

From: [Jones, Samuel - AMS](#)
To: [Bernau, Jim - AMS](#); [Lynch, Michael - AMS](#)
Subject: Draft Comms Plan - GA Dock Report
Date: Friday, July 29, 2016 12:18:00 PM
Attachments: [Comms Plan - GA DOC Report.docx](#)

Good afternoon,

Attached is a draft comms plan for review. Once you are Ok with it, I can share with Angie and Craig. Thanks!

Sam Jones-Ellard
Public Affairs Specialist
USDA | Agricultural Marketing Service
202.660.2268

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Georgia Dock Report Discontinuation

(b) (5)



(b) (5)



(b) (5)



PA LEAD: SAM JONES-ELLARD
PROGRAM CONTACT: MIKE LYNCH, JIM BERNAU
SPOKESPERSON: CRAIG MORRIS
SME: CRAIG MORRIS, MIKE LYNCH, JIM BERNAU

From: [Jones, Samuel - AMS](#)
To: [Cochran, Catherine - OC](#)
Subject: Dock report
Date: Wednesday, September 28, 2016 6:02:00 PM

Due to reservations with the methodology by which the Georgia report is compiled, AMS discontinued publication of an AMS Market News report that was based on a truncated version of the Georgia Department of Agriculture's Georgia Dock report.

Timeline:

In January 2016, an individual approached the DOJ about the report and, in turn, a member of DOJ reached out to AMS for background information about this report.

On July 7, DOJ requested a meeting with AMS where they shared the work they had done since January looking into the issue and shared that they had concerns with the report. At that meeting AMS agreed to look into the matter.

During the week of July 18, 2016, AMS met with Dr. James Sutton, GDA's Director of Operations; and Dr. Robert Cobb, GDA's Division Director of Animal Industry. They also worked with GDA personnel to review reporting procedures concerning the Georgia Dock report. After observing GDA market reporters collect the information from processors, AMS found that GDA was unable to verify the information reported on its Georgia Dock report.

AMS observed that GDA collects volume and price information from the processors for poultry weighing 2.5-3.0 pounds. Small chickens weighing 2.5-3.0 pounds do not make up the majority of current poultry markets, are in very tight supply, and are generally marketed through forward contracts. When actual prices are not available for this smaller size bird, processors estimate equivalent prices. Each week, processors submit summaries to GDA of their forward contract business, which GDA then uses to create its Georgia Dock report. GDA does not have any method in place to verify the data it receives for this report.

AMS also observed that there are not enough daily trade data available for poultry weighing 2.5-3.0 pounds and recommended that GDA issue a weekly comprehensive report instead. AMS assisted GDA in creating a new collection worksheet and a new report format to include negotiated spot market prices covering all poultry sizes and grades. AMS believes the prices reported on this report would better reflect eastern region prices as reported on its *USDA Weekly National Whole Broiler/Fryer* report due to the adoption of standardized reporting methodologies (i.e., all poultry is aggregated regardless of weight or grade). This method will allow the report to meet AMS confidentiality guidelines, enabling data to be verified. GDA initially agreed to these changes.

Accordingly, on July 22, 2016, AMS announced via the header of its *Georgia F.O.B Dock Broiler/Fryers Price* report that GDA will be issuing a new weekly report to replace the current report issued on the AMS website. However, then on July 25, 2016, GDA informed AMS of its decision to continue publishing its Georgia Dock report, unchanged, on the GDA Web site because of concerns raised by the poultry processors who contribute data to the current report.

Due to the inability of GDA to verify the Georgia Dock report information, AMS discontinued publishing the AMS Market News report based upon the Georgia Dock report on August 5,

2016. On September 1, AMS met with GDA in Atlanta to discuss the new Federal report and GDA's current work with the Georgia poultry industry related to a replacement for its GDA Georgia Dock report.

Next Steps: AMS will continue working with GDA and offering technical assistance to develop new report procedures consistent with AMS Market News reporting methodologies and confidentiality guidelines. In addition, AMS is developing a new spot market poultry report in effort to meet industry needs.

Sam Jones-Ellard

Public Affairs Specialist

USDA | Agricultural Marketing Service

202.660.2268

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From: [Jones, Samuel - AMS](#)
To: [Bailey, Shayla - AMS](#); [Lynch, Michael - AMS](#); [Morris, Craig - AMS](#); [Snyder, Angie - AMS](#); [Flores, Elizabeth R - AMS](#); [Bernau, Jim - AMS](#); [Hartley, Julie - AMS](#)
Subject: Final Statement
Date: Thursday, November 03, 2016 11:35:00 PM

Here is the final Dock statement in case you need it. Thanks for everyone's help on this!

Statement:

USDA's Agricultural Marketing Service (AMS) discontinued a Market News report based on the Georgia Dock report, a Georgia Department of Agriculture poultry report, when data from the source report could not be independently verified by USDA. AMS is working with Georgia and industry stakeholders to develop a new report that will ensure the industry has the data they need. AMS is committed to providing transparent and reliable data through its USDA Market News service, and enhanced its [National Whole Broiler/Fryer report](#) in October.

You can read about the enhanced report at: [AMS Livestock, Poultry, and Grain Market News \(LPGMN\) Enhances the Depth of Broiler Reporting](#).

#

Sam Jones-Ellard
Public Affairs Specialist
USDA | Agricultural Marketing Service
202.660.2268

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From: [Jones, Samuel - AMS](#)
To: [Mabry, Brian - OSEC](#)
Subject: FW: E-memo: Introduction of Georgia Premium Poultry Price Index
Date: Friday, January 06, 2017 4:12:00 PM

FYI

From: Snyder, Angie - AMS
Sent: Friday, January 06, 2017 11:13 AM
To: Starmer, Elanor - AMS <Elanor.Starmer@ams.usda.gov>; Summers, Bruce - AMS <Bruce.Summers@ams.usda.gov>; Morris, Erin - AMS <erin.morris@ams.usda.gov>; Richmond, William - AMS <William.Richmond@ams.usda.gov>; May, Laurel - AMS <Laurel.May@ams.usda.gov>
Cc: AMS - LPS EXECS <LPSEXECs@ams.usda.gov>
Subject: E-memo: Introduction of Georgia Premium Poultry Price Index

Information from the Livestock, Poultry, and Seed Program
Craig A. Morris, Deputy Administrator
January 6, 2017

Subject: Introduction of Georgia Premium Poultry Price Index

Action Needed: None. For information only.

Issue: On January 4, 2017, the Georgia Department of Agriculture (GDA) [announced plans](#) to introduce a new poultry pricing index report to replace their Georgia Dock index that was suspended on December 5, 2016, due to insufficient participation from producers. The new report, called the Georgia Premium Poultry Pricing Index (GPPPI), was developed using the Fisher's Ideal Price Index formula methodology.

The GPPPI will include indexes designed to measure the changes in poultry pricing sold on a contract basis over one month, six month, and twelve month base periods. These indexes will be calculated using price and volume information for all sales of poultry marketed on a contract basis, which the participating poultry producers will begin submitting to GDA in February. The poultry products reported include whole bird, boneless skinless breast, bone-in breast, wings, and leg quarters.

To provide greater clarity and outreach for the industry, GDA has posted an [overview document of the GPPPI](#) on its web site. In addition, GDA has scheduled a pre-recorded [webinar](#) to be available for viewing on Tuesday, January 10, 2017, at 1:00 pm eastern.

Background: On August 5, 2016, USDA's Agricultural Marketing Service (AMS) discontinued a Market News report that was based on the Georgia Dock report, a Georgia Department of Agriculture (GDA) poultry report, because data from the source report could not be independently verified by GDA or USDA. To improve the integrity of the Georgia Dock report, GDA requested signed affidavits from the market report participants to attest to the accuracy of the data being provided; however, GDA did not receive the signed documents back from enough participants to continue publishing the report.

Angie Snyder

Associate Deputy Administrator
Livestock, Poultry, and Seed Program
Agricultural Marketing Service, USDA
202.720.5705

From: [Jones, Samuel - AMS](#)
To: [Bailey, Shayla - AMS](#)
Subject: FW: Georgia Dock Report Disclaimer Statement/Communications Plan
Date: Monday, July 25, 2016 4:17:00 PM

Welcome back (tomorrow)! I will brief you on this issue. ☺

Sam Jones-Ellard
Public Affairs Specialist
USDA | Agricultural Marketing Service
202.660.2268

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From: Starmer, Elanor - AMS
Sent: Monday, July 25, 2016 4:10 PM
To: Morris, Craig - AMS <Craig.Morris@ams.usda.gov>
Cc: Richmond, William - AMS <William.Richmond@ams.usda.gov>; Coale, Dana - AMS <Dana.Coale@ams.usda.gov>; Summers, Bruce - AMS <Bruce.Summers@ams.usda.gov>; Bernau, Jim - AMS <Jim.Bernau@ams.usda.gov>; Lynch, Michael - AMS <Michael.Lynch@ams.usda.gov>; Snyder, Angie - AMS <Angie.Snyder@ams.usda.gov>; Flores, Elizabeth R - AMS <ElizabethR.Flores@ams.usda.gov>; Jones, Samuel - AMS <Samuel.Jones@ams.usda.gov>; Allen, William - AMS <William.Allen@ams.usda.gov>
Subject: RE: Georgia Dock Report (b) (5)

My goodness. Ok – why don't we set up a meeting for Wednesday (I'm in NY all day tomorrow) to do a status check and discuss next steps. I will hold off on reaching out to Mark Tobey for now.

Jameelah, could you get time on my calendar Wednesday for a half hour meeting with Craig, Sam Jones, Bill Allen, Bill R. and whomever Craig would like in the room from LPS?

Thanks for keeping me posted.
Elanor

Elanor Starmer
Administrator
Agricultural Marketing Service
U.S. Department of Agriculture
202-720-5115
elanor.starmer@ams.usda.gov

From: Morris, Craig - AMS
Sent: Monday, July 25, 2016 3:28 PM
To: Starmer, Elanor - AMS
Cc: Richmond, William - AMS; Coale, Dana - AMS; Summers, Bruce - AMS; Bernau, Jim - AMS; Lynch, Michael - AMS; Snyder, Angie - AMS; Flores, Elizabeth R - AMS; Jones, Samuel - AMS; Allen, William -

AMS

Subject: RE: Georgia Dock Report (b) (5)

I was just notified that this has turned 180 degrees around from where we were an hour ago. Apparently the State of GA did get a couple of complaints about changes being made to the report in response to the disclaimer that appeared on Friday's report. Now, the State does not want to change the report. We asked them to slow down to see if we could talk this through but they said no. I've asked Market News to identify options for us to consider up to and including pulling the report off of our website. More to follow. (b) (5)

I'm also looping in Bill Allen. Craig

From: Starmer, Elanor - AMS

Sent: Monday, July 25, 2016 3:02 PM

To: Morris, Craig - AMS <Craig.Morris@ams.usda.gov>

Cc: Richmond, William - AMS <William.Richmond@ams.usda.gov>; Coale, Dana - AMS <Dana.Coale@ams.usda.gov>; Summers, Bruce - AMS <Bruce.Summers@ams.usda.gov>

Subject: RE: Georgia Dock Report (b) (5)

Great, thank you. Bill, let's flag this up the chain in case anyone gets a call on it.

Elanor Starmer
Administrator
Agricultural Marketing Service
U.S. Department of Agriculture
202-720-5115
elanor.starmer@ams.usda.gov

From: Morris, Craig - AMS

Sent: Monday, July 25, 2016 2:58 PM

To: Starmer, Elanor - AMS

Cc: Richmond, William - AMS; Coale, Dana - AMS; Summers, Bruce - AMS

Subject: Georgia Dock Report (b) (5)

Elanor:

Following up on our meeting, we are reaching out to Public Affairs now to craft the communications plan on the upcoming change to the GA Dock Report ahead of the August 5 change. Separately, starting with last Friday's release, we included the following disclaimer statement to begin to alert people to the change:

Beginning August 5, 2016, the Georgia Department of Agriculture will be issuing a new weekly market report for negotiated Georgia broiler/fryer whole birds and bird parts, which will replace the current Georgia F.O.B. Dock Broiler/Fryers-Parts report.

This link shows the statement at the top of the report:

https://www.ams.usda.gov/mnreports/aj_py018.txt.

I'm still awaiting confirmation that Mike has finished all of his notifications to DOJ (Mark Tobey, Amanda Klovers, and Douglas Rathbun) and will let you know when that has occurred.

Thanks,
Craig

From the desk of:

Craig A. Morris, Ph.D.

Deputy Administrator, Livestock, Poultry and Seed Program

U.S. Department of Agriculture

Agricultural Marketing Service

<http://www.ams.usda.gov/LPS>

From: [Jones, Samuel - AMS](#)
To: [Bailey, Shayla - AMS](#)
Subject: Fwd: Draft Statement
Date: Thursday, November 03, 2016 12:24:53 PM

Craig is good with the statement if you wouldn't mind clearing through OC. Thanks!

Sam Jones-Ellard
USDA's Agricultural Marketing Service
Public Affairs
202.660.2268

Sent from my iPhone

Begin forwarded message:

From: "Jones, Samuel - AMS" <Samuel.Jones@ams.usda.gov>
Date: November 3, 2016 at 8:10:10 AM CDT
To: "Snyder, Angie - AMS" <Angie.Snyder@ams.usda.gov>
Cc: "Morris, Craig - AMS" <Craig.Morris@ams.usda.gov>, "Flores, Elizabeth R - AMS" <ElizabethR.Flores@ams.usda.gov>, "Lynch, Michael - AMS" <Michael.Lynch@ams.usda.gov>, "Bailey, Shayla - AMS" <Shayla.Bailey@ams.usda.gov>, "Bernau, Jim - AMS" <Jim.Bernau@ams.usda.gov>
Subject: Re: Draft Statement

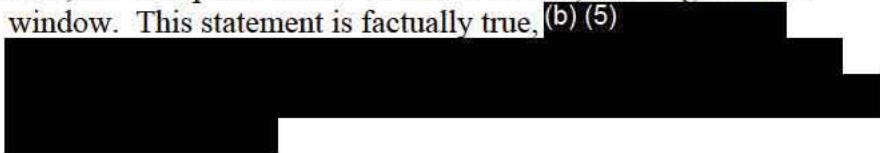
Thanks, Angie. I added a sentence below for review.

Sam Jones-Ellard
USDA's Agricultural Marketing Service
Public Affairs
202.660.2268

Sent from my iPhone

On Nov 3, 2016, at 8:05 AM, Snyder, Angie - AMS
<Angie.Snyder@ams.usda.gov> wrote:

Sam, I'm on a plane about to close the doors, so I've got a brief window. This statement is factually true, (b) (5)



Sent from my iPhone

On Nov 3, 2016, at 8:58 AM, Jones, Samuel - AMS
<Samuel.Jones@ams.usda.gov> wrote:

Good morning,

The Washington Post reached out and wanted to speak with AMS about the validity of the Georgia Dock. The reporter has an email exchange between AMS and Georgia. How does the statement below look?

USDA's Agricultural Marketing Service (AMS) discontinued a Market News report based on the Georgia Dock report, a Georgia Department of Agriculture poultry report, when data from the source report could not be independently verified by USDA. AMS is working closely with Georgia and industry stakeholders to develop a new report to ensure the industry has the data they need. AMS is committed to providing transparent and reliable data through its USDA Market News service, and enhanced its [National Whole Broiler/Fryer report](#) in October.

You can read about the enhanced report at: [AMS Livestock, Poultry, and Grain Market News \(LPGMN\) Enhances the Depth of Broiler Reporting](#).

Thanks,
Sam Jones-Ellard
USDA's Agricultural Marketing Service
Public Affairs
202.660.2268

Sent from my iPhone

From: [Jones, Samuel - AMS](#)
To: [Mabry, Brian - OSEC](#)
Cc: [Bailey, Shayla - AMS](#)
Subject: Fwd: WSJ query on chicken
Date: Thursday, November 17, 2016 12:35:20 PM

Hi Brian,

Please see below. (b) (5)

Thanks!

Sam Jones-Ellard
USDA's Agricultural Marketing Service
Public Affairs
202.660.2268

Sent from my iPhone

Begin forwarded message:

From: "Gee, Kelsey" <kelsey.gee@wsj.com>
Date: November 17, 2016 at 11:19:55 AM CST
To: "Jones, Samuel - AMS" <Samuel.Jones@ams.usda.gov>
Subject: WSJ query on chicken

Hi Sam, I hope you're having a good week! I have a question about when the USDA stopped publishing the Georgia Dock prices and wondering who at AMS I might be able to talk to about some of the questions being raised about that index. Or is that a Brian Mabry question? Always tough to figure out where to take these things!

Thanks for your help, working fast on deadline so any way you could guide soonest would be much appreciated!

Kelsey

Kelsey Gee || Reporter
The Wall Street Journal.
O: 312/750-4126
M: (b) (6)
@kelseykgee

From: [Jones, Samuel - AMS](#)
To: ssingh28@bloomberg.net
Subject: Georgia Dock Inquiry
Date: Tuesday, November 15, 2016 10:25:00 PM

Good evening,

USDA's Office of Communications asked me to follow-up with you on your inquiry regarding the Georgia Dock report. Below is information that should be helpful for your story and can be attributed to a USDA spokesperson. If I can provide additional assistance, please let me know. Thanks!

USDA's Agricultural Marketing Service (AMS) discontinued a Market News report based on the Georgia Dock report, a Georgia Department of Agriculture poultry report, when data from the source report could not be independently verified by USDA. We are aware that the Georgia Department of Agriculture has begun the process of developing a new report, and AMS continues to work with the Georgia Department of Agriculture and industry stakeholders to ensure that poultry producers and retailers have access to the transparent and reliable data they need.

In October, AMS enhanced its own [National Whole Broiler/Fryer report](#), offered through its USDA Market News service. You can read about the enhanced report at: [AMS Livestock, Poultry, and Grain Market News \(LPGMN\) Enhances the Depth of Broiler Reporting](#).

Sam Jones-Ellard
Public Affairs Specialist
USDA | Agricultural Marketing Service
202.660.2268

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From: [Jones, Samuel - AMS](#)
To: [Karwal, Jason - AMS](#); [Cox, Taylor - AMS](#); [Bernau, Jim - AMS](#)
Cc: [Hartley, Julie - AMS](#); [Lynch, Michael - AMS](#)
Subject: RE: Breaking News: Poultry stocks drop on memo questioning Georgia Dock price integrity
Date: Thursday, November 17, 2016 1:52:00 PM
Attachments: [image001.png](#)

It went really well. Sorry we jumped on the phone really quickly. She was on a tight deadline. Jason represented us amazing, as always.

Thanks!

Sam Jones-Ellard
Public Affairs Specialist
USDA | Agricultural Marketing Service
202.660.2268

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From: Karwal, Jason - AMS
Sent: Thursday, November 17, 2016 1:37 PM
To: Cox, Taylor - AMS <Taylor.Cox@ams.usda.gov>; Bernau, Jim - AMS <Jim.Bernau@ams.usda.gov>; Jones, Samuel - AMS <Samuel.Jones@ams.usda.gov>
Cc: Hartley, Julie - AMS <Julie.Hartley@ams.usda.gov>; Lynch, Michael - AMS <Michael.Lynch@ams.usda.gov>
Subject: RE: Breaking News: Poultry stocks drop on memo questioning Georgia Dock price integrity

Already on the phone.

Jason Karwal
Officer In Charge
Livestock, Poultry and Grain Market News Division
USDA Agricultural Marketing Service
Jason.Karwal@ams.usda.gov
Office: 515-284-4460
Mobile: (b) (6)



From: Cox, Taylor - AMS
Sent: Thursday, November 17, 2016 12:37 PM
To: Bernau, Jim - AMS <Jim.Bernau@ams.usda.gov>; Jones, Samuel - AMS <Samuel.Jones@ams.usda.gov>

Cc: Hartley, Julie - AMS <Julie.Hartley@ams.usda.gov>; Lynch, Michael - AMS <Michael.Lynch@ams.usda.gov>; Karwal, Jason - AMS <Jason.Karwal@ams.usda.gov>
Subject: RE: Breaking News: Poultry stocks drop on memo questioning Georgia Dock price integrity

This is fine, I just spoke to Jason earlier but we can hold off. (b) (5)

Taylor Cox
Field Chief
Livestock, Poultry and Grain Market News Division
USDA Agricultural Marketing Service
515-284-4460 - Office
(b) (6) - Cell

From: Bernau, Jim - AMS
Sent: Thursday, November 17, 2016 12:34 PM
To: Jones, Samuel - AMS <Samuel.Jones@ams.usda.gov>
Cc: Hartley, Julie - AMS <Julie.Hartley@ams.usda.gov>; Lynch, Michael - AMS <Michael.Lynch@ams.usda.gov>; Cox, Taylor - AMS <Taylor.Cox@ams.usda.gov>; Karwal, Jason - AMS <Jason.Karwal@ams.usda.gov>
Subject: Re: Breaking News: Poultry stocks drop on memo questioning Georgia Dock price integrity

(b) (5)

Jim

Sent from my iPhone

On Nov 17, 2016, at 1:27 PM, Jones, Samuel - AMS <Samuel.Jones@ams.usda.gov> wrote:

And, this one...

(b) (5)

I have a couple of inquiries on this today. WSJ wants to talk to Jason to find out how we collect/verify our data. I told the reporter we cannot answer questions about the GA Dock. (b) (5)

Sam Jones-Ellard
Public Affairs Specialist
USDA | Agricultural Marketing Service
202.660.2268

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From: Hartley, Julie - AMS
Sent: Thursday, November 17, 2016 1:24 PM
To: Lynch, Michael - AMS <Michael.Lynch@ams.usda.gov>; Jones, Samuel - AMS <Samuel.Jones@ams.usda.gov>; Bernau, Jim - AMS <Jim.Bernau@ams.usda.gov>; Cox, Taylor - AMS <Taylor.Cox@ams.usda.gov>
Subject: FW: Breaking News: Poultry stocks drop on memo questioning Georgia Dock price integrity
Importance: High

From: bounce@newsletters.meatingplace.com
[<mailto:bounce@newsletters.meatingplace.com>] **On Behalf Of** Meatingplace Editorial
Sent: Thursday, November 17, 2016 12:24 PM
To: Hartley, Julie - AMS <Julie.Hartley@ams.usda.gov>
Subject: Breaking News: Poultry stocks drop on memo questioning Georgia Dock price integrity



Thursday, November 17, 2016

Breaking News from [meatingplace.com](http://www.meatingplace.com)

Breaking News from www.meatingplace.com

[Poultry stocks drop on memo questioning Georgia Dock price integrity](#)

****NOTE:** This email account is not monitored, so do not reply to this email. We have provided the links below for your convenience:

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From: [Jones, Samuel - AMS](#)
To: [Bernau, Jim - AMS](#)
Cc: [Lynch, Michael - AMS](#)
Subject: RE: (b) (5)
Date: Monday, July 25, 2016 2:34:00 PM

Absolutely. If you have any additional background, please send it along and I can work on a draft.

Thanks,
Sam Jones-Ellard
Public Affairs Specialist
USDA | Agricultural Marketing Service
202.660.2268

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From: Bernau, Jim - AMS
Sent: Monday, July 25, 2016 2:34 PM
To: Jones, Samuel - AMS <Samuel.Jones@ams.usda.gov>
Cc: Lynch, Michael - AMS <Michael.Lynch@ams.usda.gov>
Subject: FW: (b) (5)

Sam,

(b) (5)

Thanks
Jim

James Bernau
Deputy Director
Livestock, Poultry and Grain Market News Division
USDA Agricultural Marketing Service
1400 Independence Ave, SW
Room 2619
Washington, DC 20250
jim.bernau@ams.usda.gov
Office: 202-720-1749
Cell: (b) (6)

From: Snyder, Angie - AMS
Sent: Monday, July 25, 2016 2:19 PM
To: Lynch, Michael - AMS <Michael.Lynch@ams.usda.gov>; Bernau, Jim - AMS <Jim.Bernau@ams.usda.gov>
Subject: (b) (5)

Mike and Jim,

Two things for you.

1. Elanor wants, as soon as possible, a comms plan for what we're doing with Georgia Dock.

(b) (5)

2. Elanor would like to see the disclaimer statement we're going to put on the Georgia Dock report before it goes out. Also, she'd like to see an example of a previous disclaimer statement we've used.

Call or email me with questions.

Thanks!

Angie

Angie Snyder

Associate Deputy Administrator
Livestock, Poultry, and Seed Program
Agricultural Marketing Service, USDA
202.720.5705

From: [Jones, Samuel - AMS](#)
To: [Cochran, Catherine - OC](#)
Cc: [Mabry, Brian - OSEC](#); [Bailey, Shayla - AMS](#)
Subject: Re: Coupla things
Date: Thursday, November 03, 2016 4:33:45 PM

Will send to both now. Thanks!

Sam Jones-Ellard
USDA's Agricultural Marketing Service
Public Affairs
202.660.2268

Sent from my iPhone

On Nov 3, 2016, at 3:27 PM, Cochran, Catherine - OC <Catherine.Cochran.1@oc.usda.gov> wrote:

Ok (b) (5). Thanks.

From: Jones, Samuel - AMS
Sent: Thursday, November 03, 2016 4:17 PM
To: Cochran, Catherine - OC <Catherine.Cochran.1@oc.usda.gov>
Cc: Mabry, Brian - OSEC <Brian.Mabry@oc.usda.gov>; Bailey, Shayla - AMS <Shayla.Bailey@ams.usda.gov>
Subject: Re: Coupla things

They did reverse course but are actively working on the issue. (b) (5)

Sam Jones-Ellard
USDA's Agricultural Marketing Service
Public Affairs
202.660.2268

Sent from my iPhone

On Nov 3, 2016, at 3:03 PM, Cochran, Catherine - OC <Catherine.Cochran.1@oc.usda.gov> wrote:

Ok thanks. And good point Brian. Sam, (b) (5)

(b) (5)

Sent from my iPhone

On Nov 3, 2016, at 4:00 PM, Jones, Samuel - AMS <Samuel.Jones@ams.usda.gov> wrote:

Yes, we spoke on the phone. He basically recapped what

Stephanie said. Guessing the emails had to come from Georgia.
Haven't emailed the statement to Peter yet.

Thanks,

Sam Jones-Ellard
USDA's Agricultural Marketing Service
Public Affairs
202.660.2268

Sent from my iPhone

On Nov 3, 2016, at 2:58 PM, Cochran, Catherine - OC
<Catherine.Cochran.1@oc.usda.gov> wrote:

Ok. Sam, did you talk to Peter beyond emailing? What
seems to be the thrust of his story?

(b) (5)
[Redacted]
[Redacted]
[Redacted]

From: Jones, Samuel - AMS
Sent: Thursday, November 03, 2016 3:56 PM
To: Cochran, Catherine - OC
<Catherine.Cochran.1@oc.usda.gov>
Cc: Mabry, Brian - OSEC <Brian.Mabry@oc.usda.gov>;
Bailey, Shayla - AMS <Shayla.Bailey@ams.usda.gov>
Subject: Re: Coupla things

We don't have them handy. The AMS folks
with/on the emails are traveling.

Thanks,
Sam Jones-Ellard
USDA's Agricultural Marketing Service
Public Affairs
202.660.2268

Sent from my iPhone

On Nov 3, 2016, at 2:54 PM, Cochran, Catherine -
OC <Catherine.Cochran.1@oc.usda.gov> wrote:

Do you all have these emails, and if so
can you send them our way?

