and non-Quota holders because the proposed \$1.00 payout is a fair return and provides a fair compromise.

One of the benefits of this proposal for Quota holders is the strengthening of the hardship language. There have been many hardship cases brought before the PRB since the start of the QIP. When the Plan was originally written, the hardship language was unintentionally omitted, which is where the PRB struggles with how to review the requests for hardship. The PRB knows what the intent of the definition of hardship is but would like to have that language written into the plan for when they consider requests for hardship.

**Producer Comment:** Against new hardship language. Want language of 5-year approval included. PRB board is not an even split between quota holders and non-quota holders. PRB has always turned down any hardships presented without discussing the merits of the hardship request. Does not feel this is a compromise.

Regarding petitions, feels that the Secretary has changed the rules on the required number of signatures needed. Doesn't think that it requires signatures of 25% of the industry to have a valid petition. Feels that it only requires one person to write to the Secretary and she has the power of discretion to act on that one request and call a hearing. Feels the 25% requirement is a new rule.

**Mr. Konyn Response:** There is a lot of passion on both sides of this issue. It is important for everyone to see that passion and understand that this proposal is trying to seek a true compromise. We are making an adjustment to get the Quota payout back to a closer representation of what the actual Class 1 sales income is in this State. That requires a compromise from both sides. We are trying to heal some of the divisiveness in our industry. The Department says that there were 842 producers as of September 2023, I'm going to assume that the number is going to be closer to 820 as our industry continues to shrink. We need to be united instead of divided.

At previous forums there have been questions about the accuracy of the numbers in my spreadsheet. Members of the industry have reviewed these numbers including Geoff Vanden Heuvel. The calculations used for this proposal are consistent with those that were proposed by Economist Dr. Marin Bozic who was hired by UDF to conduct an economic analysis in 2019. I have also compared my numbers with John Talbot, CEO of the CMAB and they are consistent.

**Producer Comment:** In the 55-year history of this program, every change that has been made to the program has been for the benefit of Quota holders.

**Producer Comment:** In 1969 when Quota came into place, there was a reason for it. In the beginning the numbers made sense for producers like me to own Quota. Over time, the \$1.70 differential became a set price and Quota now has a dollar value. Most producers didn't know they were paying for the Quota differential until the FMMO was put in place. Not to take either side, I own a dairy with Quota and also a dairy that doesn't own Quota. Will this proposal make me money or will I lose money? It's all about perspective. I worked in the past with Geoff Vanden Heuvel, Frank Konyn and other members of the industry to try to come up with a solution. Originally, our proposal was to sunset this program and pay Quota holders 25% more than the value assigned to their Quota at that time. This would have made everyone in the industry even. When this proposal failed, we worked together to put forth a revised version with the numbers slightly different, it included a 20-25% premium to pay the Quota holders and it also removed the RQAs. This proposal also failed.

Nothing in life is guaranteed. All producers invest their money in different ways; when you buy something for your dairy, i.e. cow, barn, new equipment, you buy it at cost, depreciate it out, it has a useful life and then it's over and done. When you buy stocks, you may earn money and you may also lose money. Quota is like nothing else in that it provides a fixed return on investment indefinitely. Producers have repeatedly said this

to me and I cannot disagree with them. Everyone needs to look at the details and decide how this new proposal will affect your operation and base your decision on that.

**Mr. Konyon Response:** The fixed \$1.70 was designed to return extra money to overbase milk producers. What we are trying to do with this proposal is to return to some equitability in the industry. There currently is not \$1.70 worth of Class 1 income and we need to recognize that and make adjustments.

Regarding the comment: Nothing in life is guaranteed. I agree and my family has always had 50% Quota and to me it seemed like a no brainer with the return on investment, I wondered why my father didn't have 100%. He told me that Quota can always be voted away and that's why we have 50/50. The reality is that the petitions to eliminate Quota that have been submitted could have been submitted at any time during the history of the Quota program. Now that we have moved to the FMMO, people are more aware of how the Quota program impacts them financially.

Regarding the divisiveness in the industry, I have Quota myself and I would be willing to give that Quota up without compensation to see the industry become more unified. This proposal is not a cure all but hopefully brings both sides together to more of a center ground.