From: Jones, Samuel - AMS
Sent: Thursday, November 03, 2016 3:37
PM
To: Mabry, Brian - OSEC

<Brian.Mabry@oc.usda.gov>; Cochran,
Catherine - OC
<Catherine.Cochran.1@oc.usda.gov>;
Bailey, Shayla - AMS
<Shayla.Bailey@ams.usda.gov>
Subject: Fwd: Coupla things

Stephanie got the emails too. (b)
(5)

Thanks,

Sam Jones-Ellard
USDA's Agricultural Marketing
Service
Public Affairs
202.660.2268

Sent from my iPhone

Begin forwarded message:

From: "Strom,
Stephanie"
<ssstrom@nytimes.com>
Date: November 3, 2016
at 2:31:54 PM CDT
To: "Jones, Samuel -
AMS"
<Samuel.Jones@ams.usda.gov>

Cc:
matthew.herrick@oc.usda.gov

**Subject: Re: Coupla
things**

Hi, Sam,

So, the story about the
Georgia Dock is likely to
go up this evening -- but I
just got a dump of emails
between USDA and the
Georgia Department of
Agriculture.

It seems that earlier this
year, USDA informed the
Georgia Dept. of Ag that
it needed to make changes
in the way it compiled the
Georgia Dock, including

obtaining receipts and
doing other cross
checking. The GA Dept.
of Ag. agreed to make the
changes -- and then
suddenly reversed that
decision.

Does USDA have any
comment about this?
Please let me know as
soon as possible.

Many thanks, Stephanie

On Fri, Oct 7, 2016 at
2:05 PM, Jones, Samuel -
AMS
<Samuel.Jones@ams.usda.gov>
wrote:

Good afternoon,

The latest report posted
at
<https://www.ams.usda.gov/mnreports/pywwholebroiler.pdf>.

Thanks and have a
great weekend!

Sam Jones-Ellard
Public Affairs
Specialist
USDA | Agricultural
Marketing Service
[202.660.2268](tel:202.660.2268)

*Follow us on Twitter
[@USDA_AMS](https://twitter.com/USDA_AMS) or [read our
stories on the USDA blog.](#)*

From: Jones, Samuel -
AMS
Sent: Thursday, October
06, 2016 1:10 PM
To: 'Strom, Stephanie'
<ssstrom@nytimes.com>
Subject: RE: Coupla
things

Glad to assist.
Attached is a Notice to
Trade we will post

shortly today that lays
out the new report.
Thanks!

Sam Jones-Ellard

Public Affairs
Specialist
USDA | Agricultural
Marketing Service
[202.660.2268](tel:202.660.2268)

*Follow us on Twitter
[@USDA_AMS](#) or [read our
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From: Strom, Stephanie
[<mailto:ssstrom@nytimes.com>]

Sent: Thursday, October
06, 2016 1:06 PM
To: Jones, Samuel - AMS
<Samuel.Jones@ams.usda.gov>

Subject: Re: Coupla
things

Thanks, Sam.

The new report will
include a price for 2.5
to 3.5 birds, right?

Thanks, Stephanie

On Thu, Oct 6, 2016 at
1:03 PM, Jones,
Samuel - AMS
<Samuel.Jones@ams.usda.gov>
wrote:

Hi Stephanie,

Happy Thursday!
For the first question,
you will need to
check with the
Georgia Department
of Agriculture since
it is their report. You
can find their contact
information on this
page:
<http://www.agr.georgia.gov/poultry->

[market-news.aspx](#).

You can find our latest data at

<https://www.ams.usda.gov/mnreports/pywwholebroiler.pdf>.

A new report will be published tomorrow at 1 PM Central. I can send along a copy once it is ready.

Thanks!

Sam Jones-Ellard

Public Affairs

Specialist

USDA | Agricultural

Marketing Service

[202.660.2268](tel:202.660.2268)

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From: Strom,

Stephanie

[mailto:ssstrom@nytimes.com]

Sent: Thursday,

October 06, 2016

11:35 AM

To: Jones, Samuel -

AMS

<Samuel.Jones@ams.usda.gov>

Subject: Coupla things

Hi, Sam,

Happy Thursday.

I'm putting the story about Georgia Dock together and have a couple of requests.

First, a guy I was talking to said there are just three plants in Georgia that process the smaller birds, i.e. the 2.5 to

3.5 pound broilers
tracked by the
Georgia Dock. Is that
the case? And can
you all tell me who
the producers are?

Then, can you ship
me the new small
bird price you all will
have tomorrow?

Many thanks,
Stephanie

--

Stephanie Strom
The New York
Times
620 Eighth Avenue
New York, NY
10018

O: [212-556-8794](tel:212-556-8794)
t: @ssstrom
www.nytimes.com

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Stephanie Strom
The New York Times
620 Eighth Avenue
New York, NY 10018

O: [212-556-8794](tel:212-556-8794)
t: @ssstrom
www.nytimes.com

--

Stephanie Strom
The New York Times
620 Eighth Avenue
New York, NY 10018

O: 212-556-8794
t: @ssstrom
www.nytimes.com

From: [Jones, Samuel - AMS](#)
To: [Strom, Stephanie](#)
Subject: RE: Coupla things
Date: Thursday, November 03, 2016 4:44:00 PM

Good afternoon, Stephanie,

Thanks for reaching out. Below is a statement you can attribute to a USDA spokesperson.

USDA's Agricultural Marketing Service (AMS) discontinued a Market News report based on the Georgia Dock report, a Georgia Department of Agriculture poultry report, when data from the source report could not be independently verified by USDA. AMS is working with Georgia and industry stakeholders to develop a new report that will ensure the industry has the data they need. AMS is committed to providing transparent and reliable data through its USDA Market News service, and enhanced its [National Whole Broiler/Fryer report](#) in October.

You can read about the enhanced report at: [AMS Livestock, Poultry, and Grain Market News \(LPGMN\) Enhances the Depth of Broiler Reporting](#).

#

Thanks again!

Sam Jones-Ellard
Public Affairs Specialist
USDA | Agricultural Marketing Service
202.660.2268

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From: Strom, Stephanie [mailto:ssstrom@nytimes.com]
Sent: Thursday, November 03, 2016 3:32 PM
To: Jones, Samuel - AMS <Samuel.Jones@ams.usda.gov>
Cc: Herrick, Matthew - OC <Matthew.Herrick@oc.usda.gov>
Subject: Re: Coupla things

Hi, Sam,

So, the story about the Georgia Dock is likely to go up this evening -- but I just got a dump of emails between USDA and the Georgia Department of Agriculture.

It seems that earlier this year, USDA informed the Georgia Dept. of Ag that it needed to make changes in the way it compiled the Georgia Dock, including obtaining receipts and doing other cross checking. The GA Dept. of Ag. agreed to make the changes -- and then suddenly reversed that decision.

Does USDA have any comment about this? Please let me know as soon as possible.

Many thanks, Stephanie

On Fri, Oct 7, 2016 at 2:05 PM, Jones, Samuel - AMS <Samuel.Jones@ams.usda.gov> wrote:

Good afternoon,

The latest report posted at <https://www.ams.usda.gov/mnreports/pywwwholebroiler.pdf>.

Thanks and have a great weekend!

Sam Jones-Ellard

Public Affairs Specialist

USDA | Agricultural Marketing Service

[202.660.2268](tel:202.660.2268)

Follow us on Twitter [@USDA_AMS](#) or [read our stories on the USDA blog](#).

From: Jones, Samuel - AMS

Sent: Thursday, October 06, 2016 1:10 PM

To: 'Strom, Stephanie' <ssstrom@nytimes.com>

Subject: RE: Coupla things

Glad to assist. Attached is a Notice to Trade we will post shortly today that lays out the new report. Thanks!

Sam Jones-Ellard

Public Affairs Specialist

USDA | Agricultural Marketing Service

[202.660.2268](tel:202.660.2268)

Follow us on Twitter [@USDA_AMS](#) or [read our stories on the USDA blog](#).

From: Strom, Stephanie [<mailto:ssstrom@nytimes.com>]

Sent: Thursday, October 06, 2016 1:06 PM

To: Jones, Samuel - AMS <Samuel.Jones@ams.usda.gov>

Subject: Re: Coupla things

Thanks, Sam.

The new report will include a price for 2.5 to 3.5 birds, right?

Thanks, Stephanie

On Thu, Oct 6, 2016 at 1:03 PM, Jones, Samuel - AMS <Samuel.Jones@ams.usda.gov> wrote:

Hi Stephanie,

Happy Thursday! For the first question, you will need to check with the Georgia Department of Agriculture since it is their report. You can find their contact information on this page: <http://www.agr.georgia.gov/poultry-market-news.aspx>.

You can find our latest data at <https://www.ams.usda.gov/mnreports/pywwholebroiler.pdf>. A new report will be published tomorrow at 1 PM Central. I can send along a copy once it is ready.

Thanks!

Sam Jones-Ellard

Public Affairs Specialist

USDA | Agricultural Marketing Service

[202.660.2268](tel:202.660.2268)

Follow us on Twitter [@USDA_AMS](#) or [read our stories on the USDA blog](#).

From: Strom, Stephanie [mailto:ssstrom@nytimes.com]

Sent: Thursday, October 06, 2016 11:35 AM

To: Jones, Samuel - AMS <Samuel.Jones@ams.usda.gov>

Subject: Coupla things

Hi, Sam,

Happy Thursday.

I'm putting the story about Georgia Dock together and have a couple of requests.

First, a guy I was talking to said there are just three plants in Georgia that process the smaller birds, i.e. the 2.5 to 3.5 pound broilers tracked by the Georgia Dock. Is that the case? And can you all tell me who the producers are?

Then, can you ship me the new small bird price you all will have tomorrow?

Many thanks, Stephanie

--

Stephanie Strom

The New York Times

620 Eighth Avenue

New York, NY 10018

O: [212-556-8794](tel:212-556-8794)

t: @ssstrom

www.nytimes.com

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--

Stephanie Strom
The New York Times
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--

Stephanie Strom
The New York Times
620 Eighth Avenue
New York, NY 10018

O: 212-556-8794
t: @ssstrom
www.nytimes.com

From: [Jones, Samuel - AMS](#)
To: [Lynch, Michael - AMS](#)
Cc: [Karwal, Jason - AMS](#); [Bernau, Jim - AMS](#); [Hartley, Julie - AMS](#)
Subject: RE: Georgia Dock
Date: Wednesday, January 18, 2017 1:07:00 PM

Thanks, Mike!

Sam Jones-Ellard
Public Affairs Specialist
USDA | Agricultural Marketing Service
202.660.2268

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From: Lynch, Michael - AMS
Sent: Wednesday, January 18, 2017 1:07 PM
To: Jones, Samuel - AMS <Samuel.Jones@ams.usda.gov>
Cc: Karwal, Jason - AMS <Jason.Karwal@ams.usda.gov>; Bernau, Jim - AMS <Jim.Bernau@ams.usda.gov>; Hartley, Julie - AMS <Julie.Hartley@ams.usda.gov>
Subject: Re: Georgia Dock

(b) (5)

Mike Lynch
Director
Livestock, Poultry, & Grain Market News
1400 Independence Ave, SW, Room 2619
Washington, DC 20250
Office: 202-720-4846
Cell: (b) (6)

On Jan 18, 2017, at 11:05 AM, Jones, Samuel - AMS <Samuel.Jones@ams.usda.gov> wrote:

One add below to consider. Thanks!

(b) (5)

(b) (5)

Sam Jones-Ellard

Public Affairs Specialist
USDA | Agricultural Marketing Service
202.660.2268

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From: Jones, Samuel - AMS

Sent: Wednesday, January 18, 2017 12:59 PM

To: Karwal, Jason - AMS <Jason.Karwal@ams.usda.gov>; Lynch, Michael - AMS
<Michael.Lynch@ams.usda.gov>; Bernau, Jim - AMS <Jim.Bernau@ams.usda.gov>;
Hartley, Julie - AMS <Julie.Hartley@ams.usda.gov>

Subject: Georgia Dock

Good afternoon,

Bloomberg contacted me to see what role AMS played in the development of the new Georgia Premium Poultry Price Index. The reporter also asked if we plan to use their data in our reports. Does this response sound OK? Thanks!

(b) (5)



Sam Jones-Ellard

Public Affairs Specialist
USDA | Agricultural Marketing Service
202.660.2268

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From: [Jones, Samuel - AMS](#)
To: [Whoriskey, Peter](#)
Subject: RE: Georgia Dock
Date: Monday, November 07, 2016 10:18:00 AM

Good morning, Peter,

USDA tracks production numbers, but we do not track the amount of chickens sold in stores. The National Chicken Council used to conduct a survey of the broiler industry that provided a breakdown on aspects of the marketing of young chicken, including the amount marketed through the grocery sector (including club stores). The last report was published in 2011. At that time, 29.1% of broiler volume was marketed through retail grocery stores.

In 2015, 53,168,160,000 pounds of young chicken was produced in the U.S. If 29.1% moved through grocery outlets, that would total 15,471,934,560 pounds of young chicken.

Hope this helps.

Thanks,

Sam Jones-Ellard
Public Affairs Specialist
USDA | Agricultural Marketing Service
202.660.2268

Follow us on Twitter [@USDA_AMS](#) or [read our stories on the USDA blog](#).

From: Whoriskey, Peter [mailto:Peter.Whoriskey@washpost.com]
Sent: Friday, November 04, 2016 5:39 PM
To: Jones, Samuel - AMS <Samuel.Jones@ams.usda.gov>
Subject: RE: Georgia Dock

Thanks, Sam. I'll leave it at the statement. But I do have one other question that it seems would be easy to answer, but I've been looking around at the USDA website and elsewhere and haven't turned it up. So I'm going to try you...

How much chicken is sold through U.S. grocery stores each year?

Any ideas where I might find this is the vast troves of USDA statistics?

From: Jones, Samuel - AMS [mailto:Samuel.Jones@ams.usda.gov]
Sent: Thursday, November 03, 2016 11:48 PM
To: Whoriskey, Peter
Subject: RE: Georgia Dock

Good evening, Peter,

Thanks for the follow-up. All we can provide is a statement. You might also reach out to the

Georgia Department of Agriculture since it is their report.

Thanks again,

Sam Jones-Ellard

Public Affairs Specialist

USDA | Agricultural Marketing Service

202.660.2268

Follow us on Twitter [@USDA_AMS](https://twitter.com/USDA_AMS) or read our stories on the USDA blog blogs.usda.gov.

From: Whoriskey, Peter [<mailto:Peter.Whoriskey@washpost.com>]

Sent: Thursday, November 03, 2016 4:55 PM

To: Jones, Samuel - AMS <Samuel.Jones@ams.usda.gov>

Subject: RE: Georgia Dock

Hi Sam,

Thanks for the statement. It's better than nothing. But given that I will be quoting from USDA emails, I thought it might be better for all involved to talk by phone. Any chance of that?

Peter

From: Jones, Samuel - AMS [<mailto:Samuel.Jones@ams.usda.gov>]

Sent: Thursday, November 03, 2016 4:53 PM

To: Whoriskey, Peter

Subject: RE: Georgia Dock

Hi Peter,

Thanks for checking in. Still in OK today. While we do not have anyone available to chat with you, below is a statement that should be helpful that you can attribute to a USDA spokesperson. Thanks again.

USDA's Agricultural Marketing Service (AMS) discontinued a Market News report based on the Georgia Dock report, a Georgia Department of Agriculture poultry report, when data from the source report could not be independently verified by USDA. AMS is working with Georgia and industry stakeholders to develop a new report that will ensure the industry has the data they need. AMS is committed to providing transparent and reliable data through its USDA Market News service, and enhanced its [National Whole Broiler/Fryer report](#) ams.usda.gov in October.

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Sam Jones-Ellard

Public Affairs Specialist

USDA | Agricultural Marketing Service

202.660.2268

Follow us on Twitter [@USDA_AMS\[twitter.com\]](#) or [read our stories on the USDA blog\[blogs.usda.gov\]](#).

From: Whoriskey, Peter [<mailto:Peter.Whoriskey@washpost.com>]

Sent: Thursday, November 03, 2016 1:24 PM

To: Jones, Samuel - AMS <Samuel.Jones@ams.usda.gov>

Subject: Georgia Dock

Hi Sam –

I hope you've made it back from the plains of OK.

I am just checking in to see whether there may be anyone available at the USDA to talk about it. Any luck?

Best,

Peter

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From: [Jones, Samuel - AMS](#)
To: [Whoriskey, Peter](#)
Subject: RE: Georgia Dock
Date: Wednesday, November 16, 2016 2:53:00 PM

Hey Peter,

I am free now if you have a moment.

Thanks,
Sam Jones-Ellard
Public Affairs Specialist
USDA | Agricultural Marketing Service
202.660.2268

Follow us on Twitter [@USDA_AMS](#) or [read our stories on the USDA blog](#).

From: Whoriskey, Peter [mailto:Peter.Whoriskey@washpost.com]
Sent: Wednesday, November 16, 2016 1:34 PM
To: Jones, Samuel - AMS <Samuel.Jones@ams.usda.gov>
Subject: RE: Georgia Dock

Hi there –

I'm writing today about the Georgia Dock again.

Would you happen to have a minute for a quick phone call?

Thanks.

Peter

From: Jones, Samuel - AMS [mailto:Samuel.Jones@ams.usda.gov]
Sent: Monday, November 07, 2016 10:18 AM
To: Whoriskey, Peter
Subject: RE: Georgia Dock

Good morning, Peter,

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In 2015, 53,168,160,000 pounds of young chicken was produced in the U.S. If 29.1% moved through grocery outlets, that would total 15,471,934,560 pounds of young chicken.

Hope this helps.

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Sam Jones-Ellard

Public Affairs Specialist
USDA | Agricultural Marketing Service
202.660.2268

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Subject: RE: Georgia Dock

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Any ideas where I might find this is the vast troves of USDA statistics?

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Subject: RE: Georgia Dock

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Thanks again,

Sam Jones-Ellard

Public Affairs Specialist
USDA | Agricultural Marketing Service
202.660.2268

Follow us on Twitter [@USDA_AMS](https://twitter.com/USDA_AMS) or read our stories on the USDA blog [\[blogs.usda.gov\]](https://blogs.usda.gov).

From: Whoriskey, Peter [<mailto:Peter.Whoriskey@washpost.com>]

Sent: Thursday, November 03, 2016 4:55 PM

To: Jones, Samuel - AMS <Samuel.Jones@ams.usda.gov>

Subject: RE: Georgia Dock

Hi Sam,

Thanks for the statement. It's better than nothing. But given that I will be quoting from USDA emails, I thought it might be better for all involved to talk by phone. Any chance of that?

Peter

From: Jones, Samuel - AMS [<mailto:Samuel.Jones@ams.usda.gov>]

Sent: Thursday, November 03, 2016 4:53 PM

To: Whoriskey, Peter

Subject: RE: Georgia Dock

Hi Peter,

Thanks for checking in. Still in OK today. While we do not have anyone available to chat with you, below is a statement that should be helpful that you can attribute to a USDA spokesperson. Thanks again.

USDA's Agricultural Marketing Service (AMS) discontinued a Market News report based on the Georgia Dock report, a Georgia Department of Agriculture poultry report, when data from the source report could not be independently verified by USDA. AMS is working with Georgia and industry stakeholders to develop a new report that will ensure the industry has the data they need. AMS is committed to providing transparent and reliable data through its USDA Market News service, and enhanced its [National Whole Broiler/Fryer report\[ams.usda.gov\]](#) [ams.usda.gov] in October.

You can read about the enhanced report at: [AMS Livestock, Poultry, and Grain Market News \(LPGMN\) Enhances the Depth of Broiler Reporting\[ams.usda.gov\]](#).

Sam Jones-Ellard

Public Affairs Specialist

USDA | Agricultural Marketing Service

202.660.2268

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Subject: Georgia Dock

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I am just checking in to see whether there may be anyone available at the USDA to talk about it. Any

luck?

Best,

Peter

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The Washington Post reached out and wanted to speak with AMS about the validity of the Georgia Dock. The reporter has an email exchange between AMS staff and Georgia Dept of Ag folks. (b) (5)

(b) (5) [Redacted]
[Redacted]
[Redacted]
[Redacted]

[Redacted]
[Redacted]

Please let us know ASAP if you have any changes or concerns.

Thank you!

--Shayla

Shayla Mae Bailey
Acting Director, Public Affairs
Agricultural Marketing Service
U.S. Department of Agriculture

shayla.bailey@ams.usda.gov

Desk: 202-720-9771

Cell: (b) (6)

Follow us on [Instagram](#) & Twitter [@USDA_AMS](#) or read our stories on the [USDA blog](#).

From: [Snyder, Angie - AMS](#)
To: [Starmer, Elanor - AMS](#); [Summers, Bruce - AMS](#); [Morris, Erin - AMS](#); [Bailey, Shayla - AMS](#); [Jones, Samuel - AMS](#); [Allen, William - AMS](#); [Parrott, Charles - AMS](#)
Cc: [AMS - LPS EXECS](#)
Subject: e-Memo: Georgia Dock Report Not Published This Week
Date: Thursday, December 01, 2016 2:57:10 PM

Information from the Livestock, Poultry, and Seed Program
Craig A. Morris, Deputy Administrator
December 1, 2016

Subject: Georgia Dock Report Not Published This Week

Action Needed: None. For information only.

Issue: Bloomberg News [reported today](#) that, for the first time in 40 years, the Georgia Department of Agriculture (GDA) will not publish the Georgia Dock chicken price this week due to insufficient data from producers. In effort to improve the integrity of the report, GDA earlier this week requested signed affidavits from the market report participants to attest to the accuracy of the data being provided to GDA. However, GDA had not received the signed documents back from enough participants to publish the report this week.

Background: On August 5, 2016, USDA's Agricultural Marketing Service (AMS) discontinued a Market News report that was based on the Georgia Dock report, a GDA poultry report, because data from the source report could not be independently verified by USDA. We are aware that the Georgia Department of Agriculture is in the process of developing a new report and will continue to monitor its development. Separately, AMS is committed to providing transparent and reliable data through its USDA Market News service and enhanced its [National Whole Broiler/Fryer report](#) on October 7, 2016.

Angie Snyder
Associate Deputy Administrator
Livestock, Poultry, and Seed Program
Agricultural Marketing Service, USDA
202.720.5705

From: [Snyder, Angie - AMS](#)
To: [Starmer, Elanor - AMS](#)
Cc: [Summers, Bruce - AMS](#); [Morris, Erin - AMS](#); [Parrott, Charles - AMS](#); [Richmond, William - AMS](#); [Bailey, Shayla - AMS](#); [Jones, Samuel - AMS](#); [Allen, William - AMS](#); [AMS - LPS EXECS](#)
Subject: e-Memo: Poultry Companies' Shares Traded Lower Following News Article Regarding Georgia Dock Report
Date: Thursday, November 17, 2016 4:39:43 PM

Information from the Livestock, Poultry, and Seed Program

Craig A. Morris, Deputy Administrator

November 17, 2016

Subject: Poultry Companies' Shares Traded Lower Following News Article Regarding Georgia Dock Report

Action Needed: None. For information only.

Issue: Meatingplace.com published a news [article](#) today about how shares of major poultry companies—Tyson Foods, Pilgrim's Pride, and Sanderson Farms—had traded 5 percent lower this morning following the [Washington Post's](#) publication of an internal memo written by a Georgia Department of Agriculture (GDA) employee. The memo questioned the development and publication of GDA's longstanding Georgia Dock poultry report.

Background: On August 5, 2016, USDA's Agricultural Marketing Service (AMS) discontinued a Market News report that was based on the Georgia Dock report, a GDA poultry report, because data from the source report could not be independently verified. We are aware that GDA is in the process of developing a new report and will continue to monitor its development. Separately, to show price and volume information for specific weight categories of whole birds, we enhanced our USDA Market News [National Whole Broiler/Fryer report](#) on October 7, 2016. Additional information about this enhanced report can be found at: [AMS Livestock, Poultry, and Grain Market News \(LPGMN\) Enhances the Depth of Broiler Reporting](#).

From: [Morris, Craig - AMS](#)
To: [Starmer, Elanor - AMS](#)
Cc: [Richmond, William - AMS](#); [Coale, Dana - AMS](#); [Summers, Bruce - AMS](#); [Morris, Erin - AMS](#); [Allen, William - AMS](#); [Jones, Samuel - AMS](#); [Bailey, Shayla - AMS](#); [Snyder, Angie - AMS](#); [Flores, Elizabeth R - AMS](#)
Subject: Informational Memo For Secretary - Georgia Dock
Date: Thursday, July 28, 2016 7:33:50 PM
Attachments: [Informational Memo For Secretary - Georgia Dock.docx](#)

Elanor:

As discussed, please find attached a draft informational memorandum that would be from you to the Secretary outlining the Georgia Dock situation and our plan of action.

Please let me know if you have any edits. Once this is completed we can final for you in our office.

Thank you,

Craig

From the desk of:

Craig A. Morris, Ph.D.

Deputy Administrator, Livestock, Poultry and Seed Program

U.S. Department of Agriculture

Agricultural Marketing Service

<http://www.ams.usda.gov/LPS>



1400 Independence Avenue, SW.
Room 3071-S, STOP 0201
Washington, DC 20250-0201

INFORMATIONAL MEMORANDUM FOR THE SECRETARY

(b) (5)

A large, solid black rectangular box covers the majority of the page, indicating that the content has been redacted under FOIA exemption (b)(5).

INFORMATIONAL MEMORANDUM FOR THE ACTING DEPUTY SECRETARY
Page 2

(b) (5)



INFORMATIONAL MEMORANDUM FOR THE ACTING DEPUTY SECRETARY
Page 3

(b) (5)



From: [Jones, Samuel - AMS](#)
To: [Morris, Craig - AMS](#)
Cc: [Snyder, Angie - AMS](#); [Lynch, Michael - AMS](#); [Flores, Elizabeth R - AMS](#); [Bailey, Shayla - AMS](#)
Subject: Re: GA Dock
Date: Tuesday, November 15, 2016 4:47:00 PM

Thanks, Craig!

Sam Jones-Ellard
USDA's Agricultural Marketing Service
Public Affairs
202.660.2268

Sent from my iPhone

On Nov 15, 2016, at 4:30 PM, Morris, Craig - AMS <Craig.Morris@ams.usda.gov> wrote:

(b) (5)



Sent from my iPhone

On Nov 15, 2016, at 4:26 PM, Jones, Samuel - AMS
<Samuel.Jones@ams.usda.gov> wrote:

Thanks!

Sam Jones-Ellard

Public Affairs Specialist

USDA | Agricultural Marketing Service

202.660.2268

Follow us on Twitter [@USDA_AMS](#) or [read our stories on the USDA blog](#).

From: Snyder, Angie - AMS

Sent: Tuesday, November 15, 2016 4:05 PM

To: Jones, Samuel - AMS <Samuel.Jones@ams.usda.gov>; Morris, Craig - AMS <Craig.Morris@ams.usda.gov>; Lynch, Michael - AMS <Michael.Lynch@ams.usda.gov>; Flores, Elizabeth R - AMS <ElizabethR.Flores@ams.usda.gov>

Cc: Bailey, Shayla - AMS <Shayla.Bailey@ams.usda.gov>

Subject: RE: GA Dock

It will work. (b) (5)



From: Jones, Samuel - AMS

Sent: Tuesday, November 15, 2016 4:00 PM

To: Snyder, Angie - AMS <Angie.Snyder@ams.usda.gov>; Morris, Craig - AMS <Craig.Morris@ams.usda.gov>; Lynch, Michael - AMS <Michael.Lynch@ams.usda.gov>; Flores, Elizabeth R - AMS <ElizabethR.Flores@ams.usda.gov>

Cc: Bailey, Shayla - AMS <Shayla.Bailey@ams.usda.gov>

Subject: RE: GA Dock

OC wants something short and sweet for this one. Does this work?

Thanks!

(b) (5)

Sam Jones-Ellard

Public Affairs Specialist

USDA | Agricultural Marketing Service

202.660.2268

Follow us on Twitter [@USDA_AMS](https://twitter.com/USDA_AMS) or [read our stories on the USDA blog](#).

From: Jones, Samuel - AMS

Sent: Tuesday, November 15, 2016 3:26 PM

To: Snyder, Angie - AMS <Angie.Snyder@ams.usda.gov>; Morris, Craig - AMS <Craig.Morris@ams.usda.gov>; Lynch, Michael - AMS <Michael.Lynch@ams.usda.gov>; Flores, Elizabeth R - AMS <ElizabethR.Flores@ams.usda.gov>

Cc: Bailey, Shayla - AMS <Shayla.Bailey@ams.usda.gov>

Subject: RE: GA Dock

Thanks, Angie!

Sam Jones-Ellard

Public Affairs Specialist

USDA | Agricultural Marketing Service

202.660.2268

Follow us on Twitter [@USDA_AMS](https://twitter.com/USDA_AMS) or [read our stories on the USDA blog](#).

From: Snyder, Angie - AMS

Sent: Tuesday, November 15, 2016 3:25 PM

To: Jones, Samuel - AMS <Samuel.Jones@ams.usda.gov>; Morris, Craig - AMS <Craig.Morris@ams.usda.gov>; Lynch, Michael - AMS <Michael.Lynch@ams.usda.gov>; Flores, Elizabeth R - AMS <ElizabethR.Flores@ams.usda.gov>

Cc: Bailey, Shayla - AMS <Shayla.Bailey@ams.usda.gov>

Subject: RE: GA Dock

(b) (5)

(b) (5)



You can read about the enhanced report at: [AMS Livestock, Poultry, and Grain Market News \(LPGMN\) Enhances the Depth of Broiler Reporting](#).

Angie

From: Jones, Samuel - AMS

Sent: Tuesday, November 15, 2016 3:01 PM

To: Snyder, Angie - AMS <Angie.Snyder@ams.usda.gov>; Morris, Craig - AMS <Craig.Morris@ams.usda.gov>; Lynch, Michael - AMS <Michael.Lynch@ams.usda.gov>; Flores, Elizabeth R - AMS <ElizabethR.Flores@ams.usda.gov>

Cc: Bailey, Shayla - AMS <Shayla.Bailey@ams.usda.gov>

Subject: FW: GA Dock

Please see the request below. Is there anything we can share or should we stick with our current statement? Thanks!

(b) (5)



You can read about the enhanced report at: [AMS Livestock, Poultry, and Grain Market News \(LPGMN\) Enhances the Depth of Broiler Reporting](#).

Sam Jones-Ellard

Public Affairs Specialist

USDA | Agricultural Marketing Service

202.660.2268

Follow us on Twitter [@USDA_AMS](#) or [read our stories on the USDA blog](#).

From: Cochran, Catherine - OC

Sent: Tuesday, November 15, 2016 2:31 PM

To: Jones, Samuel - AMS <Samuel.Jones@ams.usda.gov>

Cc: Mabry, Brian - OSEC <Brian.Mabry@oc.usda.gov>

Subject: GA Dock

Sam,

Shruti Singh at Bloomberg is writing a story on the GA Dock. The GA Dept.

of Ag has told her they're working on a new formula and vetting it with academics and with USDA, and that they met with USDA about it recently. She just wants comment from USDA about this. Can you all propose a statement to send back to them? (b) (5)

[REDACTED]

[REDACTED]

Her email is ssingh28@bloomberg.net

From: [Starmer, Elanor - AMS](#)
To: [Morris, Craig - AMS](#)
Cc: [Coale, Dana - AMS](#); [Richmond, William - AMS](#); [Morris, Erin - AMS](#); [Summers, Bruce - AMS](#); [Allen, William - AMS](#); [Bailey, Shayla - AMS](#)
Subject: Re: GA Dock Follow-up
Date: Tuesday, July 26, 2016 6:39:59 PM

Thanks. I just checked in with Jameelah - I know she is working on scheduling it.

Sent from my iPhone

On Jul 26, 2016, at 6:36 PM, Morris, Craig - AMS <Craig.Morris@ams.usda.gov> wrote:

Elanor:

This is for ahead of our meeting on this. I still haven't seen it scheduled.

Craig

Sent from my iPhone

Begin forwarded message:


From: "Bernau, Jim - AMS" <Jim.Bernau@ams.usda.gov>
Date: July 26, 2016 at 6:08:17 PM EDT
To: "Morris, Craig - AMS" <Craig.Morris@ams.usda.gov>
Cc: "Lynch, Michael - AMS" <Michael.Lynch@ams.usda.gov>, "Snyder, Angie - AMS" <Angie.Snyder@ams.usda.gov>
Subject: GA Dock Follow-up

Craig,

This morning, I spoke with Dr. Cobb about the GA Dock report and he expressed an appreciation for the LPGMN visit and assistance last week. As a reminder, the GA Dock report is created from data gathered by the Georgia Department of Agriculture (GDA) and then disseminated by LPGMN on the AMS website.

During our conversation today, Dr. Cobb spoke in length about the significance of the GA Dock report to stakeholders, the report's 50-year history, and the need for the report to continue as is unless stakeholders request a change to the report. As Dr. Cobb stressed, GDA's point of view is that any changes made to the report, including a discontinuation of the report, must originate from the stakeholders.

GDA and Dr. Cobb were told by stakeholders that an in-person or conference call meeting would likely be held early next week [week of August 1]. When speaking with Dr. Cobb today, LPGMN requested an opportunity to participate in the meeting, but Dr. Cobb stated stakeholders would need to invite us to the meeting.



As stated in Mike's email last week, LPGMN believes the following to be the next steps:

(b) (5)



(b) (5)



Please let me know if you have additional questions.

Thanks

Jim

James Bernau

Deputy Director

Livestock, Poultry and Grain Market News Division

USDA Agricultural Marketing Service

1400 Independence Ave, SW

Room 2619

Washington, DC 20250

jim.bernau@ams.usda.gov

Office: 202-720-1749

Cell: (b) (6)

Jones, Samuel - AMS

Subject: FW: Chicken Prices

Sam Jones-Ellard
Public Affairs Specialist
USDA | Agricultural Marketing Service
202.660.2268

Follow us on Twitter [@USDA_AMS](#) or [read our stories on the USDA blog](#).

From: Jones, Samuel - AMS
Sent: Tuesday, October 04, 2016 2:50 PM
To: 'Strom, Stephanie' <ssstrom@nytimes.com>
Subject: RE: Chicken Prices

Good afternoon, Stephanie,

Hope all is well. Of course it is a nice long title. ☺

Jason Karwal
Officer In Charge
USDA Agricultural Marketing Service's Livestock, Poultry, and Grain Market News Division

Thanks,
Sam Jones-Ellard
Public Affairs Specialist
USDA | Agricultural Marketing Service
202.660.2268

Follow us on Twitter [@USDA_AMS](#) or [read our stories on the USDA blog](#).

From: Strom, Stephanie [<mailto:ssstrom@nytimes.com>]
Sent: Tuesday, October 04, 2016 2:38 PM
To: Jones, Samuel - AMS <Samuel.Jones@ams.usda.gov>
Subject: Re: Chicken Prices

Hi, Sam,

I'm finally putting the story together and wanted to check the spelling of Jason's name. I also need his title.

I hope all is well. Best, Stephanie

On Thu, Sep 29, 2016 at 1:32 PM, Jones, Samuel - AMS <Samuel.Jones@ams.usda.gov> wrote:

Would 2 p.m. work for you? If so, I can give you a call with Jason on the line. Thanks!

Sam Jones-Ellard

Public Affairs Specialist

USDA | Agricultural Marketing Service

202.660.2268

Follow us on Twitter [@USDA_AMS](#) or [read our stories on the USDA blog](#).

From: Strom, Stephanie [mailto:ssstrom@nytimes.com]
Sent: Thursday, September 29, 2016 1:29 PM
To: Jones, Samuel - AMS <Samuel.Jones@ams.usda.gov>
Subject: Re: Chicken Prices

Hi, Sam,

Thanks for getting back to me. I'm free any time between now and about 5:30, but if you could let me know when you all will call, it would be helpful as I have a horrible habit of getting up to get a coffee and missing calls.

Best, Stephanie

On Thu, Sep 29, 2016 at 12:16 PM, Jones, Samuel - AMS <Samuel.Jones@ams.usda.gov> wrote:

Good afternoon, Stephanie,

Nice to hear from you. Is there a time that works best. Jason is fairly flexible. Thanks!

Sam Jones-Ellard

Public Affairs Specialist

USDA | Agricultural Marketing Service

202.660.2268

Follow us on Twitter [@USDA_AMS](#) or [read our stories on the USDA blog](#).

From: Strom, Stephanie [mailto:ssstrom@nytimes.com]
Sent: Thursday, September 29, 2016 12:12 PM
To: Cochran, Catherine - OC <Catherine.Cochran.1@oc.usda.gov>
Cc: Jones, Samuel - AMS <Samuel.Jones@ams.usda.gov>
Subject: Re: Chicken Prices

Thanks, Cathy, and hi, Sam.

Sam, I'd like to talk to Jason about the process you all use to compile this index. Background is fine.

Best, Stephanie

On Thu, Sep 29, 2016 at 12:10 PM, Cochran, Catherine - OC <Catherine.Cochran.1@oc.usda.gov> wrote:

Hey Stephanie,

I've attached a PDF that outlines the change AMS undertook in 2012 when they stopped using the 12-city index. I'm also looping you with Sam Jones here, from AMS' public affairs office. You two probably already know each other, but if not you should. I'm going to let Sam take it from here as far as setting up a call. Jason is happy to talk on background to clarify AMS' process as outlined in this document, but can't speak to the methodology used to create other indices.

Cathy

Catherine Cochran
USDA Office of Communications
[202.720.6959](tel:202.720.6959) (o)
(b) (6) (m)

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--

Stephanie Strom

The New York Times

620 Eighth Avenue
New York, NY 10018

O: 212-556-8794

t: @ssstrom

www.nytimes.com

--

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--

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New York, NY 10018

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t: @ssstrom
www.nytimes.com

Jones, Samuel - AMS

From: Jones, Samuel - AMS
Sent: Thursday, November 03, 2016 4:44 PM
To: 'Strom, Stephanie'
Subject: RE: Coupla things

Good afternoon, Stephanie,

Thanks for reaching out. Below is a statement you can attribute to a USDA spokesperson.

USDA's Agricultural Marketing Service (AMS) discontinued a Market News report based on the Georgia Dock report, a Georgia Department of Agriculture poultry report, when data from the source report could not be independently verified by USDA. AMS is working with Georgia and industry stakeholders to develop a new report that will ensure the industry has the data they need. AMS is committed to providing transparent and reliable data through its USDA Market News service, and enhanced its National Whole Broiler/Fryer report in October.

You can read about the enhanced report at: [AMS Livestock, Poultry, and Grain Market News \(LPGMN\) Enhances the Depth of Broiler Reporting](#).

#

Thanks again!

Sam Jones-Ellard
Public Affairs Specialist
USDA | Agricultural Marketing Service
202.660.2268

Follow us on Twitter [@USDA_AMS](#) or read our stories on the [USDA blog](#).

From: Strom, Stephanie [mailto:ssstrom@nytimes.com]
Sent: Thursday, November 03, 2016 3:32 PM
To: Jones, Samuel - AMS <Samuel.Jones@ams.usda.gov>
Cc: Herrick, Matthew - OC <Matthew.Herrick@oc.usda.gov>
Subject: Re: Coupla things

Hi, Sam,

So, the story about the Georgia Dock is likely to go up this evening -- but I just got a dump of emails between USDA and the Georgia Department of Agriculture.

It seems that earlier this year, USDA informed the Georgia Dept. of Ag that it needed to make changes in the way it compiled the Georgia Dock, including obtaining receipts and doing other cross checking. The GA Dept. of Ag. agreed to make the changes -- and then suddenly reversed that decision.

Does USDA have any comment about this? Please let me know as soon as possible.

Many thanks, Stephanie

On Fri, Oct 7, 2016 at 2:05 PM, Jones, Samuel - AMS <Samuel.Jones@ams.usda.gov> wrote:

Good afternoon,

The latest report posted at <https://www.ams.usda.gov/mnreports/pywwholebroiler.pdf>.

Thanks and have a great weekend!

Sam Jones-Ellard

Public Affairs Specialist

USDA | Agricultural Marketing Service

[202.660.2268](tel:202.660.2268)

Follow us on Twitter [@USDA_AMS](https://twitter.com/USDA_AMS) or [read our stories on the USDA blog](#).

From: Jones, Samuel - AMS

Sent: Thursday, October 06, 2016 1:10 PM

To: 'Strom, Stephanie' <ssstrom@nytimes.com>

Subject: RE: Coupla things

Glad to assist. Attached is a Notice to Trade we will post shortly today that lays out the new report. Thanks!

Sam Jones-Ellard

Public Affairs Specialist

USDA | Agricultural Marketing Service

[202.660.2268](tel:202.660.2268)

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From: Strom, Stephanie [<mailto:ssstrom@nytimes.com>]
Sent: Thursday, October 06, 2016 1:06 PM
To: Jones, Samuel - AMS <Samuel.Jones@ams.usda.gov>
Subject: Re: Coupla things

Thanks, Sam.

The new report will include a price for 2.5 to 3.5 birds, right?

Thanks, Stephanie

On Thu, Oct 6, 2016 at 1:03 PM, Jones, Samuel - AMS <Samuel.Jones@ams.usda.gov> wrote:

Hi Stephanie,

Happy Thursday! For the first question, you will need to check with the Georgia Department of Agriculture since it is their report. You can find their contact information on this page:
<http://www.agr.georgia.gov/poultry-market-news.aspx>.

You can find our latest data at <https://www.ams.usda.gov/mnreports/pywwholebroiler.pdf>. A new report will be published tomorrow at 1 PM Central. I can send along a copy once it is ready.

Thanks!

Sam Jones-Ellard

Public Affairs Specialist

USDA | Agricultural Marketing Service

202.660.2268

Follow us on Twitter [@USDA_AMS](#) or read our stories on the [USDA blog](#).

From: Strom, Stephanie [mailto:ssstrom@nytimes.com]
Sent: Thursday, October 06, 2016 11:35 AM
To: Jones, Samuel - AMS <Samuel.Jones@ams.usda.gov>
Subject: Coupla things

Hi, Sam,

Happy Thursday.

I'm putting the story about Georgia Dock together and have a couple of requests.

First, a guy I was talking to said there are just three plants in Georgia that process the smaller birds, i.e. the 2.5 to 3.5 pound broilers tracked by the Georgia Dock. Is that the case? And can you all tell me who the producers are?

Then, can you ship me the new small bird price you all will have tomorrow?

Many thanks, Stephanie

--

Stephanie Strom

The New York Times

620 Eighth Avenue
New York, NY 10018

O: [212-556-8794](tel:212-556-8794)

t: @ssstrom

www.nytimes.com

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--

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www.nytimes.com

--

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AMS Livestock, Poultry, and Grain Market News (LPGMN) Enhances the Depth of Broiler Reporting

October 6, 2016

Beginning on Oct. 7, 2016, USDA's Agricultural Marketing Service (AMS), through its LPGMN division, will expand the National Whole Broiler/Fryer report. The expanded report features weight breaks of whole body and WOGS (without giblets). The new report will expand weight groups for WOGS to include 2.50 pounds and lighter, 2.51 to 3.50 pounds, 3.51 pounds and heavier, and a composite WOG category. On the whole body birds, weights will be broken down to include 3.00 pounds and lighter, 3.01 pounds and heavier, and a composite whole body category.

The original national composite section on this report will remain unchanged, and is the parent of the expanded sections. The new report will provide more detail in the national section, benefitting the industry by providing market indicators in the negotiated trade by providing volumes, price ranges, and weighted average prices. In the new report a customer will note the light and heavy WOG volume and price differences, which is indicative of the premium paid on a small bird as it makes up less than 10 percent of the national market (see the example below). The report will continue to feature regional (Eastern, Western, Central) composite whole body and WOG price and volume information.

BREAKOUT OF NATIONAL DATA

	THIS WEEK				LAST WEEK	
	Price Range	Wtd Avg	Change	1,000 lbs.	Wtd Avg	1,000 lbs.
WOGS:						
Composite WOGS:	42.00 - 109.00	70.39	↓ -3.50	7,810	73.89	8,095
2.50 lbs and Lighter:	48.00 - 104.00	88.90	↓ -3.86	582	90.76	797
2.51 lbs to 3.50 lbs:	42.00 - 109.00	69.98		6,236		
3.51 lbs and Heavier:	42.00 - 108.00	63.31		992		
Whole Birds:						
Composite Whole Body:	42.00 - 108.00	74.87	↓ -4.62	4,674	79.49	4,858
3.00 lbs and Lighter:	44.00 - 91.00	75.02	↓ -5.07	397	80.09	598
3.01 lbs and Heavier:	42.00 - 108.00	74.86	↓ -4.26	4,277	79.12	4,260

LPGMN encourages customers to view all of its poultry market reports, or contact the Livestock, Poultry, and Grain Market News office in Des Moines, Iowa, at (515) 284-4460, or Atlanta, Georgia, at (404) 562-5850.

From: [Jones, Samuel - AMS](#)
To: [Mabry, Brian - OSEC](#); [Bailey, Shayla - AMS](#)
Subject: RE: Stephanie Strom, NYTimes, Looking at Poultry Pricing Indexes
Date: Wednesday, September 28, 2016 3:11:30 PM

Let me check on this. Jason is great and could do a background call if Shayla is good with it. But, if she is looking for quotes, Craig is best.

Thanks,

Sam Jones-Ellard

Public Affairs Specialist

USDA | Agricultural Marketing Service

202.660.2268

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From: Mabry, Brian - OSEC

Sent: Wednesday, September 28, 2016 3:09 PM

To: Jones, Samuel - AMS ; Bailey, Shayla - AMS

Subject: FW: Stephanie Strom, NYTimes, Looking at Poultry Pricing Indexes

Stephanie seems to think we have our own index, in addition to the GA Dock. She wants to know how ours compares to that one. Do you if this is right?

I'm working on a story about chicken pricing, and everyone is telling me I should speak with Jason Karwal, who's in charge of USDA's composite and knows a lot about this issue.

I'm trying to understand the various price indices. I'd like to know how USDA compiles its 12-city index and how that compares to other indexes, like Georgia Dock and Urner Barry.

#

From: Mabry, Brian - OSEC

Sent: Wednesday, September 28, 2016 2:57 PM

To: Cochran, Catherine - OC <Catherine.Cochran.1@oc.usda.gov>

Cc: Peters, Joanne - OC <Joanne.Peters@oc.usda.gov>

Subject: Stephanie Strom, NYTimes, Looking at Poultry Pricing Indexes

AMS would be happy to set up something for her. Craig Morris would be the best voice. He is traveling so Friday morning would be the best bet. Let me know how I can help.

I am not sure if I introduced the Georgia Dock report when we talked, or if Stephanie did.

AMS no longer issues that report. It was one of many poultry reports. Below is a status update on Georgia Dock.

Georgia Department of Agriculture Poultry Market News Report (Georgia Dock)

On July 20, 2016, AMS discovered that a price report issued by the Georgia Department of Agriculture (GDA) for processed poultry prices (Georgia Dock) was not being properly verified. The price information in the report has been included in an AMS issued market news report since 1993. AMS has been working with GDA officials to seek options to change the methodology of the report so it reflects verifiable market prices, but GDA plans to continue publishing the Georgia Dock report without change until an alternative methodology can be developed. **In the meantime, AMS discontinued publishing the AMS Market News report based upon the Georgia Dock report on August 5, 2016.** On September 1, AMS met with GDA in Atlanta to discuss the new Federal report and GDA's current work with the Georgia poultry industry related to a replacement for its GDA Georgia Dock report.

Next Steps: AMS will continue working with GDA and offering technical assistance to develop new report procedures consistent with AMS Market News reporting methodologies and confidentiality guidelines. In addition, AMS is developing a new spot market poultry

report in effort to meet industry needs.

#

Best ~ Brian

From: Mabry, Brian - OSEC

Sent: Wednesday, September 28, 2016 12:40 PM

To: Bailey, Shayla - AMS <Shayla.Bailey@ams.usda.gov>; Jones, Samuel - AMS <Samuel.Jones@ams.usda.gov>

Subject: Stephanie Strom, NYTimes, Looking at Poultry Pricing Indexes

Shayla and Sam,

Stephanie Strom, ag and food reporter for the NYTimes, left a message for Cathy asking about the AMS Poultry Pricing Indexes and has asked to speak to someone about how USDA tracks and reports them.

I remember several months ago that Craig talked about concerns with the Georgia Dock pricing, and I found this WSJ article from January discussing it: <http://www.wsj.com/articles/are-food-companies-playing-chicken-with-prices-1453142354>

Can AMS PA provide a brief summary of the issue, and let us know if you think Craig or someone else would be prepared to talk to Stephanie about this topic? Thanks for some context before Cathy calls her back. Best ~ Brian

Brian K. Mabry,

Communications Coordinator

USDA Office of Communications

1400 Independence Avenue SW, Whitten 405-A

Washington DC 20250

Office Direct: 202.720.3088 *(no voicemail)*

USDA Mobile (b) (6)

brian.mabry@oc.usda.gov

www.usda.gov

From: [Jones, Samuel - AMS](#)
To: [Mabry, Brian - OSEC](#); [Bailey, Shayla - AMS](#)
Subject: RE: Stephanie Strom, NYTimes, Looking at Poultry Pricing Indexes
Date: Wednesday, September 28, 2016 1:12:22 PM

Craig would be best, but he is traveling. Friday morning would be the best bet.

Thanks,

Sam Jones-Ellard

Public Affairs Specialist
USDA | Agricultural Marketing Service
202.660.2268

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From: Mabry, Brian - OSEC

Sent: Wednesday, September 28, 2016 1:07 PM

To: Jones, Samuel - AMS ; Bailey, Shayla - AMS

Subject: RE: Stephanie Strom, NYTimes, Looking at Poultry Pricing Indexes

Thanks Sam. If she asked to interview someone, who would be the right person?

Brian K. Mabry,
Communications Coordinator
USDA Office of Communications
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Washington DC 20250
Office Direct: 202.720.3088 (no voicemail)
USDA Mobile: (b) (6)
brian.mabry@oc.usda.gov
www.usda.gov

From: Jones, Samuel - AMS

Sent: Wednesday, September 28, 2016 12:47 PM

To: Mabry, Brian - OSEC <Brian.Mabry@oc.usda.gov>; Bailey, Shayla - AMS
<Shayla.Bailey@ams.usda.gov>

Subject: RE: Stephanie Strom, NYTimes, Looking at Poultry Pricing Indexes

Hey Brian,

We would be happy to chat with her. Not sure if the Georgia Dock report would come up since we no longer issue that report. It was one of many poultry reports. Below is a status update on Georgia Dock.

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Next Steps: AMS will continue working with GDA and offering technical assistance to develop new report procedures consistent with AMS Market News reporting methodologies and confidentiality guidelines. In addition, AMS is developing a new spot market poultry report in effort to meet industry needs.

Thanks,

Sam Jones-Ellard

Public Affairs Specialist

USDA | Agricultural Marketing Service

202.660.2268

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From: Mabry, Brian - OSEC

Sent: Wednesday, September 28, 2016 12:40 PM

To: Bailey, Shayla - AMS <Shayla.Bailey@ams.usda.gov>; Jones, Samuel - AMS <Samuel.Jones@ams.usda.gov>

Subject: Stephanie Strom, NYTimes, Looking at Poultry Pricing Indexes

Shayla and Sam,

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Can AMS PA provide a brief summary of the issue, and let us know if you think Craig or someone else would be prepared to talk to Stephanie about this topic? Thanks for some context before Cathy calls her back. Best ~ Brian

Brian K. Mabry,

Communications Coordinator

USDA Office of Communications

1400 Independence Avenue SW, Whitten 405-A

Washington DC 20250

Office Direct: 202.720.3088 (*no voicemail*)

USDA Mobile (b) (6)

brian.mabry@oc.usda.gov

www.usda.gov

From: [Jones, Samuel - AMS](#)
To: [Mabry, Brian - OSEC](#); [Bailey, Shayla - AMS](#)
Subject: RE: Stephanie Strom, NYTimes, Looking at Poultry Pricing Indexes
Date: Wednesday, September 28, 2016 3:48:59 PM

We do have our own index for whole broilers. We no longer use the 12-city index, but rather a National/Regional index. This change occurred in 2012. In fact, we are working on a Notice to Trade that will announce enhancements to this reporting. Our index is based off of actual trading/real prices paid and received. I have more background I can share if needed.

Thanks!

Sam Jones-Ellard

Public Affairs Specialist
USDA | Agricultural Marketing Service
202.660.2268

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From: Mabry, Brian - OSEC
Sent: Wednesday, September 28, 2016 3:28 PM
To: Jones, Samuel - AMS ; Bailey, Shayla - AMS
Subject: RE: Stephanie Strom, NYTimes, Looking at Poultry Pricing Indexes
She left a voicemail for Cathy – I don't know Cathy has returned the call before she did some digging. I'll ask after we finish week ahead.

Brian K. Mabry,
Communications Coordinator
USDA Office of Communications
1400 Independence Avenue SW, Whitten 405-A
Washington DC 20250
Office Direct: 202.720.3088 (no voicemail)
USDA Mobile (b) (6)
brian.mabry@oc.usda.gov
www.usda.gov

From: Jones, Samuel - AMS
Sent: Wednesday, September 28, 2016 3:24 PM
To: Mabry, Brian - OSEC <Brian.Mabry@oc.usda.gov>; Bailey, Shayla - AMS <Shayla.Bailey@ams.usda.gov>
Subject: RE: Stephanie Strom, NYTimes, Looking at Poultry Pricing Indexes
Did she give you a deadline?

Sam Jones-Ellard

Public Affairs Specialist
USDA | Agricultural Marketing Service
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From: Mabry, Brian - OSEC
Sent: Wednesday, September 28, 2016 3:09 PM
To: Jones, Samuel - AMS <Samuel.Jones@ams.usda.gov>; Bailey, Shayla - AMS <Shayla.Bailey@ams.usda.gov>

Subject: FW: Stephanie Strom, NYTimes, Looking at Poultry Pricing Indexes
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I'm trying to understand the various price indices. I'd like to know how USDA compiles its 12-city index and how that compares to other indexes, like Georgia Dock and Urner Barry.

#

From: Mabry, Brian - OSEC

Sent: Wednesday, September 28, 2016 2:57 PM

To: Cochran, Catherine - OC <Catherine.Cochran.1@oc.usda.gov>

Cc: Peters, Joanne - OC <Joanne.Peters@oc.usda.gov>

Subject: Stephanie Strom, NYTimes, Looking at Poultry Pricing Indexes

AMS would be happy to set up something for her. Craig Morris would be the best voice. He is traveling so Friday morning would be the best bet. Let me know how I can help.

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AMS no longer issues that report. It was one of many poultry reports. Below is a status update on Georgia Dock.

Georgia Department of Agriculture Poultry Market News Report (Georgia Dock)

On July 20, 2016, AMS discovered that a price report issued by the Georgia Department of Agriculture (GDA) for processed poultry prices (Georgia Dock) was not being properly verified. The price information in the report has been included in an AMS issued market news report since 1993. AMS has been working with GDA officials to seek options to change the methodology of the report so it reflects verifiable market prices, but GDA plans to continue publishing the Georgia Dock report without change until an alternative methodology can be developed. In the meantime, AMS discontinued publishing the AMS Market News report

based upon the Georgia Dock report on August 5, 2016. On September 1, AMS met with GDA in Atlanta to discuss the new Federal report and GDA's current work with the Georgia poultry industry related to a replacement for its GDA Georgia Dock report.

Next Steps: AMS will continue working with GDA and offering technical assistance to develop new report procedures consistent with AMS Market News reporting methodologies and confidentiality guidelines. In addition, AMS is developing a new spot market poultry report in effort to meet industry needs.

#

Best ~ Brian

From: Mabry, Brian - OSEC

Sent: Wednesday, September 28, 2016 12:40 PM

To: Bailey, Shayla - AMS <Shayla.Bailey@ams.usda.gov>; Jones, Samuel - AMS

<Samuel.Jones@ams.usda.gov>

Subject: Stephanie Strom, NYTimes, Looking at Poultry Pricing Indexes

Shayla and Sam,

Stephanie Strom, ag and food reporter for the NYTimes, left a message for Cathy asking about the AMS Poultry Pricing Indexes and has asked to speak to someone about how USDA tracks and reports them.

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Can AMS PA provide a brief summary of the issue, and let us know if you think Craig or someone else would be prepared to talk to Stephanie about this topic? Thanks for some context before Cathy calls her back. Best ~ Brian

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To: [Mabry, Brian - OSEC](#)
Cc: [Bailey, Shayla - AMS](#)
Subject: Re: Stephanie Strom, NYTimes, Looking at Poultry Pricing Indexes
Date: Wednesday, September 28, 2016 4:49:26 PM

http://www.bloomberg.com/news/articles/2016-09-28/is-there-a-vast-conspiracy-to-overcharge-you-for-chicken?cmpid=BBD092816_BIZ

Sam Jones-Ellard
USDA's Agricultural Marketing Service
Public Affairs
202.660.2268

Sent from my iPhone

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www.usda.gov

From: [Richmond, William - AMS](#)
To: [Taylor, Jameelah - AMS](#); [Starmer, Elanor - AMS](#)
Subject: RE: Chicken Pricing Indexes in AMS Market News
Date: Tuesday, July 05, 2016 4:39:59 PM

(b) (5)

Thanks

From: Taylor, Jameelah - AMS
Sent: Tuesday, July 05, 2016 4:33 PM
To: Starmer, Elanor - AMS <Elanor.Starmer@ams.usda.gov>
Cc: Richmond, William - AMS <William.Richmond@ams.usda.gov>
Subject: FW: Chicken Pricing Indexes in AMS Market News

Hi Elanor,

Please let me know how you would like to meet with Mark. Also, is there anyone you would like to invite to the meeting(s)?

Thank you,

Jameelah

From: Tobey, Mark [<mailto:Mark.Tobey@usdoj.gov>]
Sent: Tuesday, July 05, 2016 4:04 PM
To: Starmer, Elanor - AMS
Cc: Taylor, Jameelah - AMS; Richmond, William - AMS
Subject: RE: Chicken Pricing Indexes in AMS Market News

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described in this article: <<http://www.theguardian.com/us-news/2015/sep/02/usda-american-egg-board-hampton-creek-just-mayo>>. I am happy to send a working draft of the legislation if you have not seen it.

I realize that these two meetings may involve different personnel on my end and yours – and for that I apologize - but I wanted to try to deal with both as soon as we can. The legislation has a shorter deadline if that helps. Thanks again. mt

Mark Tobey
Special Counsel for State Relations and Agriculture
U.S. Department of Justice
Antitrust Division
Rm 11022 - LSB
450 5th Street, N.W.
Washington, D.C. 20530
(202)532-4763

From: Starmer, Elanor - AMS [<mailto:Elanor.Starmer@ams.usda.gov>]
Sent: Tuesday, July 05, 2016 2:37 PM
To: Tobey, Mark
Cc: Taylor, Jameelah - AMS; Richmond, William - AMS
Subject: RE: Chicken Pricing Indexes in AMS Market News

Mark, I'd be happy to talk, and apologies that we weren't able to connect last week – I was out of the office on work travel. My assistant Jameelah, cc'd here, can help us find a time. Bill Richmond, also cc'd, has taken over the AMS Chief of Staff role as Sara transitioned to the Secretary's office. (b)

[REDACTED]

Thanks,
Elanor

Elanor Starmer
Administrator
Agricultural Marketing Service
U.S. Department of Agriculture
202-720-5115
elanor.starmer@ams.usda.gov

From: Tobey, Mark [<mailto:Mark.Tobey@usdoj.gov>]
Sent: Tuesday, July 05, 2016 2:26 PM
To: Starmer, Elanor - AMS
Subject: Chicken Pricing Indexes in AMS Market News

Ms. Starmer,

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[REDACTED]

[REDACTED]

[REDACTED]

(b) (5) [REDACTED] Would you have time for a brief meeting or call? Please let us know. (b) (6) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] mt

Mark Tobey
Special Counsel for State Relations and Agriculture
U. S. Department of Justice
Anti trust Division
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From: [Tobey, Mark](#)
To: [Taylor, Jameelah - AMS](#)
Subject: RE: Chicken Pricing Indexes in AMS Market News
Date: Tuesday, July 05, 2016 7:34:18 PM

Thank you. mt

From: Taylor, Jameelah - AMS [mailto:Jameelah.Taylor@ams.usda.gov]
Sent: Tuesday, July 05, 2016 5:01 PM
To: Tobey, Mark
Subject: RE: Chicken Pricing Indexes in AMS Market News

Hi Tobey,

I am checking Elanor's schedule and will get back to you soon.

Thank you,

Jameelah

From: Tobey, Mark [mailto:Mark.Tobey@usdoj.gov]
Sent: Tuesday, July 05, 2016 4:04 PM
To: Starmer, Elanor - AMS
Cc: Taylor, Jameelah - AMS; Richmond, William - AMS
Subject: RE: Chicken Pricing Indexes in AMS Market News

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Anti trust Division

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From: Starmer, Elanor - AMS [<mailto:Elanor.Starmer@ams.usda.gov>]
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elanor.starmer@ams.usda.gov

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From: [Taylor, Jameelah - AMS](#)
To: [Tobey, Mark](#)
Subject: RE: Chicken Pricing Indexes in AMS Market News
Date: Wednesday, July 06, 2016 11:24:31 AM
Attachments: [image001.png](#)

Good Morning Mark,

Will you be able to meet tomorrow at 12:30 – 1:00 p.m. or 2:30 – 3:00 p.m.? Please let me know if either of these times will work with your schedule. If so, will you be calling in or coming into the office?

Thank you,

Jameelah Taylor
Executive Assistant to the Administrator
Agricultural Marketing Service
1400 Independence Avenue, SW
Room 3071-S, STOP 0201
Washington, DC 20250
Office: 202-720-5115
Email: Jameelah.Taylor@ams.usda.gov
<http://www.ams.usda.gov/>



From: Tobey, Mark [mailto:Mark.Tobey@usdoj.gov]
Sent: Tuesday, July 05, 2016 4:04 PM
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Cc: Taylor, Jameelah - AMS; Richmond, William - AMS
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To: [Taylor, Jameelah - AMS](#)
Subject: RE: Chicken Pricing Indexes in AMS Market News
Date: Wednesday, July 06, 2016 11:26:13 AM
Attachments: [image001.png](#)

Also, could you please forward a copy of the legislation this afternoon so that I can share with the staff? Thank you!

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From: [Microsoft Outlook](#) on behalf of [Taylor, Jameelah - AMS](#)
To: [Starmer, Elanor - AMS](#)
Subject: Meeting Forward Notification: Chicken Pricing Indexes - Georgia Dock
Start: Thursday, July 07, 2016 1:00:00 PM
End: Thursday, July 07, 2016 1:30:00 PM
Location: 3074-S; (b) (6) Access Code (b) (6)

Your meeting was forwarded

Taylor, Jameelah - AMS <<mailto:Jameelah.Taylor@ams.usda.gov>> has forwarded your meeting request to additional recipients.

Meeting
Chicken Pricing Indexes - Georgia Dock

Meeting Time
Thursday, 07 July 2016 13:00-13:30.

Recipients
Coale, Dana - AMS <<mailto:Dana.Coale@ams.usda.gov>>
Summers, Bruce - AMS <<mailto:Bruce.Summers@ams.usda.gov>>
Richmond, William - AMS <<mailto:William.Richmond@ams.usda.gov>>
Allen, William - AMS <<mailto:William.Allen@ams.usda.gov>>
Snyder, Angie - AMS <<mailto:Angie.Snyder@ams.usda.gov>>
Lynch, Michael - AMS <<mailto:Michael.Lynch@ams.usda.gov>>

All times listed are in the following time zone: (UTC-05:00) Eastern Time (US & Canada)

Sent by Microsoft Exchange Server 2016

From: [Taylor, Jameelah - AMS](#) on behalf of [Starmer, Elanor - AMS](#)
To: [Coale, Dana - AMS](#); [Summers, Bruce - AMS](#); [Richmond, William - AMS](#); [Allen, William - AMS](#); [Snyder, Angie - AMS](#); [Lynch, Michael - AMS](#)
Subject: Chicken Pricing Indexes - Georgia Dock

The following are attending this meeting with Mark Tobey:

Amanda Klovers
Douglas Rathbun

Mark Tobey's message:

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Antitrust Division
Rm 11022 - LSB
450 5th Street, N.W.
Washington, D.C. 20530
(202)532-4763

From: [Taylor, Jameelah - AMS](#) on behalf of [Starmer, Elanor - AMS](#)
To: [Harrison, Carolyn - AMS](#); [Wright, Erica - AMS](#); [Rick, Whitney - AMS](#); [Pritchett, Nichole - AMS](#); [Jamison, David - AMS](#)
Subject: Chicken Pricing Indexes - Georgia Dock

The following are attending this meeting with Mark Tobey:

Amanda Klovers
Douglas Rathbun

Mark Tobey's message:

Ms. Starmer,

Larry Mitchell and Susan Keith from GIPSA suggested that we contact you about the Georgia Dock chicken pricing index which USDA republishes weekly as part of the AMS Market News. Larry and Susan may have mentioned (b) (5)

Would you have time for a brief meeting or call? Please let us know. (b) (5)

mt

Mark Tobey
Special Counsel for State Relations and Agriculture
U.S. Department of Justice
Antitrust Division
Rm 11022 - LSB
450 5th Street, N.W.
Washington, D.C. 20530
(202)532-4763

From: [Taylor, Jameelah - AMS](#) on behalf of [Starmer, Elanor - AMS](#)
To: [Pratt, Maria - AMS](#); [Foy, Cherry - AMS](#)
Subject: Chicken Pricing Indexes - Georgia Dock

The following are attending this meeting with Mark Tobey:

Amanda Klovers
Douglas Rathbun

Mark Tobey's message:

Ms. Starmer,

Larry Mitchell and Susan Keith from GIPSA suggested that we contact you about the Georgia Dock chicken pricing index which USDA republishes weekly as part of the AMS Market News. Larry and Susan may have mentioned (b) (5)

Would you have time for a brief meeting or call? Please let us know. (b) (5)

) mt

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Washington, D.C. 20530
(202)532-4763

From: [Taylor, Jameelah - AMS](#)
To: [Coale, Dana - AMS](#)
Subject: RE: Chicken Pricing Indexes - Georgia Dock
Date: Wednesday, July 06, 2016 2:37:24 PM

Hi Dana,

Bill R. just mention that he'll be teleworking tomorrow as well. Please call into (b) (6) and use Access Code (b) (6) for both meetings. I will also update the call-in information in the calendar invites.

Thank you,

Jameelah

From: Taylor, Jameelah - AMS
Sent: Wednesday, July 06, 2016 2:25 PM
To: Coale, Dana - AMS
Subject: RE: Chicken Pricing Indexes - Georgia Dock

Hi Dana,

The meeting referenced below is in continuation from the meeting I mentioned in a previous message. I wanted to make sure you were aware.

Thank you,

Jameelah

-----Original Appointment-----

From: Taylor, Jameelah - AMS **On Behalf Of** Starmer, Elanor - AMS
Sent: Wednesday, July 06, 2016 2:13 PM
To: Starmer, Elanor - AMS; Coale, Dana - AMS; Summers, Bruce - AMS; Richmond, William - AMS; Allen, William - AMS; Snyder, Angie - AMS; Lynch, Michael - AMS
Subject: Chicken Pricing Indexes - Georgia Dock
When: Thursday, July 07, 2016 1:00 PM-1:30 PM (UTC-05:00) Eastern Time (US & Canada).
Where: 3069-S; Dana will call into (b) (6)

The following are attending this meeting with Mark Tobey:

Amanda Klovers

Douglas Rathbun

Mark Tobey's message:

Ms. Starmer,

Larry Mitchell and Susan Keith from GIPSA suggested that we contact you about the Georgia Dock chicken pricing index which USDA republishes weekly as part of the AMS Market News. Larry and Susan may have mentioned (b) (5)

[REDACTED]

[REDACTED] Would you have time for a brief meeting or call? Please let us know. (b) (6)

[REDACTED] mt

Mark Tobey

Special Counsel for State Relations and Agriculture

U.S. Department of Justice

Anti-trust Division

Rm 11022 - LSB

450 5th Street, N.W.

Washington, D.C. 20530

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From: [Microsoft Outlook](#) on behalf of [Taylor, Jameelah - AMS](#)
To: [Starmer, Elanor - AMS](#)
Subject: Meeting Forward Notification: Chicken Pricing Indexes - Georgia Dock
Start: Thursday, July 07, 2016 1:00:00 PM
End: Thursday, July 07, 2016 1:30:00 PM
Location: 3074-S; (b) (6) Access Code (b) (6)

Your meeting was forwarded

Taylor, Jameelah - AMS <<mailto:Jameelah.Taylor@ams.usda.gov>> has forwarded your meeting request to additional recipients.

Meeting
Chicken Pricing Indexes - Georgia Dock

Meeting Time
Thursday, 07 July 2016 13:00-13:30.

Recipients
Coale, Dana - AMS <<mailto:Dana.Coale@ams.usda.gov>>
Summers, Bruce - AMS <<mailto:Bruce.Summers@ams.usda.gov>>
Richmond, William - AMS <<mailto:William.Richmond@ams.usda.gov>>
Allen, William - AMS <<mailto:William.Allen@ams.usda.gov>>
Snyder, Angie - AMS <<mailto:Angie.Snyder@ams.usda.gov>>
Lynch, Michael - AMS <<mailto:Michael.Lynch@ams.usda.gov>>

All times listed are in the following time zone: (UTC-05:00) Eastern Time (US & Canada)

Sent by Microsoft Exchange Server 2016

From: [Taylor, Jameelah - AMS](#) on behalf of [Starmer, Elanor - AMS](#)
To: [Coale, Dana - AMS](#); [Summers, Bruce - AMS](#); [Richmond, William - AMS](#); [Allen, William - AMS](#); [Snyder, Angie - AMS](#); [Lynch, Michael - AMS](#)
Subject: Chicken Pricing Indexes - Georgia Dock

The following are attending this meeting with Mark Tobey:

Amanda Klovers
Douglas Rathbun

Mark Tobey's message:

Ms. Starmer,

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ould you have time for a brief meeting or call? Please let us know. (b) (5)

mt

Mark Tobey
Special Counsel for State Relations and Agriculture
U.S. Department of Justice
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Washington, D.C. 20530
(202)532-4763

From: [Taylor, Jameelah - AMS](#) on behalf of [Starmer, Elanor - AMS](#)
To: [Pratt, Maria - AMS](#); [Foy, Cherry - AMS](#)
Subject: Chicken Pricing Indexes - Georgia Dock

The following are attending this meeting with Mark Tobey:

Amanda Klovers
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Ms. Starmer,

Larry Mitchell and Susan Keith from GIPSA suggested that we contact you about the Georgia Dock chicken pricing index which USDA republishes weekly as part of the AMS Market News. Larry and Susan may have mentioned (b) (5)

Would you have time for a brief meeting or call? Please let us know. (b) (5)

mt

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From: [Taylor, Jameelah - AMS](#) on behalf of [Starmer, Elanor - AMS](#)
To: [Harrison, Carolyn - AMS](#); [Wright, Erica - AMS](#); [Rick, Whitney - AMS](#); [Pritchett, Nichole - AMS](#); [Jamison, David - AMS](#)
Subject: Chicken Pricing Indexes - Georgia Dock

The following are attending this meeting with Mark Tobey:

Amanda Klovers
Douglas Rathbun

Mark Tobey's message:

Ms. Starmer,

Larry Mitchell and Susan Keith from GIPSA suggested that we contact you about the Georgia Dock chicken pricing index which USDA republishes weekly as part of the AMS Market News. Larry and Susan may have mentioned (b) (5)

. Would you have time for a brief meeting or call? Please let us know. (b) (5)

mt

Mark Tobey
Special Counsel for State Relations and Agriculture
U.S. Department of Justice
Antitrust Division
Rm 11022 - LSB
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Washington, D.C. 20530
(202)532-4763

From: [Microsoft Outlook](#) on behalf of [Taylor, Jameelah - AMS](#)
To: [Starmer, Elanor - AMS](#)
Subject: Meeting Forward Notification: Chicken Pricing Indexes - Georgia Dock
Start: Thursday, July 07, 2016 1:00:00 PM
End: Thursday, July 07, 2016 1:30:00 PM
Location: 3074-S; (b) (6) Access Code (b) (6)

Your meeting was forwarded

Taylor, Jameelah - AMS <<mailto:Jameelah.Taylor@ams.usda.gov>> has forwarded your meeting request to additional recipients.

Meeting
Chicken Pricing Indexes - Georgia Dock

Meeting Time
Thursday, 07 July 2016 13:00-13:30.

Recipients
Coale, Dana - AMS <<mailto:Dana.Coale@ams.usda.gov>>
Summers, Bruce - AMS <<mailto:Bruce.Summers@ams.usda.gov>>
Richmond, William - AMS <<mailto:William.Richmond@ams.usda.gov>>
Allen, William - AMS <<mailto:William.Allen@ams.usda.gov>>
Snyder, Angie - AMS <<mailto:Angie.Snyder@ams.usda.gov>>
Lynch, Michael - AMS <<mailto:Michael.Lynch@ams.usda.gov>>

All times listed are in the following time zone: (UTC-05:00) Eastern Time (US & Canada)

Sent by Microsoft Exchange Server 2016

From: [Richmond, William - AMS](#)
To: [Coale, Dana - AMS](#); [Summers, Bruce - AMS](#); [Allen, William - AMS](#)
Subject: FW: Georgia Dock--notes for today
Date: Thursday, July 07, 2016 12:50:57 PM

fyi

From: Snyder, Angie - AMS
Sent: Thursday, July 07, 2016 10:06 AM
To: Starmer, Elanor - AMS <Elanor.Starmer@ams.usda.gov>
Cc: Morris, Craig - AMS <Craig.Morris@ams.usda.gov>; Richmond, William - AMS <William.Richmond@ams.usda.gov>; Flores, Elizabeth R - AMS <ElizabethR.Flores@ams.usda.gov>; Lynch, Michael - AMS <Michael.Lynch@ams.usda.gov>
Subject: Georgia Dock--notes for today

Elanor,

Some information in advance of today's 1 pm meeting:

- The State of Georgia created the Georgia Dock in 1972 after a long study and planning period to establish a Georgia free-on-board price for broilers.
- It was established to give processors a market price that was less volatile over time.
- This price is intended to represent smaller-sized birds. Most of the birds produced in the U.S. are larger.
- The demand for these smaller-sized birds often drives the price higher than for larger sizes.
 - Hence, the prices reflected on the Georgia Dock will be higher than prices for birds across the U.S. as reported by AMS Market News and Urner Barry.
- The report is released three times per week, on Mondays, Wednesdays, and Fridays.
- The broiler market price change is released on the Wednesday report to coincide with the beginning of the marketing week.
- The State of Georgia creates and publishes this report, then AMS Market News republishes the report. AMS does not have access to Georgia's methodology for compiling the report.
- On January 18, 2016, the Wall Street Journal published an article commenting on the price spread in the Georgia Dock index.
 - The index's value for whole birds was at that time around \$1.13 per pound, determined by GA Dept. of Ag's surveys of nine processors in the state.
 - Two other benchmarks used mainly by commercial buyers showed the value at 70-85 cents per pound.
 - USDA is referenced in this article as stating that the Georgia Dock index represents ice-packed, typically smaller birds—a different product than what is reported in the other indices.
- Shortly after this article appeared, Amanda Klovers from DOJ (she will attend today) spoke with an AMS Market News employee about the Georgia Dock. The employee provided background on the report.
- (b) (5)

(b) (5)

- o However, our Federal-State agreement does not require us to republish the Georgia Dock.

Angie Snyder

Associate Deputy Administrator
Livestock, Poultry, and Seed Program
Agricultural Marketing Service, USDA
202.720.5705

From: [Snyder, Angie - AMS](#)
To: [Taylor, Jameelah - AMS](#)
Subject: RE: Georgia Dock Follow-up
Date: Thursday, July 07, 2016 5:34:45 PM

Oh, I'm so sorry. I didn't realize that.

Is there a time when she's available to meet with Craig on this Georgia Dock issue? I would think 15 minutes would be adequate.

From: Taylor, Jameelah - AMS
Sent: Thursday, July 07, 2016 5:33 PM
To: Snyder, Angie - AMS <Angie.Snyder@ams.usda.gov>
Subject: RE: Georgia Dock Follow-up

Hi Angie,

No, she had a meeting that was there since 6/28. I'm sorry, but all meetings for the Administrator needs to be sent to me, the COS, or the Administrator and will need to be approved before be added to her calendar, unless she says otherwise.

Thank you,

Jameelah

From: Snyder, Angie - AMS
Sent: Thursday, July 07, 2016 5:28 PM
To: Taylor, Jameelah - AMS
Subject: RE: Georgia Dock Follow-up

Sorry, Jameelah,

I'd checked her calendar, and it looked like she was free then. Her schedule books quickly! I thought it might be easy if they could just stay after the transition meeting. Do you suggest another time?

From: Taylor, Jameelah - AMS
Sent: Thursday, July 07, 2016 5:27 PM
To: Morris, Craig - AMS <Craig.Morris@ams.usda.gov>; Snyder, Angie - AMS <Angie.Snyder@ams.usda.gov>
Subject: RE: Georgia Dock Follow-up

Hello,

Elanor has a meeting at this time. This meet will have to be scheduled for another time/day.

Thank you,

Jameelah

-----Original Appointment-----

From: Morris, Craig - AMS

Sent: Thursday, July 07, 2016 4:18 PM

To: Morris, Craig - AMS; Starmer, Elanor - AMS

Subject: Georgia Dock Follow-up

When: Wednesday, July 13, 2016 9:30 AM-10:00 AM (UTC-05:00) Eastern Time (US & Canada).

Where: 3069-S

Follow-up from 7/7/15 meeting with DOJ.

From: [Tobey, Mark](#)
To: [Starmer, Elanor - AMS](#)
Cc: [Taylor, Jameelah - AMS](#); [Richmond, William - AMS](#); [Rathbun, Douglas](#); [Klovers, Amanda](#)
Subject: RE: Chicken Pricing Indexes in AMS Market News
Date: Friday, July 08, 2016 10:37:08 AM

Thanks again to you and your colleagues for meeting with us on such short notice yesterday about

(b) (5) Please let us know if you (b) (5)

mt

Mark Tobey
Special Counsel for State Relations and Agriculture
U. S. Department of Justice
Anti trust Division
Rm 11022 - LSB
450 5th Street, N.W.
Washington, D.C. 20530
(202)532-4763

From: Starmer, Elanor - AMS [<mailto:Elanor.Starmer@ams.usda.gov>]
Sent: Tuesday, July 05, 2016 2:37 PM
To: Tobey, Mark
Cc: Taylor, Jameelah - AMS; Richmond, William - AMS
Subject: RE: Chicken Pricing Indexes in AMS Market News

Mark, I'd be happy to talk, and apologies that we weren't able to connect last week – I was out of the office on work travel. My assistant Jameelah, cc'd here, can help us find a time. Bill Richmond, also cc'd, has taken over the AMS Chief of Staff role as Sara transitioned to the Secretary's office. (b) (5)

Thanks,
Elanor

Elanor Starmer
Administrator
Agricultural Marketing Service
U.S. Department of Agriculture
202-720-5115
elanor.starmer@ams.usda.gov

From: Tobey, Mark [<mailto:Mark.Tobey@usdoj.gov>]
Sent: Tuesday, July 05, 2016 2:26 PM
To: Starmer, Elanor - AMS
Subject: Chicken Pricing Indexes in AMS Market News

Ms. Starmer,

Larry Mitchell and Susan Keith from GIPSA suggested that we contact you about the Georgia Dock chicken pricing index which USDA republishes weekly as part of the AMS Market News. Larry and Susan may have mentioned (b) (5)

Would you have time for a brief meeting or call? Please let us know. (b) (6)

mt

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From: [Taylor, Jameelah - AMS](#)
To: [Morris, Craig - AMS](#)
Subject: RE: Georgia Dock Follow-up
Date: Monday, July 11, 2016 11:22:59 AM

Great! Thank you!

From: Morris, Craig - AMS
Sent: Monday, July 11, 2016 11:06 AM
To: Taylor, Jameelah - AMS
Subject: RE: Georgia Dock Follow-up

Yes, I will be able to attend. Thanks.

From: Taylor, Jameelah - AMS
Sent: Monday, July 11, 2016 10:56 AM
To: Morris, Craig - AMS <Craig.Morris@ams.usda.gov>
Subject: RE: Georgia Dock Follow-up

Good Morning Craig,

Elanor wanted to have a follow-up meeting with you regarding the Georgia Dock meeting that Angie Snyder attended last week. Please let me know if you are able to attend the meeting, as referenced in the calendar invite below.

Thank you!

Jameelah

-----Original Appointment-----

From: Taylor, Jameelah - AMS **On Behalf Of** Starmer, Elanor - AMS
Sent: Monday, July 11, 2016 10:52 AM
To: Starmer, Elanor - AMS; Morris, Craig - AMS
Subject: Georgia Dock Follow-up
When: Wednesday, July 13, 2016 4:00 PM-4:30 PM (UTC-05:00) Eastern Time (US & Canada).
Where: 3069-S

From: [Morris, Craig - AMS](#)
To: [Starmer, Elanor - AMS](#)
Subject: Re: Georgia Dock Follow-up
Date: Wednesday, July 13, 2016 1:04:45 PM

That's fine.

Sent from my iPhone

> On Jul 13, 2016, at 12:40 PM, Starmer, Elanor - AMS <Elanor.Starmer@ams.usda.gov> wrote:
>
> Hi Craig,
>
> There is now a conflict with this meeting at 4:00 p m. I am sending an updated invite to move this meeting to 4:30 p m. today. Please let me know if this will not work with your schedule.
>
> Thank you,
>
> Jameelah
>
> <meeting.ics>

From: [Taylor, Jameelah - AMS](#)
To: [Starmer, Elanor - AMS](#)
Cc: [Morris, Craig - AMS](#)
Subject: RE: Georgia Dock Follow-up
Date: Wednesday, July 13, 2016 3:55:03 PM

Thank you!

-----Original Message-----

From: Starmer, Elanor - AMS
Sent: Wednesday, July 13, 2016 2:39 PM
To: Taylor, Jameelah - AMS
Cc: Morris, Craig - AMS
Subject: RE: Georgia Dock Follow-up

Jameelah, please see below.

-----Original Message-----

From: Morris, Craig - AMS
Sent: Wednesday, July 13, 2016 1:05 PM
To: Starmer, Elanor - AMS
Subject: Re: Georgia Dock Follow-up

That's fine.

Sent from my iPhone

>
> Hi Craig,
>
> There is now a conflict with this meeting at 4:00 p m. I am sending an updated invite to move this meeting to 4:30 p m. today. Please let me know if this will not work with your schedule.
>
> Thank you,
>
> Jameelah
>
> <meeting.ics>

From: [Morris, Craig - AMS](#)
To: [Starmer, Elanor - AMS](#)
Subject: RE: Update on Georgia Dock
Date: Monday, July 18, 2016 2:26:46 PM

Could you ask DOJ for those guidelines they said they had relative to the release of data? Just to see them, we would be interested.

From: Starmer, Elanor - AMS
Sent: Monday, July 18, 2016 1:42 PM
To: Morris, Craig - AMS <Craig.Morris@ams.usda.gov>
Cc: Richmond, William - AMS <William.Richmond@ams.usda.gov>
Subject: RE: Update on Georgia Dock

Sounds like a great start. Thanks for keeping us informed.

Elanor

Elanor Starmer
Administrator
Agricultural Marketing Service
U.S. Department of Agriculture
202-720-5115
elanor.starmer@ams.usda.gov

From: Morris, Craig - AMS
Sent: Monday, July 18, 2016 12:11 PM
To: Starmer, Elanor - AMS
Cc: Richmond, William - AMS
Subject: FW: Update on Georgia Dock

Just a status report. I hope to know more this week about what the issues may be and a timeline moving forward.

From: Lynch, Michael - AMS
Sent: Monday, July 18, 2016 8:39 AM
To: Morris, Craig - AMS <Craig.Morris@ams.usda.gov>
Cc: Snyder, Angie - AMS <Angie.Snyder@ams.usda.gov>; Flores, Elizabeth R - AMS <ElizabethR.Flores@ams.usda.gov>; Bernau, Jim - AMS <Jim.Bernau@ams.usda.gov>
Subject: Update on Georgia Dock

Craig-

Taylor Cox, Jason Karwal, and Annie Terry held a conference call with the Georgia Department of Agriculture (GDA) staff on Friday. The GDA staff included Deputy Commissioners Dr. Cobb and Dr.

Sutton, Market News reporting supervisor Dan Duncan, and the market reporter, Arty Schronce. Taylor stressed that restoring the integrity of the Georgia Dock report is a high priority, and we need to start immediately on this. They worked out the game plan below for this week:

(b) (5)



Mike

Mike Lynch

Director

AMS Livestock, Poultry, and Grain Market News

1400 Independence Ave, SW, Room 2619-S

Washington, DC 20250

Office: 202-720-4846

Mobile: (b) (6)

Michael.Lynch@ams.usda.gov



From: [Morris, Craig - AMS](#)
To: [Starmer, Elanor - AMS](#)
Cc: [Richmond, William - AMS](#)
Subject: FW: Update on the Georgia Dock Report
Date: Friday, July 22, 2016 12:50:34 PM

FYI status report on this. (b) (5) .

From: Lynch, Michael - AMS
Sent: Friday, July 22, 2016 9:03 AM
To: Morris, Craig - AMS <Craig.Morris@ams.usda.gov>; Snyder, Angie - AMS <Angie.Snyder@ams.usda.gov>
Cc: Flores, Elizabeth R - AMS <ElizabethR.Flores@ams.usda.gov>; Meadows, Larry - AMS <Larry.Meadows@ams.usda.gov>; Bernau, Jim - AMS <Jim.Bernau@ams.usda.gov>; Cox, Taylor - AMS <Taylor.Cox@ams.usda.gov>
Subject: Update on the Georgia Dock Report

Update on the Georgia Dock Report from Taylor Cox:

It was a very productive three days. Annie Terry went to the Georgia Department of Agriculture (GDA) offices on Monday, and then Taylor Cox and Jason Karwal from Des Moines joined her at GDA on Tuesday and Wednesday. The GDA Deputy Commissioners, Dr. Sutton and Dr. Cobb, were very accommodating and open to our input and the need for some changes. We had a lot of interaction with them in addition to the two state poultry market reporters.

Our findings after the review:

(b) (5)



Our process to fix it:

(b) (5)



(b) (5)



Ramifications:

- Dr. Cobb wants to speak to the poultry federation before GDA ends the GA dock. He is VERY supportive of this new report, and is excited to have a true spot report. After visiting with the federation and commissioner, GDA will decide their path forward.
- Taylor offered to have someone on our staff speak to the poultry federation group and discuss market reporting and the new report.
- Taylor was very clear when he told Dr. Cobb that we cannot continue to carry this GA dock report in its current capacity on our website. They came to immediate agreement this new report is the best way to go.

Next Steps:

(b) (5)



Mike Lynch

Director

AMS Livestock, Poultry, and Grain Market News

1400 Independence Ave, SW, Room 2619-S

Washington, DC 20250

Office: 202-720-4846

Mobile: (b) (6)

Michael.Lynch@ams.usda.gov



From: [Morris, Craig - AMS](#)
To: [Starmer, Elanor - AMS](#)
Cc: [Richmond, William - AMS](#); [Summers, Bruce - AMS](#); [Coale, Dana - AMS](#); [Morris, Erin - AMS](#)
Subject: Georgia Dock resolution
Date: Monday, July 25, 2016 8:30:15 AM

Elanor:

We have resolved the Georgia Dock chicken reporting issue, with a new Georgia Poultry report taking its place August 5, 2016.

Last week, members of LPS' Livestock, Poultry, and Grain Market News (LPGMN) team from Atlanta and Des Moines spent 3 days with the Georgia Department of Agriculture (GDA) staff, which included Dr. Sutton, Director of Operations; Dr. Cobb, Division Director of Animal Husbandry; and the two GDA market reporters. All were all extremely cooperative. Our team thoroughly reviewed the GDA reporting process, cited some reporting issues, and developed a viable solution to restore the integrity to the Georgia Dock report.

(b) (5)



The collection of this new spot market information is to begin this week. LPGMN and GDA plan to evaluate the reported information this week and next before replacing the daily Georgia Dock report with a new weekly Georgia Poultry report on August 5, 2016. In the meantime, GDA will continue releasing the Georgia Dock report while running the political traps within the state. LPGMN will also continue to publish the report on the AMS Web site along with a note announcing the upcoming new report.

Going forward, LPGMN staff will provide training and testing for the GDA poultry reporters, and will be reviewing the information collected by GDA staff before it is published until such time that confidence in their reporting has been restored.

Craig

From the desk of:

Craig A. Morris, Ph.D.
Deputy Administrator, Livestock, Poultry and Seed Program
U.S. Department of Agriculture
Agricultural Marketing Service
<http://www.ams.usda.gov/LPS>

From: [Allen, William - AMS](#)
To: [Morris, Craig - AMS](#)
Subject: Re: Georgia Dock Report (b) (5)
Date: Monday, July 25, 2016 3:49:40 PM

Thanks.

Sent from my iPhone

On Jul 25, 2016, at 3:28 PM, Morris, Craig - AMS <Craig.Morris@ams.usda.gov> wrote:

I was just notified that this has turned 180 degrees around from where we were an hour ago. Apparently the State of GA did get a couple of complaints about changes being made to the report in response to the disclaimer that appeared on Friday's report. Now, the State does not want to change the report. We asked them to slow down to see if we could talk this through but they said no. I've asked Market News to identify options for us to consider up to and including pulling the report off of our website. More to follow. (b) (5)

I'm also looping in Bill Allen. Craig

From: Starmer, Elanor - AMS
Sent: Monday, July 25, 2016 3:02 PM
To: Morris, Craig - AMS <Craig.Morris@ams.usda.gov>
Cc: Richmond, William - AMS <William.Richmond@ams.usda.gov>; Coale, Dana - AMS <Dana.Coale@ams.usda.gov>; Summers, Bruce - AMS <Bruce.Summers@ams.usda.gov>
Subject: RE: Georgia Dock Report Disclaimer Statement/Communications Plan

Great, thank you. Bill, let's flag this up the chain in case anyone gets a call on it.

Elanor Starmer
Administrator
Agricultural Marketing Service
U.S. Department of Agriculture
202-720-5115
elanor.starmer@ams.usda.gov

From: Morris, Craig - AMS
Sent: Monday, July 25, 2016 2:58 PM
To: Starmer, Elanor - AMS
Cc: Richmond, William - AMS; Coale, Dana - AMS; Summers, Bruce - AMS
Subject: Georgia Dock Report Disclaimer Statement/Communications Plan

Elanor:

Following up on our meeting, we are reaching out to Public Affairs now to craft the communications plan on the upcoming change to the GA Dock Report ahead of the August 5 change. Separately, starting with last Friday's release, we included the following disclaimer statement to begin to alert people to the change:

`*Beginning August 5, 2016, the Georgia Department of Agriculture will be issuing a new weekly market report for negotiated Georgia broiler/fryer whole birds and bird parts, which will replace the current Georgia F.O.B. Dock Broiler/Fryers-Parts report.*`

This link shows the statement at the top of the report:

https://www.ams.usda.gov/mnreports/aj_py018.txt.

I'm still awaiting confirmation that Mike has finished all of his notifications to DOJ (Mark Tobey, Amanda Klovers, and Douglas Rathbun) and will let you know when that has occurred.

Thanks,
Craig

From the desk of:

Craig A. Morris, Ph.D.
Deputy Administrator, Livestock, Poultry and Seed Program
U.S. Department of Agriculture
Agricultural Marketing Service
<http://www.ams.usda.gov/LPS>

From: [Taylor, Jameelah - AMS](#)
To: [Starmer, Elanor - AMS](#)
Subject: RE: GA Dock
Date: Tuesday, July 26, 2016 4:47:23 PM

Hi Elanor,

Did you want me to setup the meeting that is referenced below and should I include everyone that is listed in Craig's email response?

Thank you,

Jameelah

From: Starmer, Elanor - AMS
Sent: Monday, July 25, 2016 7:20 PM
To: Bernau, Jim - AMS
Cc: Morris, Craig - AMS; Snyder, Angie - AMS; Lynch, Michael - AMS; Cox, Taylor - AMS; Richmond, William - AMS; Summers, Bruce - AMS; Allen, William - AMS; Jones, Samuel - AMS; Taylor, Jameelah - AMS
Subject: Re: GA Dock

Looping Jameelah.

Sent from my iPhone

On Jul 25, 2016, at 6:09 PM, Bernau, Jim - AMS <Jim.Bernau@ams.usda.gov> wrote:

Can we try for earlier in the day? (b) (6)
trying to leave around 2:30 pm.

Sent from my iPhone

On Jul 25, 2016, at 5:15 PM, Morris, Craig - AMS <Craig.Morris@ams.usda.gov> wrote:

Thanks Jim. Looping in others. Elanor is trying to set up a meeting for Wednesday that you will be a part of if that works with your schedule.

Sent from my iPhone

On Jul 25, 2016, at 4:57 PM, Bernau, Jim - AMS
<Jim.Bernau@ams.usda.gov> wrote:

Craig,
Taylor Cox received a call from Dr. Cobb with the Georgia Department of Agriculture (GDA) this afternoon. Dr. Cobb

said, "At this time, we cannot move forward with the plan as agreed upon last week; the main issue being stakeholder input." Once the notice appeared on the USDA-AMS-LPGMN report last Friday, some processors began giving feedback and did not like the change. GDA would like to try and hold a stakeholder meeting soon, but have not yet decided on a date.

Last week, two LPGMN reporters and a Field Chief traveled to the GDA Atlanta office to review GDA procedures for the GA Dock report information collection. Our goal for this review was to determine if a new spot market report, entirely different to what is currently collected, was warranted. One of the main issues with the current report is that no one at GDA Market News can identify the information collected for the report nor is the information verified through buyer confirmation, i.e., the prices reported by processors are for items neither produced or sold and therefore buyers do not exist. A blank form (excel spreadsheet) is sent by GDA Market News to the contacts, then returned and consolidated into a database by GDA. LPGMN then creates and disseminates a report from that information in the GDA database.

Today, we encouraged Dr. Cobb to have the state reporter continue to collect the spot market information, as was done last week. Dr. Cobb said, "At this time, the GA Department of Agriculture will not be collecting any spot market prices."

(b) (5)

GA has requested time to review their options and will not collect any new information at this time.

(b) (5)

Thanks
Jim

James Bernau

Deputy Director
Livestock, Poultry and Grain Market News Division
USDA Agricultural Marketing Service
1400 Independence Ave, SW
Room 2619
Washington, DC 20250
jim.bernau@ams.usda.gov
Office: 202-720-1749
Cell: (b) (6)

From: [Morris, Craig - AMS](#)
To: [Starmer, Elanor - AMS](#)
Cc: [Coale, Dana - AMS](#); [Richmond, William - AMS](#); [Morris, Erin - AMS](#); [Summers, Bruce - AMS](#); [Allen, William - AMS](#); [Bailey, Shayla - AMS](#)
Subject: Fwd: GA Dock Follow-up
Date: Tuesday, July 26, 2016 6:36:32 PM

Elanor:

This is for ahead of our meeting on this. I still haven't seen it scheduled.

Craig

Sent from my iPhone

Begin forwarded message:

From: "Bernau, Jim - AMS" <Jim.Bernau@ams.usda.gov>
Date: July 26, 2016 at 6:08:17 PM EDT
To: "Morris, Craig - AMS" <Craig.Morris@ams.usda.gov>
Cc: "Lynch, Michael - AMS" <Michael.Lynch@ams.usda.gov>, "Snyder, Angie - AMS" <Angie.Snyder@ams.usda.gov>
Subject: GA Dock Follow-up

Craig,

This morning, I spoke with Dr. Cobb about the GA Dock report and he expressed an appreciation for the LPGMN visit and assistance last week. As a reminder, the GA Dock report is created from data gathered by the Georgia Department of Agriculture (GDA) and then disseminated by LPGMN on the AMS website.

During our conversation today, Dr. Cobb spoke in length about the significance of the GA Dock report to stakeholders, the report's 50-year history, and the need for the report to continue as is unless stakeholders request a change to the report. As Dr. Cobb stressed, GDA's point of view is that any changes made to the report, including a discontinuation of the report, must originate from the stakeholders.

GDA and Dr. Cobb were told by stakeholders that an in-person or conference call meeting would likely be held early next week [week of August 1]. When speaking with Dr. Cobb today, LPGMN requested an opportunity to participate in the meeting, but Dr. Cobb stated stakeholders would need to invite us to the meeting.

When asked about possible resistance to the changes agreed upon during last week's meetings, Dr. Cobb could not give any specific examples of resistance or names of those unwilling to assist or accept any changes to the report.

As stated in Mike's email last week, LPGMN believes the following to be the next steps:

(b) (5)



As follow-up after today's discussion:

(b) (5)



Please let me know if you have additional questions.

Thanks

Jim

James Bernau
Deputy Director
Livestock, Poultry and Grain Market News Division
USDA Agricultural Marketing Service
1400 Independence Ave, SW
Room 2619
Washington, DC 20250
jim.bernau@ams.usda.gov
Office: 202-720-1749
Cell (b) (6) 

From: [Microsoft Outlook](#) on behalf of [Taylor, Jameelah - AMS](#)
To: [Starmer, Elanor - AMS](#)
Subject: Meeting Forward Notification: GA Dock Discussion
Start: Wednesday, July 27, 2016 2:00:00 PM
End: Wednesday, July 27, 2016 2:30:00 PM
Location: 3069-S; (b) (6) Access Code (b) (6)

Your meeting was forwarded

Taylor, Jameelah - AMS <<mailto:Jameelah.Taylor@ams.usda.gov>> has forwarded your meeting request to additional recipients.

Meeting
GA Dock Discussion

Meeting Time
Wednesday, 27 July 2016 14:00-14:30.

Recipients

Morris, Craig - AMS <<mailto:Craig.Morris@ams.usda.gov>>
Snyder, Angie - AMS <<mailto:Angie.Snyder@ams.usda.gov>>
Lynch, Michael - AMS <<mailto:Michael.Lynch@ams.usda.gov>>
Cox, Taylor - AMS <<mailto:Taylor.Cox@ams.usda.gov>>
Richmond, William - AMS <<mailto:William.Richmond@ams.usda.gov>>
Summers, Bruce - AMS <<mailto:Bruce.Summers@ams.usda.gov>>
Allen, William - AMS <<mailto:William.Allen@ams.usda.gov>>
Jones, Samuel - AMS <<mailto:Samuel.Jones@ams.usda.gov>>
Bernau, Jim - AMS <<mailto:Jim.Bernau@ams.usda.gov>>

All times listed are in the following time zone: (UTC-05:00) Eastern Time (US & Canada)

Sent by Microsoft Exchange Server 2016

Little, Jewell (CTR) - AMS

Subject: GA Dock Discussion

Location: 3069-S; 1-(b) (6) Access Code (b) (6)

Start: Wed 7/27/2016 2:00 PM

End: Wed 7/27/2016 2:30 PM

Show Time As: Tentative

Recurrence: (none)

Meeting Status: Not yet responded

Organizer: Starmer, Elanor - AMS

Required Attendees: Morris, Craig - AMS; Snyder, Angie - AMS; Cox, Taylor - AMS; Richmond, William - AMS; Summers, Bruce - AMS; Allen, William - AMS; Jones, Samuel - AMS; Bernau, Jim - AMS

From: [Microsoft Outlook](#) on behalf of [Jones, Samuel - AMS](#)
To: [Starmer, Elanor - AMS](#)
Subject: Meeting Forward Notification: GA Dock Discussion
Start: Wednesday, July 27, 2016 2:00:00 PM
End: Wednesday, July 27, 2016 2:30:00 PM
Location: 3069-S; 1-8(b) (6) Access Code (b) (6)

Your meeting was forwarded

Jones, Samuel - AMS <mailto:Samuel.Jones@ams.usda.gov> has forwarded your meeting request to additional recipients.

Meeting
GA Dock Discussion

Meeting Time
Wednesday, 27 July 2016 14:00-14:30.

Recipients
Bailey, Shayla - AMS <mailto:Shayla.Bailey@ams.usda.gov>

All times listed are in the following time zone: (UTC-05:00) Eastern Time (US & Canada)

Sent by Microsoft Exchange Server 2016

From: [Morris, Craig - AMS](#)
To: [Jones, Samuel - AMS](#); [Summers, Bruce - AMS](#)
Subject: Fwd: Georgia Dock Data
Date: Wednesday, July 27, 2016 2:03:32 PM
Attachments: [ATT00001.htm](#)
[USDA vs GD 072616 DRD.pptx](#)
[ATT00002.htm](#)

Sent from my iPhone

Begin forwarded message:

From: "Bernau, Jim - AMS" <Jim.Bernau@ams.usda.gov>
Date: July 27, 2016 at 12:13:08 PM EDT
To: "Morris, Craig - AMS" <Craig.Morris@ams.usda.gov>
Cc: "Snyder, Angie - AMS" <Angie.Snyder@ams.usda.gov>, "Flores, Elizabeth R - AMS" <ElizabethR.Flores@ams.usda.gov>
Subject: Georgia Dock Data

Craig,

As promised, the graphs for the GA Dock Price vs National Negotiated Whole Broiler Price.

Thanks

Jim

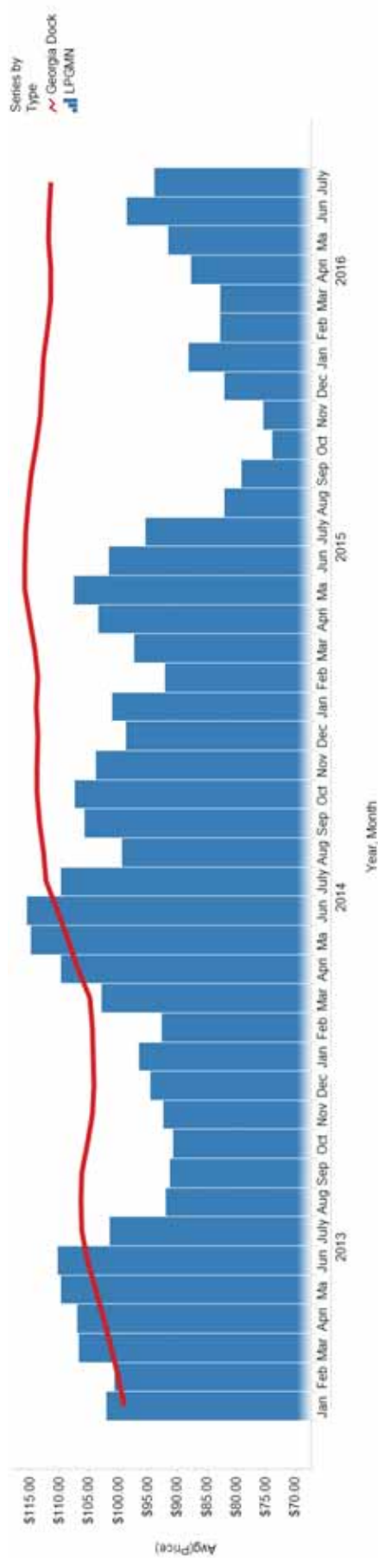
James Bernau
Deputy Director
Livestock, Poultry and Grain Market News Division
USDA Agricultural Marketing Service
1400 Independence Ave, SW
Room 2619
Washington, DC 20250
jim.bernau@ams.usda.gov
Office: 202-720-1749
Cell: (b) (6)

From: Doerscher, Darin - AMS
Sent: Tuesday, July 26, 2016 3:19 PM
To: Bernau, Jim - AMS <Jim.Bernau@ams.usda.gov>
Cc: Cox, Taylor - AMS <Taylor.Cox@ams.usda.gov>
Subject: RE: Georgia Dock Data

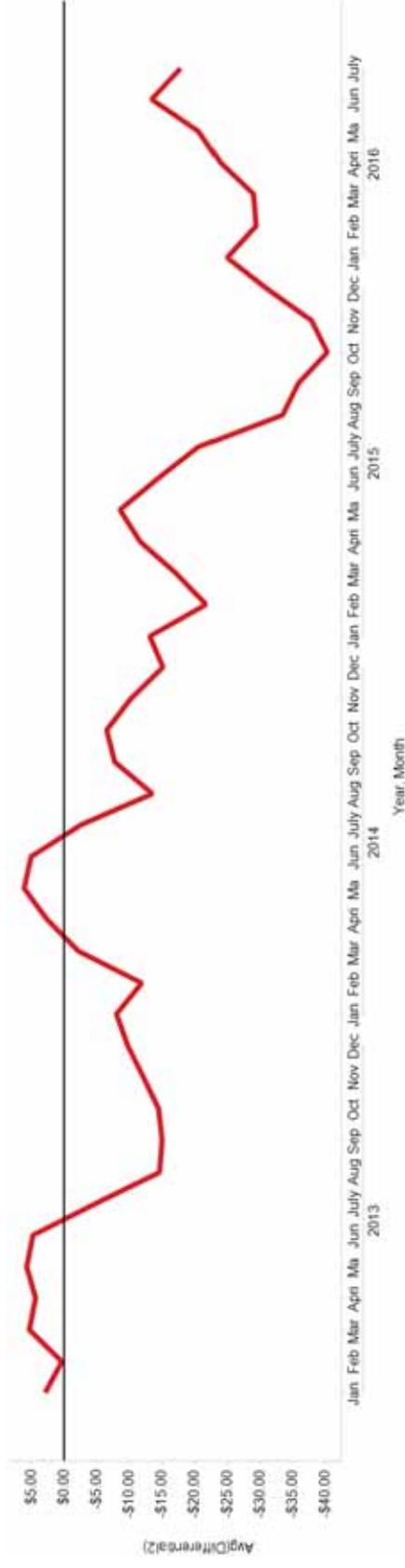
Jim,

For your consideration:

LPGMN National Negotiated Whole Broiler Price vs. Georgia Dock - January 2013 to July 2016



Price Differential for LPGMN National Negotiated Whole Broiler vs. Georgia Dock - January 2013 to July 2016



From: [Richmond, William - AMS](#)
To: [Taylor, Jameelah - AMS](#)
Subject: Fwd: Update - Georgia Dock
Date: Wednesday, July 27, 2016 5:54:46 PM

Jameelah, can you please forward the meeting notice for tomorrow's issues and dockets to Craig?

Thanks!

Bill Richmond
USDA/AMS
202-260-8019

Begin forwarded message:

From: "Morris, Craig - AMS" <Craig.Morris@ams.usda.gov>
Date: July 27, 2016 at 5:40:29 PM EDT
To: "Richmond, William - AMS" <William.Richmond@ams.usda.gov>
Subject: Re: Update - Georgia Dock

Is there an outlook request?

Sent from my iPhone

On Jul 27, 2016, at 4:34 PM, Richmond, William - AMS
<William.Richmond@ams.usda.gov> wrote:

(b) (5)

A large black rectangular redaction box covers the content of the email body.

This was put first together as a meet and greet for the new Acting Dep US Ben Thomas, then morphed into an I&D.

Thanks

From: Morris, Craig - AMS
Sent: Wednesday, July 27, 2016 3:56 PM
To: Starmer, Elanor - AMS <Elanor.Starmer@ams.usda.gov>
Cc: Richmond, William - AMS <William.Richmond@ams.usda.gov>; Bernau, Jim - AMS <Jim.Bernau@ams.usda.gov>; Allen, William - AMS <William.Allen@ams.usda.gov>; Bailey, Shayla - AMS <Shayla.Bailey@ams.usda.gov>; Jones, Samuel - AMS

<Samuel.Jones@ams.usda.gov>; Summers, Bruce - AMS
<Bruce.Summers@ams.usda.gov>
Subject: RE: Update - Georgia Dock

That totally works and I can make 10 a.m.

Craig

From: Starmer, Elanor - AMS
Sent: Wednesday, July 27, 2016 3:55 PM
To: Morris, Craig - AMS <Craig.Morris@ams.usda.gov>
Cc: Richmond, William - AMS <William.Richmond@ams.usda.gov>;
Bernau, Jim - AMS <Jim.Bernau@ams.usda.gov>; Allen, William - AMS
<William.Allen@ams.usda.gov>; Bailey, Shayla - AMS
<Shayla.Bailey@ams.usda.gov>; Jones, Samuel - AMS
<Samuel.Jones@ams.usda.gov>; Summers, Bruce - AMS
<Bruce.Summers@ams.usda.gov>
Subject: Update - Georgia Dock

Craig,

ADS Scuse is out on annual leave this week, so we have a meeting scheduled for Monday.

In the interim, MRP has just rescheduled issues and dockets for tomorrow (Thursday) at 10am. Could we brief Ed on the issue at that time? It's ok if we don't have the info memo for him yet. We can walk him through it verbally. Please let Bill know if you and/or Jim are available to attend.

If possible I would like to provide ADS Scuse with the background memo on Friday so that he can read it over the weekend in preparation for the meeting.

So this extends the period of uncertainty, but I don't see any way around it. That work for you?

Thanks,
Elanor

Elanor Starmer
Administrator
Agricultural Marketing Service
U.S. Department of Agriculture

202-720-5115

elanor.starmer@ams.usda.gov

From: [Morris, Craig - AMS](#)
To: [Thomas, Ben - OSEC](#)
Cc: [Howard, David- OSEC](#); [Allen, William - AMS](#); [Starmer, Eleanor - AMS](#); [Summers, Bruce - AMS](#); [Snyder, Angie - AMS](#); [Bernau, Jim - AMS](#); [Flores, Elizabeth R - AMS](#); [Coale, Dana - AMS](#); [Richmond, William - AMS](#)
Subject: WSJ Article on GA Dock Price
Date: Thursday, July 28, 2016 11:00:18 AM
Attachments: [GA Dock WSJ.docx](#)

Ben:

Attached and at the following link is the WSJ article we mentioned during the GA Dock broiler market report briefing.

<http://www.wsj.com/articles/are-food-companies-playing-chicken-with-prices-1453142354>

Please let me know if you need anything else.

Thanks,
Craig

From the desk of:

Craig A. Morris, Ph.D.
Deputy Administrator, Livestock, Poultry and Seed Program
U.S. Department of Agriculture
Agricultural Marketing Service
<http://www.ams.usda.gov/LPS>

From: [Morris, Craig - AMS](#)
To: [Starmer, Elanor - AMS](#)
Cc: [Richmond, William - AMS](#); [Coale, Dana - AMS](#); [Summers, Bruce - AMS](#); [Morris, Erin - AMS](#); [Allen, William - AMS](#); [Jones, Samuel - AMS](#); [Bailey, Shayla - AMS](#); [Snyder, Angie - AMS](#); [Flores, Elizabeth R - AMS](#)
Subject: Informational Memo For Secretary - Georgia Dock
Date: Thursday, July 28, 2016 7:33:48 PM
Attachments: [Informational Memo For Secretary - Georgia Dock.docx](#)

Elanor:

As discussed, please find attached a draft informational memorandum that would be from you to the Secretary outlining the Georgia Dock situation and our plan of action.

Please let me know if you have any edits. Once this is completed we can final for you in our office.

Thank you,
Craig

From the desk of:

Craig A. Morris, Ph.D.
Deputy Administrator, Livestock, Poultry and Seed Program
U.S. Department of Agriculture
Agricultural Marketing Service
<http://www.ams.usda.gov/LPS>



1400 Independence Avenue, SW.
Room 3071-S, STOP 0201
Washington, DC 20250-0201

INFORMATIONAL MEMORANDUM FOR THE SECRETARY

THROUGH: Edward M. Avalos
Under Secretary for Marketing and Regulatory Programs

FROM: Elanor Starmer
Administrator

SUBJECT: Discontinuing Publication of the Georgia Department of Agriculture's "Georgia Dock" Poultry Market News Report

(b) (5)

A large, solid black rectangular box covers the majority of the lower half of the page, indicating that the content has been redacted under FOIA exemption (b)(5).

INFORMATIONAL MEMORANDUM FOR THE ACTING DEPUTY SECRETARY
Page 2

(b) (5)



INFORMATIONAL MEMORANDUM FOR THE ACTING DEPUTY SECRETARY
Page 3

(b) (5)



From: [Taylor, Jameelah - AMS](#)
To: [McDonald, DonnaR - AMS](#)
Subject: Info Memo for the Acting Deputy Secretary
Date: Friday, July 29, 2016 10:33:02 AM
Attachments: [image001.png](#)

Good Morning Donna,

Please just send the electronic version of the info memo for the Georgia Dock to me. This does not need to be entered into ECM.

Thank you,

Jameelah Taylor
Executive Assistant to the Administrator
Agricultural Marketing Service
1400 Independence Avenue, SW
Room 3071-S, STOP 0201
Washington, DC 20250
Office: 202-720-5115
Email: Jameelah.Taylor@ams.usda.gov
<http://www.ams.usda.gov/>



From: [McDonald, DonnaR - AMS](#)
To: [Taylor, Jameelah - AMS](#)
Cc: [Walker, Natosha - AMS](#); [Harrison, Carolyn - AMS](#); [Bernau, Jim - AMS](#); [Snyder, Angie - AMS](#); [Templin, Elizabeth - AMS](#)
Bcc: [McDonald, DonnaR - AMS](#)
Subject: Attached is AMS-LPS-2016-28 Information Memorandum for Secretary Georgia Dock 07-29-16.
Date: Friday, July 29, 2016 10:40:11 AM
Attachments: [AMS-LPS-2016-28 Information Memorandum for Secretary Georgia Dock 07-29-16 no Legend.docx](#)

Good Morning Jameelah,

Attached is AMS-LPS-2016-28 Information Memorandum for Secretary Georgia Dock 07-29-16.

Thank you,

Donna R. McDonald
Secretary
USDA, AMS, Livestock, Poultry & Seed Program
Office of The Deputy Administrator, STOP 0249
1400 Independence Avenue S.W. Room 2092-S
Washington, DC 20250-0249
Office Phone Number: (202)720-3215
Office Fax Number: (202) 720-3499
Donnar.McDonald@ams.usda.gov

From: [Morris, Craig - AMS](#)
To: [Starmer, Eleanor - AMS](#)
Cc: [Richmond, William - AMS](#); [Summers, Bruce - AMS](#)
Subject: FW: Attached is AMS-LPS-2016-28 Information Memorandum for Secretary Georgia Dock 07-29-16.
Date: Friday, July 29, 2016 10:47:24 AM
Attachments: [AMS-LPS-2016-28 Information Memorandum for Secretary Georgia Dock 07-29-16 no Legend.docx](#)

FYI only

From: Snyder, Angie - AMS
Sent: Friday, July 29, 2016 10:46 AM
To: Morris, Craig - AMS <Craig.Morris@ams.usda.gov>
Cc: Flores, Elizabeth R - AMS <ElizabethR.Flores@ams.usda.gov>
Subject: FW: Attached is AMS-LPS-2016-28 Information Memorandum for Secretary Georgia Dock 07-29-16.

Done.

From: McDonald, DonnaR - AMS
Sent: Friday, July 29, 2016 10:41 AM
To: Taylor, Jameelah - AMS <Jameelah.Taylor@ams.usda.gov>
Cc: Bernau, Jim - AMS <Jim.Bernau@ams.usda.gov>; Snyder, Angie - AMS <Angie.Snyder@ams.usda.gov>; Templin, Elizabeth - AMS <Elizabeth.Templin@ams.usda.gov>
Subject: Attached is AMS-LPS-2016-28 Information Memorandum for Secretary Georgia Dock 07-29-16.

Good Morning Jameelah,

Attached is AMS-LPS-2016-28 Information Memorandum for Secretary Georgia Dock 07-29-16.

Thank you,

Donna R. McDonald
Secretary
USDA, AMS, Livestock, Poultry & Seed Program
Office of The Deputy Administrator, STOP 0249
1400 Independence Avenue S.W. Room 2092-S
Washington, DC 20250-0249
Office Phone Number: (202) 720-3215
Office Fax Number: (202) 720-3499
Donnar.McDonald@ams.usda.gov



1400 Independence Avenue, SW.
Room 3071-S, STOP 0201
Washington, DC 20250-0201

INFORMATIONAL MEMORANDUM FOR THE ACTING DEPUTY SECRETARY

THROUGH: Edward M. Avalos
Under Secretary
Marketing and Regulatory Programs

FROM: Elanor Starmer
Administrator
Agricultural Marketing Service

SUBJECT: Discontinuing Publication of the Georgia Department of Agriculture's "Georgia Dock" Poultry Market News Report

ISSUE:

The Agricultural Marketing Service (AMS) plans to discontinue an AMS Market News report based on the Georgia Dock report, a Georgia Department of Agriculture (GDA) poultry report, after discovering issues with the methodology behind the Georgia Dock report, including that the reported price of broilers and fryers (chicken) in the report could not be verified.

SUMMARY:

GDA collects and disseminates daily market information in a series of reports featuring Georgia processed poultry prices (Georgia Dock). AMS has been publishing a truncated version of the Georgia Dock report since 1993. AMS recently discovered that GDA does not and could not verify the information reported in its Georgia Dock report. AMS attempted to work with GDA officials on the methodology and a report that reflects verifiable market prices, but GDA decided to continue publishing the Georgia Dock report without change. As a result, AMS plans to discontinue an AMS Market News report based upon the Georgia Dock report and will begin issuing a new report using reporting methods consistent with AMS confidentiality guidelines, with data verified by AMS Market News reporters.

DISCUSSION:

The GDA Poultry Market News Division collects and disseminates daily market information on Georgia poultry and poultry products in a series of reports featuring prices of broilers and fryers f.o.b. (free on board) dock (i.e., processed poultry prices offered by Georgia processors to buyers). These reports include the *Georgia Dock Quoted Poultry Prices* report issued by GDA every Wednesday and the corresponding *Georgia Preliminary Weighted Average Poultry Prices*

INFORMATIONAL MEMORANDUM FOR THE ACTING DEPUTY SECRETARY
Page 2

report issued every Friday and *Georgia Final Weighted Average Poultry Prices* report issued every Monday. This series of reports was initiated about 40 years ago, covers prices and volumes for small birds weighing 2.5-3.0 pounds, and is the only poultry market information report issued by GDA.

Through its Federal-State Cooperative Agreement with GDA, AMS has issued a truncated version of the Georgia Dock report since 1993, the *Georgia F.O.B Dock Broiler/Fryers Price* report. On each of these reports issued three times a week on its Web site, AMS includes a disclosure which states, "This information is supplied by the Georgia Department of Agriculture's Poultry Market News Service."

In January 2016, the Georgia Dock report came under public scrutiny after a *Wall Street Journal* article noted prices reported on the Georgia Dock report are consistently higher than poultry prices reported on two other reports (unidentified in the article) and raised the possibility of market manipulation. Around the time of this article, an individual approached the U.S. Department of Justice (DOJ) about the report and, in turn, a member of DOJ reached out to AMS for background information about this report.

(b) (5)



During the week of July 18, 2016, three members of the AMS Livestock, Poultry, and Seed Program met with Dr. James Sutton, GDA's Director of Operations; and Dr. Robert Cobb, GDA's Division Director of Animal Industry. They also worked with GDA personnel to review reporting procedures concerning the Georgia Dock report. After observing GDA market reporters collect the information from processors, AMS found that GDA was unable to verify the information reported on its Georgia Dock report.

AMS observed that GDA collects volume and price information from the processors for poultry weighing 2.5-3.0 pounds. Small chickens weighing 2.5-3.0 pounds do not make up the majority of current poultry markets, are in very tight supply, and are generally marketed through forward contracts. When actual prices are not available for this smaller size bird, processors estimate equivalent prices. Each week, processors submit summaries to GDA of their forward contract business, which GDA then uses to create its Georgia Dock report. GDA does not have any method in place to verify the data it receives for this report.

AMS also observed that there are not enough daily trade data available for poultry weighing 2.5-3.0 pounds and recommended that GDA issue a weekly comprehensive report instead. AMS assisted GDA in creating a new collection worksheet and a new report format to include negotiated spot market prices covering all poultry sizes and grades. AMS believes the prices reported on this report will better reflect eastern region prices as reported on its *USDA Weekly National Whole Broiler/Fryer* report due to the adoption of standardized reporting

INFORMATIONAL MEMORANDUM FOR THE ACTING DEPUTY SECRETARY

Page 3

methodologies (i.e., all poultry is aggregated regardless of weight or grade). This method will allow the report to meet AMS confidentiality guidelines, enabling data to be verified. GDA initially agreed to these changes.

Accordingly, on July 22, 2016, AMS announced via the header of its *Georgia F.O.B Dock Broiler/Fryers Price* report that GDA will be issuing a new weekly report to replace the current report issued on the AMS Web site. However, then on July 25, 2016, GDA informed AMS of its decision to continue publishing its Georgia Dock report, unchanged, on the GDA Web site because of concerns raised by the poultry processors who contribute data to the current report.

Due to the inability of GDA to verify the Georgia Dock report information, AMS will discontinue publishing its *Georgia F.O.B Dock Broiler/Fryers Price* report on the AMS Web site. However, AMS will develop a separate, new weekly report covering the same regional market as discussed above and publish this new report on the AMS Web site. AMS will draft a Notice to the Trade describing this new report and the discontinuation of the AMS dissemination of the GDA-derived report.

From: [Johnson, Ashlee - OSEC](#)
To: [Starmer, Elanor - AMS](#)
Subject: RE: Attached is AMS-LPS-2016-28 Information Memorandum for Secretary Georgia Dock 07-29-16.
Date: Monday, August 01, 2016 11:42:10 AM

This did not make it to us. Thank you for sending. Can I sit in on the meeting?

Ashlee Nicole Johnson

Chief of Staff to the Deputy Secretary
U.S. Department of Agriculture
Direct: 202-720-4032 Cell: (b) (6)
ashlee.johnson@osec.usda.gov

From: Starmer, Elanor - AMS
Sent: Monday, August 01, 2016 11:11 AM
To: Johnson, Ashlee - OSEC
Subject: FW: Attached is AMS-LPS-2016-28 Information Memorandum for Secretary Georgia Dock 07-29-16.

Here's what we sent up on Friday. Thanks!

Elanor Starmer
Administrator
Agricultural Marketing Service
U.S. Department of Agriculture
202-720-5115
elanor.starmer@ams.usda.gov

From: Morris, Craig - AMS
Sent: Friday, July 29, 2016 10:47 AM
To: Starmer, Elanor - AMS
Cc: Richmond, William - AMS; Summers, Bruce - AMS
Subject: FW: Attached is AMS-LPS-2016-28 Information Memorandum for Secretary Georgia Dock 07-29-16.

FYI only

From: Snyder, Angie - AMS
Sent: Friday, July 29, 2016 10:46 AM
To: Morris, Craig - AMS <Craig.Morris@ams.usda.gov>
Cc: Flores, Elizabeth R - AMS <ElizabethR.Flores@ams.usda.gov>
Subject: FW: Attached is AMS-LPS-2016-28 Information Memorandum for Secretary Georgia Dock 07-29-16.

Done.

From: McDonald, DonnaR - AMS

Sent: Friday, July 29, 2016 10:41 AM

To: Taylor, Jameelah - AMS <Jameelah.Taylor@ams.usda.gov>

Cc: Bernau, Jim - AMS <Jim.Bernau@ams.usda.gov>; Snyder, Angie - AMS <Angie.Snyder@ams.usda.gov>; Templin, Elizabeth - AMS <Elizabeth.Templin@ams.usda.gov>

Subject: Attached is AMS-LPS-2016-28 Information Memorandum for Secretary Georgia Dock 07-29-16.

Good Morning Jameelah,

Attached is AMS-LPS-2016-28 Information Memorandum for Secretary Georgia Dock 07-29-16.

Thank you,

Donna R. McDonald
Secretary
USDA, AMS, Livestock, Poultry & Seed Program
Office of The Deputy Administrator, STOP 0249
1400 Independence Avenue S.W. Room 2092-S
Washington, DC 20250-0249
Office Phone Number: (202) 720-3215
Office Fax Number: (202) 720-3499
Donnar.McDonald@ams.usda.gov

From: [Morris, Craig - AMS](#)
To: [Starmer, Elanor - AMS](#)
Cc: [Snyder, Angie - AMS](#); [Richmond, William - AMS](#); [Allen, William - AMS](#); [Coale, Dana - AMS](#); [Summers, Bruce - AMS](#)
Subject: Georgia Dock resolution plan
Date: Tuesday, August 02, 2016 4:57:46 PM
Attachments: [Plan to Resolve Georgia Dock Issues 8-2-16.docx](#)

Elanor:

Attached is the plan to resolve the Georgia Dock situation. We will keep you informed as we continue to monitor this.

Thanks,
Craig

From the desk of:
Craig A. Morris, Ph.D.
Deputy Administrator, Livestock, Poultry and Seed Program
U.S. Department of Agriculture
Agricultural Marketing Service
<http://www.ams.usda.gov/LPS>

Plan to Resolve Georgia Dock Issues
August 2, 2016

(b) (5)



(b) (5)



From: [Morris, Craig - AMS](#)
To: [Starmer, Elanor - AMS](#)
Subject: Fwd: Update on Georgia Dock
Date: Wednesday, August 03, 2016 12:44:26 PM

Status.

Sent from my iPhone

Begin forwarded message:

From: "Lynch, Michael - AMS" <Michael.Lynch@ams.usda.gov>
Date: August 3, 2016 at 12:38:01 PM EDT
To: "Morris, Craig - AMS" <Craig.Morris@ams.usda.gov>, "Snyder, Angie - AMS" <Angie.Snyder@ams.usda.gov>
Cc: "Bernau, Jim - AMS" <Jim.Bernau@ams.usda.gov>
Subject: Update on Georgia Dock

Craig and Angie-

I spoke with Dr. Cobb this morning. He said they (GDA) understand the issue of having the processors create a number to represent a 2.5# base equivalent that is reported to Market News, which is then used to formulate off of by the same processors. He informed me that the Commissioner has tasked some members of his staff to immediately begin working to come up with some options to correct this scenario. However, he did not have a timeline other than to say the work was to begin immediately.

I shared with him the suggestion of having the processors report actual sales to GDA Market News, and then GDA could own and manage the formula to create the light bird equivalent value. He seemed to welcome the idea and said they would appreciate our help with developing the alternative to current methodology. I offered any technical help our LPGMN staff can provide to assist them with this process.

I specifically asked him whether GDA has any issues or expects any issues with AMS ceasing the publishing the Georgia Dock report. (b) (5)

[REDACTED]. He said they do not have any issues with that. Dr. Cobb believes the majority of users get the report from GDA. When GDA posts the report on their web site, the report is also simultaneously disseminated to their Listserv subscribers, which would include their stakeholders.

Dr. Cobb and I plan to keep in close contact by email and telephone as we work to resolve the issue.

Mike Lynch

Director

AMS Livestock, Poultry, and Grain Market News

1400 Independence Ave, SW, Room 2619-S

Washington, DC 20250

Office: 202-720-4846

Mobile (b) (6)

Michael.Lynch@ams.usda.gov



From: [Jimenez, Sonia - AMS](#)
To: [Allen, William - AMS](#)
Subject: Transition Materials
Date: Tuesday, September 13, 2016 1:25:15 PM
Attachments: [Overview - AMS.docx](#)
[AMS Hot Issues.docx](#)

Bill:

I would appreciate if you take a look at these and let me know if I'm missing something, provide edits/updates. The instructions for the overview request a summary of key topics or issues for which there is particular interest on the part of Congress.

There is another section for Hot Topics in which we have to "Provide a brief description of the key policy issues, major upcoming programmatic decisions, and ongoing regulatory actions.... Issues to acknowledge include, but are not limited to: program implementation issues, statutory and court ordered deadlines, issues requiring WH involvement, cyber security, and potential issues that may arise due to new or recently passed legislation". (b) (5)

[REDACTED]

I plan to send this to Elanor by NLT Thursday. Thank you for your help.
Sonia

AMS Weekly Hot Issues
Week Ending September 9, 2016

Issue: Labeling of Bioengineered Food

On July 29, 2016, President Obama signed into a law a mandatory national bioengineered food disclosure standard. AMS is the USDA Agency responsible for implementing the labeling requirements. AMS has published the new law on its website and provided an opportunity for the public to provide comments and ask questions on the new law via phone and email. FSIS published guidance on Friday, August 19, to implement the statutory requirement that USDA allow “non-GMO” claims in commerce. The new law requires AMS to conduct a study identifying technical challenges for consumers to access an electronic or digital disclosure. On September 1, AMS published a Request for Information seeking input from vendors and general stakeholders on the study design.

Next Steps: AMS is working to understand the requirements of the new law, establish funding for staffing and study requirements, analyze potential interactions with existing AMS programs, and start the regulatory process to publish an advanced notice of public rulemaking in the *Federal Register*. AMS drafted an informational memorandum for the Secretary that includes a policy memorandum that the AMS Administrator will sign and deliver to all AMS Deputy Administrators affirming the new law’s consistency with the National Organic Program and ensuring that rulemaking on the new law will not impact the NOP.

Issue: Georgia Department of Agriculture Poultry Market News Report (Georgia Dock)

On July 20, 2016, AMS discovered that a price report issued by the Georgia Department of Agriculture (GDA) for processed poultry prices (Georgia Dock) was not being properly verified. The price information in the report has been included in an AMS issued market news report since 1993. AMS has been working with GDA officials to seek options to change the methodology of the report so it reflects verifiable market prices, but GDA plans to continue publishing the Georgia Dock report without change until an alternative methodology can be developed. In the meantime, AMS discontinued publishing the AMS Market News report based upon the Georgia Dock report on August 5, 2016. On September 1, AMS met with GDA in Atlanta to discuss the new Federal report and GDA’s current work with the Georgia poultry industry related to a replacement for its GDA Georgia Dock report..

Next Steps: AMS will continue working with GDA and offering technical assistance to develop new report procedures consistent with AMS Market News reporting methodologies and confidentiality guidelines. In addition, AMS is developing a new spot market poultry report in effort to meet industry needs.

Issue: U.S. District Court Decision on Resolute Forest Products, Inc.

On April 15, 2015, Resolute Forest Products filed a motion for summary judgment claiming that the Softwood Lumber Research and Promotion Order is unconstitutional. USDA has been involved in ongoing deliberation since the initial filing. On May 17, 2016, the U.S. District Court found that USDA’s Softwood Lumber Order was unlawful as promulgated. At a June 1, 2016, hearing held to discuss remedies, the court ordered: (1) USDA and the Softwood Lumber Board are prohibited from collecting further assessments from Resolute under the current Order;

(2) USDA and the Board must maintain a balance of funds of not less than \$1.1 million under the current Order; and, (3) USDA and Department of Justice (DOJ) shall file a brief supporting USDA's position that the \$1.1 million in assessments paid by Resolute should not be refunded in its entirety. A brief developed by AMS and DOJ for the court was filed on June 30, 2016. Resolute filed its response on July 20, 2016; USDA/DOJ's reply was filed by the extended due date of August 24, 2016. On June 30, 2016, AMS posted external Q&As about the case per the industry's request. AMS published a notice on July 20, 2016, notifying industry that a continuance referendum originally scheduled for August 20 will not be held. On July 13, 2016, AMS met with the Office of the Chief Economist (OCE) to discuss analyses necessary for upcoming rulemaking on the de minimis provisions of the order. On August 30, 2016, an interim rule was published in the Federal Register revising the time frame for the continuance referendum under the Softwood Lumber Order. The rule revises the time frame from 5 years (2016) to no later than 7 years (2018). Comments are due by October 31, 2016. On September 1, 2016, Resolute filed a notice of supplemental authority to emphasize its previous arguments about the order in the context of USDA's August 2016 interim rule. DOJ is evaluating the need for a response.

Next Steps: AMS will continue to work with the OCE to determine the appropriate de minimis exemption threshold for softwood lumber. AMS will publish a final rule suspending order language on the continuance referendum, depending on comments.

Issue: R-CALF USA v. USDA/Vilsack

On May 2, 2016, R-CALF USA filed suit in Federal District Court in Montana against Secretary Vilsack arguing that the Beef Checkoff Program should be promoting only U.S. beef. The complaint argues that the Checkoff Program denies R-CALF USA members in Montana their First Amendment rights since they are required to pay into the Montana chapter of the Checkoff program without a say in the marketing strategy. AMS will soon issue a rule regarding the redirection of beef Checkoff funds so producers have the option of directing their full assessment under the Beef Checkoff go entirely to the National Board. According to R-CALF's legal challenge, the activities of the National Board are considered constitutionally sound by the Supreme Court, while the activities of the State Beef Councils are not. Thus, by giving producers the option to direct their monies to the National Board, R-CALF's purported violations of First Amendment rights should be addressed. On June 7, AMS asked if the Montana Beef Council would comply if a producer requested that they redirect assessments to the Cattlemen's Beef Board. The Montana Beef Council responded that any redirection request, accompanied by appropriate and timely documentation, would be considered independently and that all state and Federal laws would be considered when making board decisions. The redirection rule was published on July 15, 2016, with a 60-day comment period that closes on September 13, 2016. DOJ filed a motion to dismiss the case on August 4, 2016. On August 24, 2016, R-CALF responded to the motion to dismiss.

Next Steps: AMS is working with DOJ to provide additional materials responsive to R-CALF's August 24, 2016, response.

Issue: Petition to Revise U.S. Beef Standards to Allow Alternate Means of Age Determination in Carcass Beef

On April 13, 2016, AMS received a petition from several industry stakeholders asking the Agency to make changes to allow for dentition as a means of age determination and eligibility for carcass grading. The Agency gathered grading information and data, and conducted economic analyses to determine possible impacts on various stakeholders. AMS sent a decision memo to the Secretary with results of the economic evaluation, along with a recommendation to publish a Notice in the Federal Register seeking public comments on the changes proposed in the petition. The Notice seeking public comment was published to the Federal Register on August 24, 2016, with comments due by October 24, 2016. As of September 7, AMS received 140 comments.

Next Steps: Based on an analysis of the comments received, AMS will decide whether to proceed with specific changes to the standards.

Issue: (b) (6) Suspended from Export Verification Programs

In April 2016, AMS suspended and delisted (b) (6) from the Export Verification (EV) program because of issues related to the shipment of non-conforming beef products to Korea through Chicago Meat Authority, including the issuance of certificates with incorrect export statements. AMS notified Korea and Japan at that time, per protocol, and launched “for cause” audits at all (b) (6) facilities, which were completed by late May. Subsequent corrective actions and required company training were completed in July. Approval must be received by the foreign government of Japan before the company can be relisted for the EV program.

AMS provide a summary of the for-cause audit findings to Japan in late July, and continues to address questions received by Japan over the findings and corrective actions. On August 22, AMS provided info to Japan regarding mislabeled packages from (b) (6) which shipped to Japan but did not enter commerce. On August 26, FAS notified AMS that Japan did not and will not issue a press release on the shipment of nonconforming product. Japan did, however, notify its importing companies that Japan is suspending imports of product from (b) (6).

Next Step: FAS will keep AMS apprised of any developments.

Marvin Horne Compliance Actions

On September 2, 2016, AMS issued administrative subpoenas to obtain records from the Dried Fruit Association and the Pacific/Atlantic Crop Exchange, Inc. In July, AMS authorized an investigation of Marvin Horne’s business transactions as he continues to operate outside the requirements under the Federal marketing order for raisins grown in California. On June 22, 2015, the U.S. Supreme Court ruled in favor of Horne, et al., determining the reserve component of the raisin marketing order was unconstitutional as it was considered a taking that would require just compensation. Lower courts ruled in USDA’s favor and held that Mr. Horne met the definition of a handler under the marketing order. Because Mr. Horne never subsequently challenged the ruling by the U.S. Court of Appeals for the Ninth Circuit that he met the definition of a handler, the ruling stands. AMS has eight additional administrative cases against Mr. Horne that were stayed pending the outcome of the Supreme Court’s decision. On August 3, 2016, the Administrative Law Judge (ALJ) issued an Order to Show Cause questioning “why these cases should not be dismissed.” The administrative cases filed against Mr. Horne for violations in subsequent crop years total approximately \$400,000 in assessments owed to the

Raisin Administrative Committee, plus civil penalties that may be issued. If the evidence supports it, AMS will seek support from the Office of the General Counsel and Department of Justice in seeking injunctive relief in Federal District Court, effectively halting Mr. Horne's business operations until he complies with the marketing order. We expect this process to receive negative media attention similar to the coverage of the Supreme Court's decision in *Marvin Horne, et al. v. U.S. Department of Agriculture*. In anticipation of this, AMS has prepared and cleared a communications plan through Agency channels.

Additional Pending Issues

- Peoples Republic of China Government Officials to Visit U.S. Beef Production
 - AMS, FAS, APHIS, FSIS, and USMEF were notified that Chinese government officials would visit the U.S. for 2 weeks starting on September 19, 2016, to start the process of opening the border for U.S. beef and beef products to be exported to China with the emphasis being on traceability of cattle from ranch of origin to boxed product for export. The various agencies were scheduling site visits of ranches, slaughter facilities, and any other entity that demonstrates the traceability of animals and products for export. At China's insistence, the visit will take place one week earlier, with the delegation arriving in the United States on September 11, 2016. They are also insisting on visiting the farm in Washington State where the first BSE case was detected in 2003. Agencies and industry are scrambling to try to make this happen.
- Notice Seeking Comments on U.S. Standards for Grades of Catfish and Catfish Products
 - On July 14, 2016, AMS published a Notice in the Federal Register seeking comments, data, research, and other information to help the Agency carry out the 2014 Farm Bill mandate to establish a voluntary fee-based grading program for catfish and catfish products. AMS is coordinating with the Department of Commerce's National Marine Fisheries Service (NMFS), which has a program for quality evaluation of product, grading, and certification of fish (including catfish), shellfish, and fish products. The comment period ends September 12, 2016. As of September 7, two comments have been submitted on the Notice.
- Cornucopia Institute v. USDA/Secretary Vilsack
 - On April 19, the Cornucopia Institute filed a complaint with the U.S. District Court for the Western District of Wisconsin on behalf of two organic producers. The complaint charges that USDA violated the Organic Foods Production Act (OFPA) in appointing members to the NOSB who did not meet OFPA qualifications. AMS continues to provide OGC and DOJ with information to support the case as requested.
- National Organic Program Freedom of Information Act (FOIA) Lawsuits.
 - The Cornucopia Institute filed eight lawsuits over AMS handling of FOIA requests related to National Organic Program records. AMS continues to coordinate with General Law on case-specific actions, and NOP has awarded a contract to support expanding FOIA needs.
- OIG Audit: "National Organic Program – International Trade Arrangements and Agreements"
 - On March 17, AMS and OIG conducted a meeting to initiate OIG's audit of NOP's processes for international agreements supporting organic trade. OIG is near completion of the compliance portion of the audit and is on schedule to finish fieldwork in September

2016. OIG will schedule a meeting with NOP to discuss audit findings and possible recommendations in the fall.

- PVP Program for Non-GE/GMO Marketing Claim on Yogurt
 - Chobani, LLC first submitted an application for an approved Process Verified Program (PVP) for a non-genetically engineered/genetically modified (non-GE/GMO) marketing claim in December 2015. In March, an AMS desk audit of their Quality Manual determined that their program met the requirements for a PVP; however, further evaluation of the company's application was suspended due to the increasing likelihood that a Federal law would pass that would address the labeling of GE/GMO foods.
 - With the signing of the National Bioengineered Food Disclosure Law on July 29, Chobani contacted AMS and renewed their request for PVP approval. AMS is currently evaluating how to proceed with their proposed PVP, in light of the requirements of the new law.
- Sun-Maid Growers of California Filing Suit Against USDA
 - On April 6, 2015, Sun-Maid Growers of California filed a lawsuit in Federal District Court of Washington, DC, seeking to overturn the Secretary's denial of the company's November 17, 2014, petition for proposed amendments and hearings on terminating volume control authority from the raisin marketing order.
 - On August 28, 2015, DOJ filed a Motion to Dismiss Sun-Maid's suit against USDA. The April 23, 2016, hearing on the motion to dismiss was cancelled because of the May 3-4 rulemaking hearing on removing raisin reserve authority from the Federal marketing order for raisins. AMS will draft a Recommended Decision once the hearing record is certified and interested parties are provided the opportunity to file briefs.
- Raisin Compensation Lawsuits
 - USDA received three claims for compensation from Lion Farms, LLC, Bruce Ciapessoni et al., and Boyajian et al. in the U.S. Court of Federal Claims. DOJ filed responses for the first two cases, and OGC has placed a litigation hold on all documents related to the raisin marketing order. In early December 2015, USDA's motions to consolidate the Lion Farms and Ciapessoni cases were denied. Boyojian et al. filed suit on December 28, 2015. DOJ filed motions to dismiss the three cases, concluding with a February 26, 2016 motion to dismiss the Boyajian et al case.
 - On August 15, 2016, the Court indicated that oral arguments will be scheduled on USDA's motions to dismiss and the opponent's opposition responses.
- Center for Food Safety, et al. v. Vilsack, et al/Sunset.
 - On October 30, 2015, the Center for Food Safety filed an Amended Complaint related to the Sunset Notice litigation. The amended complaint adds new allegations regarding the renewal of Aqueous Potassium Silicate, appends the declarations from prior briefing, and adds a new Exhibit B showing vote counts on 2017 sunset substance renewals. On December 10, 2015, DOJ filed a Motion to Dismiss the amended complaint. The hearing on the Motion to Dismiss scheduled for February 18, 2016 in San Francisco, California was cancelled by the judge, who is taking the motion under submission for decision.
 - Center for Food Safety, et al. v. Vilsack, et al/Green Waste: A second complaint, filed on April 14, 2015, relates to Guidance Document – NOP 5016 (Allowance of Green Waste in Organic Production Systems). On June 20, 2016, the U.S. District Court Judge for the Northern District of California ruled that NOP 5016 must be vacated by August 22, 2016. AMS did so, withdrawing NOP 5016 on August 22 as directed. A Notice to Trade was

sent on August 18 to update the organic community. AMS is currently drafting a proposed rule to replace the guidance with a regulatory rule change, with the opportunity for public comment. The work plan was designated as significant by OMB on August 31.

- ISO Technical Specification on Animal Welfare for Food Animals
 - AMS chairs U.S. representation to the International Organization for Standardization's (ISO) Technical Committee 34 (TC34)/Working Group 16 (WG), a group of experts in the field of animal welfare assembled to develop industry consensus on technical specification (TS) for food producing animals. On February 8, 2016, the TS was sent for a vote through a three month ballot process. The results of the vote were positive, and AMS notified the U.S. Technical Advisory Group to discuss the next steps in the process. AMS will attend the ISO TC34 plenary meeting in Paris, France, on July 7-8. AMS, as part of the smaller drafting group, is reviewing the comments provided during the vote. The WG will meet in Paris in September to finalize the TS, incorporating edits based on the comments. Once finalized, the intent is to have the TS published by December 1, in time for it to be announced at the next OIE Global Conference on Animal Welfare in December 2016.
- Burnette Foods Inc. v. USDA Case Related to the Federal Marketing Order for Tart Cherries
 - On August 11, 2016, the District Court Judge heard oral arguments on AMS' motion to dismiss the 15a case. The court has not ruled on our motion. USDA and DOJ will have 14 days to file a response to any claims not dismissed during this proceeding.
 - On December 21, 2015, Judicial Officer (JO) William Jenson confirmed his ruling in USDA's favor on all of the issues raised in Burnette Foods, Inc.'s petition challenging the tart cherry marketing order, denying Burnette's administrative 15a filing. On January 11, 2016, Burnette appealed the 15a decision by filing suit in Federal District Court. In his complaint, Burnette seeks a declaratory judgment to overturn the JO's order recognizing that tart cherry canners are separately situated from other segments of the tart cherry industry as being arbitrary and capricious. Mr. Burnette contends the Cherry Industry Administrative Board is improperly structured and that the tart cherry marketing order is unconstitutional because it ignores imported cherries, does not apply to all states, and places a season-to-season reserve requirement on products with short shelf life.
 - OGC issued a litigation hold on all Burnette related tart cherry documents and e-mails.
- PCRM Litigation - FOIA Request for Beef and Dairy Checkoff Documents
 - AMS is working with OGC and DOJ to respond to the allegations of improper processing of FOIA requests and appeals. The FOIA suit was filed against USDA by the Physician's Committee for Responsible Medicine on April 12, 2013.
 - PCRM Litigation – PCRM v USDA and HHS On January 6, 2016, PCRM filed a lawsuit in Federal Court in the Northern District of California, against USDA and the Department of Health and Human Services alleging that the government had allowed the food industry and financial inducements to dictate the Dietary Guidelines Advisory Committee's (DGAC) new recommendations on cholesterol. PCRM is requesting injunctive relief in the suit preventing Defendants from relying on DGAC recommendations. On August 25, 2016, the Court requested additional briefings on the matter. AMS will continue to help OGC and DOJ as requested.
- Humane Society of the United States vs. Vilsack
 - In September 2012, the Humane Society of the United States (HSUS) filed suit in the Federal District Court of the District of Columbia against the Secretary of Agriculture

under the Administrative Procedure Act (APA) challenging the approval of the National Pork Board's (Board) purchase of four trademarks including the "Pork. The Other White Meat" (PTOWM) slogan from the National Pork Producers Council (NPPC). On August 14, 2015, HSUS won its appeal for standing. The case is still pending with each party submitting records to the Court. The decision will be based upon the administrative records filed on June 29, 2016. On August 24, 2016, DOJ filed additional materials to supplement USDA's administrative record that was originally filed with the court on June 29, 2016.

- **USDA Certified Transitional Program**
 - AMS is reviewing the Organic Trade Association's Transitional Certification standard, which was submitted on May 20. The standard will allow AMS to approve Accredited Certifying Agents (ACAs) to verify processes and practices used by producers during the 3-year transition period required by the National Organic Program regulations when moving from conventional to organic production. On August 22, AMS met with OGC to discuss the proposed standard and voluntary verification activities. (b) (5) [REDACTED]
 - [REDACTED]. OGC is reviewing the OTA transitional standard in its entirety. Once their review is complete, AMS will work with OGC to identify possible paths forward.
- **The Good Food Institute**
 - On August 8, 2016, the Good Food Institute (GFI) filed a lawsuit against USDA for allegedly refusing to release American Egg Board (AEB) documents under Freedom of Information Act (FOIA) requests. In a complaint filed in the U.S. District Court for the District of Columbia, GFI, a food advocacy group, says USDA did not fulfill three FOIA requests in late 2015 and early 2016 regarding AEB and Hampton Creek's egg-free mayonnaise line. The group is asking that the court force the USDA to release the records and pay legal and search fees.

Summary of Key Topics/Issues of Particular Interest to Congress

GMO Labeling Law

Public Law 114-216 created a nationwide mandatory labeling requirement for food containing Genetically Modified Organisms (GMOs). The legislation amends the Agricultural Marketing Act of 1946, and requires that within two years of the Law's enactment USDA's Agricultural Marketing Service (AMS) establish a mandatory national bioengineered food disclosure standard and the procedures necessary to implement the national standard. This would provide increased transparency for American consumers and enable them to make informed choices about the foods they purchase.

The law:

- Covers processed food products that contain meat, poultry, or eggs.
- Provides protections for the organic label.
- Protects critical consumer rights under both state and federal law.
- Limits food companies to three, clearly regulated options for GMO disclosure: on-package words, on-package symbol, or on-package electronic label.
 - If a company chooses electronic labels, they must comply with additional requirements to ensure the GMO information is easily accessible and transparent for all consumers.
- Requires companies to provide additional and comparable means to access GMO information if USDA determines that there will be consumer accessibility issues related to electronic labels.
- Prevents a multi-state patchwork of GMO labeling laws which would create confusion for consumers and uncertainty for food companies and farmers.
- Calls for a study (within 1 year of enactment) to be conducted to assess any technological challenges that may impact whether consumers would have access to electronic disclosures

USDA has established a GMO Disclosure working group comprised of high level representatives from all of the USDA Agencies that will be required to implement this law. With CR funding, AMS intends to complete the study investigating the technological challenges that may limit consumers accessing electronic disclosures of GMO information about their food and do several public meetings across the country this fall. Without CR funding, it's likely that the deadlines set in statute will be delayed, leading to further confusion.

Organic Compost

On April 14, 2015, the Center for Environmental Health (CEH), the Center for Food Safety (CFS), and Beyond Pesticides (Plaintiff) filed a "Complaint for Declaratory and Injunctive Relief" against USDA alleging that USDA violated the Administrative Procedures Act by not requesting comments when AMS published the Guidance on the Allowance of Green Waste in Organic Production Systems (NOP 5016).

On June 20, 2016, a judicial decision from the United States District Court for the Northern District of California ruled that the USDA National Organic Program (NOP) published guidance was a legislative rule subject to notice-and-comment rulemaking under the Administrative Procedure Act (APA). The court prospectively vacated NOP 5016, effective on August 22, 2016, and grandfathered in compost purchased or used between 2010 and that date.

On August 18, 2016, AMS issued a Notice to Trade stating that in response to the court's decision, the agency plans to conduct a notice-and-comment rulemaking. A proposed rule is under development. In the interim, accredited certifying agents must continue to review and approve all materials used by organic producers, including compost, as part of an operation's organic system plan. Certifying agents are responsible for ensuring that all materials used by organic producers comply with the USDA organic regulations.

Organic Livestock & Poultry Practices

On April 13, 2016, AMS issued a proposed rule to amend the organic livestock and poultry production requirement in order to ensure consistent application of the USDA organic regulations for organic livestock and poultry operations and maintain confidence in organically labeled products.

The proposed rule grows out of a series of recommendations from the National Organic Standards Board (NOSB) and public comments to the NOSB indicating a need for more specific standards in order to support the continued growth in the organic sector and ensure consumer confidence in the organic market, which in 2015 was worth over \$43.3 billion in the U.S. alone. This proposal aims to ensure that all organic livestock live in pasture based systems, with clear standards for living conditions that support the health and natural behavior of the animals. Over 6,000 comments were received.

In addition to the multiple recommendations of the NOSB, a 2010 OIG report recommended that AMS issue guidance regarding outdoor access for poultry in order to end the inconsistent interpretation of current rules. APHIS reviewed the proposed rule and determined that it would not have any negative impact on APHIS biosecurity efforts surrounding HPAI or other poultry diseases of concern.

Potential California Federal Milk Marketing Order

California is ranked first in milk production in the U.S. and currently operates a state milk marketing order administered by the California Department of Food and Agriculture. The 2014 Farm Bill contained a provision to allow California producers to request a Federal milk marketing order (FMMO) recognizing the California quota program.

FMMO's are voluntary marketing tools that assure dairy farmers a minimum price for their milk throughout the year, while also assuring consumers of an adequate supply of milk to meet their needs. There are currently 10 FMMO's that regulate about 60% of the milk produced in the U.S.

AMS conducted extensive outreach and education with California dairy industry stakeholders.

(b) (5)

AMS received a formal proposal from California Dairies Inc., Land O'Lakes and Dairy Farmers of America and three additional proposals on behalf of the Dairy Institute of California, the California Producer Handlers Association, and Ponderosa Dairy.

AMS held three public outreach meetings to review the proposals received and a hearing to consider the establishment of a CA FMMO. USDA estimates the total number of transcript pages

at around 8,000, not including exhibits. The complete transcript and hearing exhibits are available on the AMS website. A Recommended Decision is being developed based on the evidence presented during the rulemaking. USDA will request public comment on the Recommended Decision and will issue a Final Decision. If USDA recommends a FMMO, dairy farmers potentially covered by the Order will vote on whether to adopt it. The process from the end of the hearing until final implementation is expected to take around eighteen months.

Know Your Farmer, Know Your Food Initiative

The Know Your Farmer, Know Your Food (KYF2) initiative is a USDA-wide initiative (not an appropriated program) to strengthen local and regional food systems and strengthen the critical connection between farmers and consumers. The initiative facilitates cross-cutting efforts at USDA that seek to use existing USDA programs to break down structural barriers that have inhibited local food systems from thriving. Industry estimates show U.S. local food sales totaled at least \$12 billion in 2014, up from \$5 billion in 2008, and experts anticipate that value to hit \$20 billion by 2019.

The initiative has a successful KYF2 website (<http://www.usda.gov/knowyourfarmer>) that is a one-stop shop for resources and information about USDA programs and a place where interested producers could find support for local and regional food systems such as information on grants, loans, research, and the KYF2 Compass, which maps over 4,200 federal investments in local and regional food made by USDA and other Federal Agencies since 2009. The Compass allows users to search for federally-supported local food projects in their community and learn what others are doing across the country through keyword or geographic searches.

Through the efforts of KYF2 and between 2009 and 2015, USDA has invested over \$1 billion in more than 40,000 local and regional food businesses and infrastructure projects, from the smallest on-farm projects like high tunnels, to large-scale investments like food hubs. Today, more than 160,000 farmers and ranchers nationwide are selling into local markets, from farmers markets and CSAs to local restaurants, grocery stores and institutions, generating huge returns for local communities.

Local Food Research and Development

Rural assembly and urban food distribution markets and facilities play an important role in getting food to consumers. Poor markets and facilities can destroy product quality, cause spoilage losses, and add unnecessary handling costs to food, resulting in higher consumer prices or reduced income to farmers. The Local Food Research and Development Division (LFRD) in AMS provides technical assistance and develops educational materials to help small and medium-sized producers, processors and wholesalers of farm products access new marketing channels, expand current markets, and improve the efficiency and quality of food distribution practices.

Local and regional food system marketing outlets, including farmers markets, food hubs, and other local/regional, source-identified marketing models are important vehicles for enabling small and medium-sized farmers to reach household consumers and retain a greater share of the consumer food market. Today, more than 160,000 farmers and ranchers nationwide are selling

into local markets with estimates sales total of at least \$12 billion in 2014, up from \$5 billion in 2008, and experts anticipate that value to hit \$20 billion by 2019.

LFRD facilitates the enhancement of producer income and improvements in marketing efficiency by: Developing and evaluating agricultural marketing solutions, including strategies for improving local and regional food systems; Providing design, construction, and renovation recommendations for local and regional food market facilities; Identifying emerging local and regional food system marketing opportunities for farm commodities, and conducting applied research to help producers, processors and distributors of farm commodities take advantage of these opportunities; Investigating and encouraging adoption of improved postharvest technologies and practices; Presenting marketing information and education through outreach activities, training workshops and an Internet-based information clearinghouses; Forming partnerships with federal and state agencies, universities, local governments, and non-profit organizations to leverage resources and provide local food marketing technical assistance to rural and urban communities.

The USDA Farmers Market

Located on the corner of 12th and Independence Avenue, SW, the USDA Farmers Market is the Department's own "living laboratory" for farmers market operations across the country. The market supports the local economy, increases marketing opportunities for farmers and small businesses, provides access to an assortment of local and regionally sourced products, and increases access to healthy, affordable food in the District of Columbia's Ward 2. In its 21st year of operation, the USDA Farmers Market has experienced tremendous growth and has become a "go to" destination for federal employees and Washington, DC, visitors on Fridays during the spring and summer.

The daytime market hosts approximately 30 produce, prepared food, and cut flower vendors, and the nighttime market hosts approximately 24 vendors. The farmers market upholds the principles of "sourcing locally." For prepared food vendors to participate in the market, they must demonstrate that the foods they are preparing are using ingredients sourced from local producers. It also conducts a weekly fruit and vegetable education program where shoppers can attend short 10-minute classes and get a "VegUcation" - learning how to pick, prepare and store a particular fruit or vegetable that is in season in the United States.

Grants

AMS grant programs play an important role in facilitating marketing. The Federal-State Marketing Improvement Program (FSMIP) provides matching funds to States to assist in exploring new market opportunities for U.S. food and agricultural products, both locally and internationally. Recent FSMIP projects have supported efforts to bolster local and regional food systems through farmers markets and community supported agriculture operations, while other projects have focused on building international markets for pine lumber, pork, and more.

With the Specialty Crop Block Grant Program, AMS helps states strengthen markets for their specialty crops, such as fruits, vegetables, tree nuts, horticulture and nursery crops. **In FY 2015, AMS awarded approximately \$63 million** for 755 projects. These grants address issues ranging

from food safety to research needs to increased access to fruits and vegetables, all benefiting specialty crop producers and consumers across the country. With additional funding from the 2014 Farm Bill, we are able to do even more to help specialty crop growers increase profitability and sustainability.

Farmers Market and Local Food Promotion Program grants are available annually to support local and regional food systems through two competitive programs: the Farmers Market Promotion Program (FMPP) and the Local Food Promotion Program (LFPP). FMPP grants fund farmer-to consumer direct marketing projects such as farmers markets, community-supported agriculture programs, roadside stands, and agritourism. LFPP grants fund local and regional food business enterprises that serve as intermediaries to process, distribute, aggregate, and store locally or regionally produced food products. Projects also provide technical assistance and outreach, including planning grants for local food businesses. In Fiscal Year 2015, AMS awarded approximately \$25 million in competitive grants to expand marketing through these two programs. FMPP awarded \$13.3 million to 164 project recipients and LFPP awarded \$11.8 million to 160 project recipients. (b) (5)

Food Safety Modernization Act

The FDA Food Safety Modernization Act (FSMA) was signed into law on January 4, 2011. It aims to ensure the U.S. food supply is safe by shifting the focus from responding to contamination to preventing it. In November 2015, FDA released the FSMA Produce Safety final rule which establishes, for the first time, science-based minimum standards for the safe growing, harvesting, packing, and holding of fruits and vegetables grown for human consumption.

AMS participates with the FDA in the jointly-funded Produce Safety Alliance, a collaborative effort managed by Cornell University. Based on focus groups with small farmers, it provides the produce industry with training/educational opportunities related to best practices and regulatory requirements (i.e., FDA's Produce Safety regulation).

The FY 2017 budget requests \$5 million to support the Food Safety Outreach Program which will compliment and expand the National Food Safety Training, Education, Extension, Outreach, and Technical Assistance program. It will focus on delivery of customized training to small and medium sized farms, beginning farmers, socially disadvantaged farmers, small processors, or small fresh fruit and vegetable merchant wholesalers.

AMS is in the mid phase of a joint project with FDA to review our Good Agricultural Practices (GAP) Program to ensure that it aligns with the FDA produce safety regulation. The project is projected for another 9 months with the next activity being a field-based component with our FDA colleagues to observe actual GAPs and audit protocols on farms.

GroupGAP

USDA Good Agricultural Practices (GAP) audits are voluntary audits that verify that fruits and vegetables are produced, packed, handled, and stored as safely as possible to minimize risks of microbial food safety hazards based on industry best practices and Federal guidelines. Based on the success of a 3-year pilot run in conjunction with the Wallace Center at Winrock International, AMS began offering a new USDA GroupGAP program on April 3, 2016.

Unlike the traditional one-farm-one-audit GAP Program model, GroupGAP allows groups of growers, including food hubs, cooperatives, and grower associations, to collaboratively achieve GAPs certification as a group, allowing more accessibility to growers of all sizes, including small and mid-sized producers. By verifying growers' compliance with buyers' food safety requirements, GroupGAP has the ability to build local food marketing opportunities and markets for growers and retailers alike.

Global Food Safety Initiative

In recent years, international entities, such as the Global Food Safety Initiative (GFSI), have worked to build equivalence and convergence among the various effective food safety management systems in an effort to eliminate redundancy in the audit process for buyers and producers, and to improve the operational efficiency of the food safety certification sector. Major U.S. corporations, namely Walmart, McDonalds, Cargill, Kroger and Wegmans, sit on the GFSI Board of Directors.

AMS is working closely with GFSI to obtain equivalency under the new GFSI Standard Equivalency Process for Government Entities. This accreditation will allow AMS' audit program to serve as a single, accredited certification body that can meet buyers' multiple requirements for audits.

Research and Promotion Programs

Research and Promotion programs, authorized by Congress, are requested, funded, and driven by industry. The programs establish a framework to pool resources to develop new markets, strengthen existing markets, and conduct important research and promotion activities. AMS provides oversight, helping to ensure fiscal responsibility, program efficiency, and fair treatment of participating stakeholders. AMS oversees more than 20 research and promotion boards that empower farmers, ranchers, and agricultural businesses.

- **American Egg Board:** Mr. Joshua Tetrick, Chief Executive Officer, Hampton Creek, Inc., San Francisco, CA (Hampton Creek) complained that the American Egg Board (AEB) exceeded its mandate by funding a campaign to halt the growth of Hampton Creek. An internal AMS review of the allegations has been completed and is being reviewed.
- **Organic Check-Off Program:** The 2014 Farm Bill authorized USDA – under the Commodity Promotion, Research, and Information Act of 1996 (1996 Act) – to accept an application for a research and promotion (R&P) program for organic products. On May 15, 2015, the Organic Trade Association (OTA) submitted a formal proposal, accompanied by a \$250,000 bond, to the Agricultural Marketing Service (AMS) to cover expenses.

AMS invited the public to submit alternative proposals or partial proposals. AMS received eight partial proposals. On May 3, 2016, OTA submitted a letter to AMS to formally amend its proposal to include some stakeholder feedback, language from the partial proposals, and technical edits based on discussions with AMS.

Over the past year, AMS has worked with the Office of the General Counsel (OGC) to evaluate the legal implications of the order language. AMS continues to hear from stakeholder groups opposed to the proposal and to an organic R&P program in general. AMS is working to move forward expeditiously on drafting a proposed rule for the program, while also working to publish a proposal that is legally sound and can be successfully administered through its oversight.

- **R-CALF v. USDA:** On May 2, 2016, R-CALF USA filed suit in Federal District Court in Montana against Secretary Vilsack arguing that the Beef Checkoff Program should be promoting only U.S. beef. The complaint argues that the Checkoff Program compels R-CALF USA members to subsidize private speech because it allows the Montana Beef Council, to retain a portion of their assessments to fund their activities that does not qualify as government speech in violation of the First Amendment. The Montana Beef Council is a non-government organization that is a Qualified State Beef Council (QSBC) authorized to collect Beef Checkoff assessments.

AMS issued a proposed rule on July 15, 2016, with a 60-day comment period, regarding the redirection of Beef Checkoff funds so producers in certain states including Montana have the option of directing their full assessment under the Beef Checkoff entirely to the National Board. Thus, under this proposal, producers would not be compelled to fund the activities of QSBCs where not compelled by state law. In the meantime, the Montana Beef Council's Board of Directors indicated to AMS that it would comply with a producer's written request, accompanied by appropriate and timely documentation, to have the entire \$1-per-head assessment forwarded to the Cattlemen's Beef Promotion and Research Board.

- **National Pork Board:** In September 2012, HSUS filed suit in the Federal District Court of the District of Columbia against the Secretary under the Administrative Procedure Act challenging the approval of the National Pork Board's purchase of the "Pork. The Other White Meat" slogan from the National Pork Producers Council (NPPC). The litigation has been stayed pending USDA's review of the Board's purchase of the trademark.
- **Softwood Lumber:** On April 15, 2015, Resolute Forest Products filed a motion for summary judgment in U.S. District Court claiming that the Softwood Lumber Research and Promotion Order (Order) is unconstitutional and that USDA violated the Administrative Procedure Act (APA) when the program was promulgated. On September 9, 2015, the Court ruled in favor of USDA on five out of six APA challenges, and requested additional information on one APA issue concerning the rationale for the Order's 15 million board foot exemption threshold. On May 17, 2016, the Court found that, on the basis of estimates and information reviewed, the selection of 15 million board foot exemption threshold was arbitrary and capricious and that the Softwood Lumber Order was unlawful as promulgated.
- A hearing was held on June 1, 2016, to discuss remedies. The court ordered that: (1) USDA and the Softwood Lumber Board (Board) are prohibited from collecting further assessments from Resolute under the current Order; (2) USDA and the Board must

maintain a balance of funds of not less than \$1.1 million under the current Order; and (3) USDA and Department of Justice (DOJ) shall file a brief by June 29, 2016, supporting USDA's position that the \$1.1 million in assessments paid by Resolute should not be refunded. All briefs have been filed and we are now awaiting the Judge's decision. In addition, the continuance referendum that was scheduled to be conducted in August 2016, was postponed.

Study of Rural Transportation Issues

USDA's Agricultural Marketing Service (AMS) and the U.S. Department of Transportation (DOT) are updating *Study of Rural Transportation Issues*, as required by the 2014 Farm Bill. The updated study is expected to be provided to Congress by December 2016. The comprehensive update includes 13 substantive chapters and be approximately 500 pages in length, updating the previous study similar to how a textbook is revised. The update will include content on: (1) how freight transportation supports agriculture and rural America, (2) transportation of coal and biofuels, (3) modal and issue information on transportation of agricultural products via rail, barge, truck and ocean, (4) infrastructure planning, and (5) resiliency of the transportation system and implications for agriculture. The Farm Bill also requested the Study address "the sufficiency of infrastructure along waterways in the United States and the impact of the infrastructure on the movement of agricultural goods in terms of safety, efficiency and speed, as well as the benefits derived through upgrades and repairs to locks and dams."

House Report Request for A Long-Term Infrastructure Plan

The FY16 House Ag Subcommittee report (HR 114-205) requires that USDA develop an infrastructure plan. Specifically, conference report language states: "Infrastructure Plan—The United States has experienced record levels of agricultural exports for the past few years, and there is support for expanding trade opportunities. However, increasing trade without consideration for the domestic infrastructure to adequately support it is short-sighted. The Midwest rail situation and disruptions at the West Coast ports are prime examples of the fact that USDA is reacting to the domestic and international commerce circumstances instead of having a proactive plan in place. Having the commodities available but not being able to deliver them will jeopardize the U.S.'s ability to remain a reliable trading partner. The Committee directs the Secretary to submit a long-term infrastructure plan that benefits American producers and provides examples of how USDA is working with other Federal agencies to prevent future transportation mishaps."

AMS is nearing completion of the report. The draft response highlights USDA's authority related to agriculture transportation issues, USDA's role regarding recent agriculture transportation disruptions, and the roles of the Department of Transportation (DOT) and the Surface Transportation Board (STB). Under the Agricultural Adjustment Act of 1938 and the Agricultural Marketing Act of 1946, the Secretary of Agriculture is charged with representing the interests of agricultural producers and shippers in improving transportation services and facilities by, among other things, initiating and participating in U.S. Surface Transportation Board (STB) proceedings involving rates, charges, tariffs, practices, and services.

USDA does not have regulatory authority over transportation issues and cannot prevent or intervene during transportation disruptions or labor management disputes. USDA does not possess the resources and expertise to develop a long-term transportation infrastructure plan. In an effort to engage stakeholders on this issue, AMS and a representative from DOT participated in a stakeholders' listening session facilitated by Representative David Young (R-Iowa) on February 22, 2016, in West Des Moines, IA,

Market News

AMS Market News provides current, unbiased information on supply, demand, prices, volume, movement, location, quality, condition, and other market data. Hundreds of market reports are issued daily, free of charge, on approximately 700 products and commodities. Annually, AMS provides 250,000 reports garnering 53 million views.

In response to stakeholder interest, AMS continues to increase the number of market reports on local/regional products including reports on farmers markets, auctions and direct to consumers. In addition, AMS provides approximately 250 reports on organic commodities.

MN produces information which impacts billions of dollars in agricultural trading each year. During the 2013 government shutdown, the absence of market intelligence made it difficult for farmers to determine a fair price for their produce and resulted in a significant decrease in commodity futures on the Chicago Mercantile Exchange. AMS has heard from many industries and the Fruit and Vegetable Advisory Committee about the importance of MN for their industries success. Market News data is critical for the Risk Management Agency, the International Trade Commission, the DOD Fresh Program, the Farm Service Agency, and the Grain Inspection Packers and Stockyards Administration.

Glyphosate

Glyphosate is an herbicide used to control weeds used in soybeans, corn, cotton, wheat, pasture/hay, orchards/grapes, and fruit and vegetables. In the past, the Pesticide Data Program (PDP), a national pesticide residue monitoring program that produces the most comprehensive pesticide residue database in the U.S., did not routinely test glyphosate because it was not widely used on many of the fruit and vegetables and other products tested and requires a specialized method of analysis. PDP is implemented through cooperation with State agriculture departments and other Federal agencies and selections for testing are made based on EPA's data needs.


Glyphosate has been a popular topic in agricultural/consumer news in recent months. Glyphosate is not routinely included in PDP testing because the single analyte method is costly and not an effective utilization of the program's limited resources. FDA is planning to test corn, soybeans, milk, and eggs for glyphosate residues as part of its FY 2016 enforcement program. Results from the FDA testing will provide insights on whether additional data is needed for ongoing evaluation of glyphosate tolerances to ensure that the levels set by EPA meet the safety standards prescribed by the law. PDP will meet with EPA to discuss the FDA results for glyphosate on corn, soybeans, milk and eggs, once these data are available, and to determine if glyphosate testing by PDP is necessary.

Country of Origin Labeling

Country of Origin Labeling (COOL) is a labeling law that requires retailers notify their customers with information regarding the source of certain foods. The covered commodities

contained in the law include muscle cut and ground meats: beef, veal, pork, lamb, goat, and chicken; wild and farm-raised fish and shellfish; fresh and frozen fruits and vegetables; peanuts, pecans, and macadamia nuts; and ginseng. The final rule for all covered commodities went into effect on March 16, 2009.

In response to Mexico's and Canada's allegations that U.S. COOL requirements for beef and pork products are inconsistent with World Trade Organization (WTO) obligations, the WTO found that, while the United States has the right to adopt mandatory COOL requirements, certain aspects of the existing requirements are inconsistent with U.S. obligations. In particular, the WTO found that the measure accords less favorable treatment to imported Canadian hogs and Canadian and Mexican cattle than to like U.S. hogs and cattle. On May 23, 2013, AMS issued a final rule that modified the labeling provisions to require the origin designations to include information about where each of the production steps (i.e., born, raised, and slaughtered) occurred and removed the allowance for commingling. On March 2, 2016, AMS published a final rule repealing COOL for beef and pork products. (b) (5)



Livestock Mandatory Reporting


On April 2, 2001, AMS implemented the LMR program as required by the Livestock Mandatory Reporting Act of 1999 (1999 Act). The purpose of the 1999 Act was to establish a program of information regarding the marketing of cattle, swine, lambs, and the products of such livestock that provides information that can be readily understood by producers; improves the price and supply reporting services of the Department; and encourages competition in the marketplace for livestock and livestock products. The program facilitates open, transparent price discovery and provides all market participants, both large and small, with comparable levels of market information for cattle, swine, sheep, beef, pork, and lamb meat.

Since the statutory authority for the program lapsed, in September 2015, the program was reauthorized through September 2020. The timely reauthorization of the statute avoided a lapse in authority which could have created uncertainty in the markets. On February 29, 2016, AMS published the final rule to amend lamb reporting requirements and published a proposed rule for the other changes provided for in the reauthorization. In February 2016, AMS held a stakeholder meeting for key industry personnel to review LMR regulation changes specific to each industry.

Agricultural Labor Shortage

America's farmers and ranchers face a critical shortage of legally authorized and experienced workers, which negatively impacts our economic competitiveness, local economies, and jobs. Although the majority of farm workers are foreign-born and work seasonally there are also several hundred-thousand non-seasonal agricultural jobs that are increasingly difficult to fill. Multiple economic studies show that every farm worker engaged in high-value labor-intensive crop and livestock production sustains two to three off-farm but farm dependent jobs. These off-farm jobs are the life-blood of rural communities all over the country, supporting working families all over America. Every year we document more and more labor intensive producers of food crops, nursery crops, dairy and other livestock agriculture reducing production of these products in favor of mechanized row-crops, deferring or excluding growing the farm enterprise to bring in younger generations, and even selling for commercial or residential development

because they cannot base future business models on our current labor supply and regulatory environment. (b) (5)



Specialty Crops Pest & Disease Prevention (as historically related to the Citrus Greening Disease)

Among the many diseases of citrus that have invaded or could invade Florida, greening represents the greatest threat to the industry. The insect vector, the Asian citrus psyllid (ACP, *Diaphorina citri*) acquires CLas by feeding on the nutrients carried by phloem cells in the citrus plant and injects the bacterium to other citrus plants. ACP was first detected in Florida in 1998. Shortly thereafter, ACP had spread to the point that eradication became unconceivable. HLB (translated as “yellow shoot disease”) itself was discovered in Florida in August of 2005. HLB is now present in the 34 citrus producing counties of Florida, but is most prevalent in the southern areas of the state.

Florida’s signature crop continues to decline, and it continues to feel the effects as a result of the spread of citrus greening. In December 12, 2013, the USDA announced the creation of an emergency response framework to battle citrus greening, gathering various groups, agencies and experts to coordinate and focus federal research on fighting the disease. On February 9, 2015, USDA released \$30 Million to Fight Citrus Greening, and U.S. Secretary of Agriculture Tom Vilsack announced the funding for 22 research projects in a national teleconference from USDA headquarters in Washington.

(b) (5)



From: [Smith, AlexandriaP - AMS](#)
To: [Stewart, Dana - AMS](#)
Cc: [AMS - LPS EXECS](#); [Comfort, Karen - AMS](#); [Walker, Natosha - AMS](#); [Wang, Kenneth - AMS](#); [Taylor, Jameelah - AMS](#); [Flores, Elizabeth R - AMS](#); [Starmer, Elanor - AMS](#); [Jones, Samuel - AMS](#); [Richmond, William - AMS](#)
Subject: Weekly Activity Report - LPS
Date: Thursday, September 22, 2016 4:02:19 PM
Attachments: [LPS Weekly Activity Report 09-23-16.docx](#)

Hi Dana:

The LPS Program's Weekly Activity Report is attached for your review and use.

Please contact me with any questions.

Thank You,
Alex

Alexandria Smith

U.S. Department of Agriculture

Agricultural Marketing Service

(936) 202-9366 | AlexandriaP.Smith@ams.usda.gov

**LPS Weekly Activity Report
Agricultural Marketing Service**

Deputy Administrator Craig Morris

Friday, September 23, 2016

Agency Accomplishments

Reform-Based Actions

Important Events for the Upcoming Week

Media Flags

Press Releases, Reports and Blogs for the Upcoming Week

Stakeholder Announcements:

Blogs:

Reports:

30-60 Day Look-Ahead

Press Releases:

Stakeholder Announcements:

Blogs:

Reports:

Potential Legal Issues

Items Submitted to OGC (still pending):

- October 30, 2014 – USDA filed a complaint against John R. Shoup, d/b/a Dinsdale Elevator (Respondent) alleging violations of the Soybean Promotion, Research, and Consumer Information Act who failed to submit assessments collected from producers in a timely manner from Nov 1, 2009, through the date of complaint being filed. The Administrative Law Judge (ALJ) presiding over the case retired and AMS is now waiting for reassignment of the case to another ALJ.

- March 8, 2016 – Request for legal opinion concerning Federal regulation of *Cannabis sativa*.
- July 28, 2016 – Review of State statutes regarding redirection of assessments.
- September 8, 2016 – Final rule on Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary under Various Statutes (AMS-LPS-16-0051).

Other Issues:

UPDATE:

In September 2012, the Humane Society of the United States (HSUS) filed suit in the Federal District Court of the District of Columbia against the Secretary of Agriculture under the Administrative Procedure Act (APA) challenging the approval of the National Pork Board's (Board) purchase of four trademarks including the "Pork. The Other White Meat" (PTOWM) slogan from the National Pork Producers Council (NPPC). On August 14, 2015, HSUS won its appeal for standing. The case is still pending with each party submitting records to the Court. The decision will be based upon the administrative records filed on June 29, 2016. In addition, based on discussions with DOJ, on August 24, 2016, DOJ filed additional materials to supplement USDA's administrative record that was originally filed with the court on June 29, 2016.

Beginning September 2, 2015, several articles appeared in the media concerning American Egg Board (AEB) communications about (b) (6), an egg replacer product. Based on the articles, it appears that (b) (6) parent company could be considering a lawsuit or prompting an investigation. As a result of the articles, AMS initiated a review of the allegations. In addition, AEB conducted its own internal review of the allegations, the results of which were reported to its Executive Committee on October 13, 2015.

On January 6, 2016, the Physicians Committee for Responsible Medicine (PCRM) filed a lawsuit in the Federal Court in the Northern District of California against USDA and the Department of Health and Human Services. The lawsuit alleges that the government had allowed the food industry and financial inducements to dictate the (b) (6) new recommendations on cholesterol. PCRM is requesting injunctive relief in the suit preventing defendants from relying on (b) (6) recommendations. RPD is assisting OGC with preliminary litigation matters relating to the case.

On May 2, 2016, R-CALF USA filed suit in Federal District Court in Montana against the USDA Secretary of Agriculture arguing that the Beef Checkoff Program should be promoting only U.S. beef. In the complaint, R-CALF USA argued that its members in

the State of Montana are having their First Amendment rights denied because they are being forced to pay into the Montana Beef Council without having a say in the marketing strategy. DOJ filed a motion to dismiss the case on August 4, 2016. On August 24, 2016, R-CALF responded to the motion to dismiss. AMS is currently working with DOJ to provide additional materials responsive to R-CALF's August 24, 2016, response. On September 20, 2016, the Court issued an Order for a hearing to take place on October 25, 2016, at 2 p.m., regarding DOJ's Motion to Dismiss and Plaintiff's Motions for Summary Judgment and for a Temporary Restraining Order. AMS continues to work with DOJ and OGC by developing declarations, statement of facts, and other materials as needed.

On August 8, 2016, the Good Food Institute (GFI) filed a lawsuit against the U.S. Department of Agriculture (USDA) for allegedly refusing to release (b) (6) documents under Freedom of Information Act (FOIA) requests. In a complaint filed in the U.S. District Court for the District of Columbia, GFI, a food advocacy group, says USDA did not fulfill three FOIA requests in late 2015 and early 2016 regarding AEB and Hampton Creek's egg-free mayonnaise line. The group is asking that the court force the USDA to release the records and pay its legal and search fees.

Freedom of Information Act (FOIA) Requests

FOIA Request 2016-AMS-02754-F – Daniel J. Stotter

On April 20, 2016, LPS received a FOIA request from Daniel J. Stotter, Attorney, seeking various National Organic Program records. Since QAD issued a certificate of conformance to the business entity named Organic Materials Review Commission, we are being asked to conduct a search for records. LPS' response was due on May 16, 2016.

FOIA Request 2016-AMS-03668-F – Matthew Penzer, HSUS

On May 4, 2016, AMS received a request Matthew Penzer, of the Humane Society of the United States (HSUS), seeking National Pork Board records relating to the trademark valuation conducted for the National Pork Board by Stout Risius Ross ("SRR"), and resulting in the issuance of a report dated March 30, 2016. AMS has been asked to construe the scope of this request broadly, including all communications with or about SRR, engagement letters and any other agreements, agency memoranda or instructions relating to the valuation, post-report consultations, and any budget or expenditure records. Records, from August 2015 to present, that contain any of the following terms: "SRR"; "Stout Risius Ross"; "PTOWM"; "TOWM"; "The Other White Meat"; "stipulation"; "Humane Society"; "HSUS"; "Penzer." Communications, of either the Pork Board or AMS with or about the National Pork Producers Council or any representative of the Council. Response was due to AMS by June 6, 2016. AMS has received records from the Board and is processing the request.

FOIA Request 2016-AMS-04210-F – Stephen Schwartz, Cause of Action Institute

On May 24, 2016, AMS received a request from Stephen Schwartz, with the Cause of Action Institute, seeking American Egg Board records recording multiple different egg substitute and

replacement products from May 20, 2011, to May 20, 2016. AMS is reviewing documents. Response was due to AMS by July 11, 2016.

FOIA Request 2016-AMS-05234-F – Llewellyn Hinkes-Jones, Bloomberg BNA

On August 17, 2016, AMS received a request from Llewellyn Hinkes-Jones, with Bloomberg BNA, requesting all contracts between the Cattlemen's Beef Board made with outside vendors in 2010. Response is due to AMS by September 8, 2016.

FOIA Request 2016-AMS-00963-F – Russell Carollo

On August 18, 2016, AMS received a request from Russell Carollo, which was submitted to AMS on November 20, 2015. Mr. Carollo is seeking records released and related to two former Humane Society of the United States FOIA requests: 2012-AMS-01694-F and 2012-AMS-01947-F.

FOIA Request 2016-AMS-05749-F – Noah Gillespie, Schulte Roth & Zabel LLP

On September 19, 2016, AMS received a request from Noah Gillespie, with Schulte Roth & Zabel LLP, requesting documents and records held by the USDA relating to the daily dock quoted price index for whole chickens and chicken parts, maintained by the Georgia Department of Agriculture ("Georgia Dock Index") that was made public through AMS' website from December 1, 2015, to present. Mr. Gillespie is requesting any communications among or including USDA staff, including memos, relating to the decision to provide an external link to the Georgia Dock Index instead of posting the Georgia Dock Index price quotes on the AMS website and any communications that mention, discuss, or evaluate the Georgia Dock Index. Response is due to AMS by October 13, 2016.

Legislative or Policy Issues

Other Media Inquiries

Other Items of Interest

LPS Agricultural Analytics Division (AAD)

- September 21 – Arranged and participated in a meeting of NOP staff and staff from the Environmental Protection Agency's Office of Land and Emergency Management to discuss data sources for the Allowance of Green Waste in Organic Production Systems rule in Washington, DC.
- September 28 – Participating in the USDA Biotechnology Coordinating Group Meeting, Whitten Building.

- September 31 – Submitting a technical review on Fatty Alcohols for tobacco topping and suckering to the National Organic Program for the next meeting of the National Organic Standards Board.
- October 1 – Providing updated section on data formats for ISO/WD 20691 "Downstream data processing and integration workflows - Minimal requirements for downstream data processing and integration workflows for interfacing and linking heterogeneous data, models and corresponding metadata" to ISO TC 276/WG 5.
- October 15 – Submitting a technical review on Fatty Alcohols for tobacco topping and suckering to the National Organic Program.
- October 22-28 – Participating in the working groups meeting of the International Organization for Standardization's technical committee, "Biotechnology." Being held in Dublin, Ireland.

LPS Country of Origin Labeling (COOL) Division

- October 31 – Providing an update on COOL's activities with the Association of Food and Drug Officials in Washington, DC.

LPS Food Safety and Commodity Specification (FSCS) Division

- October 6 – Visiting Keystone Foods corporate headquarters and research and development center in Westchester, PA, to discuss product development efforts and AMS purchase specifications for poultry items.

LPS GMO Disclosure Division

- September 27 – Presenting to the Research and Promotion Functional Committee on the status of the GMO Disclosure Law implementation in Washington, DC.
- October 3 – Discussing the status of GMO Disclosure Implementation with the AMS Administrator and the FDA Deputy Commissioner.

LPS Livestock, Poultry, and Grain Market News (LPGMN) Division

- August 22-October 11 – Holding stakeholder teleconferences in Des Moines, IA, to prepare industry for the implementation of changes to Livestock Mandatory Swine Reporting, which will be effective October 11, 2016.

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- September 19 – Released a new cage-free shell egg report that includes current information on cage-free shell egg pricing, cage-free shell egg retail feature information, and cage-free shell egg estimated production totals.
- September 26-27 – Meeting with the Bureau Chief of the Illinois State Marketing Program, discussing the program and its status, and meeting with Illinois state reporters at the Illinois State Market News office in Springfield, IL.
- October 7 – Changing name of report GX_GR212, the Illinois Ethanol Corn and Co-Products Processing Values, to the Eastern Corn Belt Ethanol Corn and Co-Products Processing Values as it utilizes corn, ethanol, and distiller's bids from the states of Illinois, Indiana, Ohio, and Michigan.
- October 31 – Releasing an enhancement to LMR Pork Reporting that will place additional product (insides, outsides, and knuckles) into the ham primal and the pork cutout, thus providing a stronger and more reflective ham primal value and enhanced overall cutout value.

LPS Quality Assessment Division (QAD)

- September 16 – Published a Final Rule to amend the Regulations Governing the Voluntary Grading of Shell Eggs to clarify the definition of “condition” and update prerequisite requirements for shell eggs eligible for voluntary grading and certification.
- September 22 – Participating on a debriefing call with FAS, APHIS, and FSIS officials on the recently concluded Chinese assessment of the U.S. beef industry and the ability to reopen the beef market to China that has been closed since 2003.
- September 26 – Discussing exploring career paths with the Recruitment Committee via conference call.
- September 27 – Discussing export verification programs with JBS in Washington, DC.
- September 27 – Providing transitional certification update with OTA via conference call.
- September 28 – Meeting with the National Chicken Council to discuss Joint Grow out at the Poultry Health Committee Meeting in Ocean City, MD.
- September 28 – Meeting with FNS representatives at Silver Springs Farms in Harleysville, PA, to review accounting practices used to verify non-diversion of donated beef.

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- October 4-7 – Meeting with representatives from JTM, Advance Pierre as well as visiting a number of shell egg facilities and visiting with graders in Dayton, OH.
- October 5 – Meeting with the AMS Administrator and leadership from Perdue Farms.
- October 9-14 – Assisting Department of Defense (DOD) officials in Fort Lee, VA, in reviewing pork and beef items from various vendors to determine which meet purchasing requirements for DOD troop support.

LPS Research and Promotion (R&P) Division

- September 26 – Meeting with representatives from the United Sorghum Checkoff Program in Washington, DC.
- September 27 – Meeting with representatives from the National Pork Board in Washington, DC.
- September 28 – Meeting with representatives from the Cattlemen's Beef Board in Washington, DC.

LPS Seed Regulatory and Testing Division (SRTD)

- September 28 – Participating in a conference call for the Association of Official Seed Analysts board meeting.

Outreach

- September 21 – Discussed the sourcing of cage-free eggs with USDA officials, egg producers, food retailers, and food services in Washington, DC. The focus of the conversation was forward-looking about how all parties can work together to meet the aggressive cage-free commitments by the food sector while also supporting egg producers during a period of transition.
- September 28 – Attending a meeting in Starkville, MS, to discuss catfish quality and outline LPS efforts to potentially develop a catfish grading system.
- September 27 – Attending a career fair at Texas Tech University in Lubbock, TX.
- September 28 – Presenting at the North American Meat Institute Annual Meeting in Washington, DC, to provide an update on LPS activities and programs.
- October 1 – Promoting LPGMN reports at the South Dakota Sheep Growers Association Convention in Rapid City, SD.

- October 5 – Presenting an overview of seed services offered by AMS at the Analytical Environmental Immunochemical Consortium Meeting in Decatur, IL.
- October 12-13 – Attending the American Fats and Oils Association Conference in Chicago, IL, to enhance relationships with industry as well as promote Market News reports and services.
- October 13 – Attending the 54th annual “Good Egg Breakfast” in Modesto, CA. This event is sponsored by local egg and poultry industry organizations, and city and county governments to show support for the agriculture industries in California.
- October 17-20 – Attending United Egg Producers annual meeting and conference in Miami, FL.
- October 24-27 – Participating in an ISTA Statistics workshop in Zurich, Switzerland, to assist working groups in evaluating data from rule proposal submissions.
- October 31-November 4 – Traveling to San Juan, Puerto Rico, to discuss and promote poultry reporting services at LPGMN to various government and industry representatives.

Employee Engagement

- September 27 – Conducting CPR training for all employees in the Des Moines, IA, LPGMN office, as well for a few other USDA agencies.
- September 27-28 – Training for all AMS Research and Promotion Boards (R&P) overseen by AMS and AMS R&P marketing specialists, in Washington, DC.
- September 27-28 – Hosting a two-day event to welcome three new employees hired under the Pathways program to the Des Moines, IA, office.
- September 28 – Attending a CPR/AED class for SRTD and Science and Technology personnel in Gastonia, NC.
- September 28 – Hosting and attending a COOL staff luncheon in Washington, DC.
- September 30 – Hosting a retirement luncheon in Little Rock, AR, for a market reporter from the University of Arkansas Cooperative Extension after 20 years of service.
- October 4 – Participating the in Feds Feed Families Closing Ceremony in Washington, DC.

Livestock, Poultry and Seed Program Weekly Activity Report
Page 9

- October 5 – Participating in an OGC Regulatory Information session in Washington, DC.
- October 11-13 – Participating in the LPS Senior Management retreat in Hume, VA, to hold teambuilding exercises, plan for 2017, and take communications training.
- October 17-21 – Conducting new employee orientation in Sacramento, CA.

From: [Stewart, Dana - AMS](#)
To: [Richmond, William - AMS](#)
Cc: [Walker, Natosha - AMS](#); [Taylor, Jameelah - AMS](#)
Subject: AMS WAR
Date: Friday, September 23, 2016 2:55:57 PM
Attachments: [2016-09-26 AMS Weekly Activity Report.docx](#)

Draft attached.

**Weekly Report to Secretary Vilsack
Agricultural Marketing Service (AMS)**

Acting Under Secretary Elvis Cordova

September 26, 2016

(b) (5)



(b) (5)



(b) (5)



(b) (5)



(b) (5)



From: [Richmond, William - AMS](#)
To: [Starmer, Elanor - AMS](#); [Coale, Dana - AMS](#); [Summers, Bruce - AMS](#); [Comfort, Karen - AMS](#); [Morris, Erin - AMS](#)
Subject: Draft Weekly Activity Report
Date: Monday, September 26, 2016 11:37:07 AM
Attachments: [2016-09-26 AMS Weekly Activity Report.docx](#)

The draft weekly report is attached. Edits by cob today are appreciated. Thanks

From: [Richmond, William - AMS](#)
To: [Howard, David- OSEC](#); [Singh, Harjaap - OSEC, Washington, DC](#)
Cc: [Starmer, Elanor - AMS](#); [Morris, Erin - AMS](#); [Comfort, Karen - AMS](#); [Summers, Bruce - AMS](#); [Walker, Natosha - AMS](#); [Taylor, Jameelah - AMS](#); [Coale, Dana - AMS](#); [Bailey, Shayla - AMS](#); [Cordova, Elvis - OSEC](#); [Thomas, Ben - OSEC](#); [Allen, William - AMS](#); [Stewart, Dana - AMS](#); [Tucker, Jennifer - AMS](#); [Flores, Elizabeth R - AMS](#); [Unkenholz, Becky - AMS](#); [Gebault King, ReneeA - AMS](#)
Subject: AMS Weekly Report
Date: Monday, September 26, 2016 4:03:55 PM
Attachments: [2016-09-26 AMS Weekly Activity Report.docx](#)

Good Afternoon,

The AMS Weekly Report is attached. Please get in touch with questions.

Thanks, Bill

Bill Richmond

USDA, Agricultural Marketing Service

Chief of Staff

202-260-8019

From: [Stewart, Dana - AMS](#)
To: [Bailey, Douglas - AMS](#); [Coale, Dana - AMS](#); [Earnest, Darryl - AMS](#); [Fobia, Hakim - AMS](#); [Gilchrist, Clifton - AMS](#); [Guo, Ruihong - AMS](#); [Jimenez, Sonia - AMS](#); [Mann, Renee - AMS](#); [McEvoy, Miles - AMS](#); [Morris, Craig - AMS](#); [Morris, Erin - AMS](#); [Neal, Arthur - AMS](#); [Parrott, Charles - AMS](#); [Richmond, William - AMS](#); [Starmer, Elanor - AMS](#)
Bcc: [Purdy, Christopher - AMS](#); [Bailey, Melissa - AMS](#)
Subject: FW: AMS Weekly Report
Date: Monday, September 26, 2016 4:05:05 PM
Attachments: [2016-09-26 AMS Weekly Activity Report.docx](#)

FYI

**Weekly Report to Secretary Vilsack
Agricultural Marketing Service (AMS)**

Acting Under Secretary Elvis Cordova

September 26, 2016

EXECUTIVE SUMMARY AND IMPLEMENTATION UPDATE

- On September 27, AMS will conduct marketing, communication and oversight training to research and promotion board staff. The training will cover a wide range of topics including food labeling claims, advertising and promotion material, translating nutrition research into marketing materials, and the NIFA grant process.
- On September 28, Secretary Vilsack and AMS will announce \$26 Million in grants awarded under the local food and farmer's market promotion programs. These grants provide vital support to the expanding local and regional food sector, and provide new market opportunities for food and agricultural products.

PRINCIPAL SCHEDULE

- On September 30, Administrator Starmer will provide remarks on urban agriculture to the George Washington University, Food Institute (closed press)
- On October 3, Administrator will meet with Deputy Commissioner of the Food and Drug Administration on issues relates the Food Safety Modernization Act and implementation of the Bioengineered Foods Disclosure Act (closed press)
- On October 17-18, Administrator Starmer will participate in the New Hampshire Local and Regional Fall Forum local in Concord. Topics to be discussed include local and regional food, Food Safety Modernization Act Compliance and milk pricing.

ANNOUNCEMENTS

Press Releases

- Secretary Vilsack Names Members of the United Soybean Board (September 26)
- U.S. and Mexico Establish Joint Organic Compliance Committee in Support of a Potential Organic Trade Partnership (*Tentative* Week of September 26)
- USDA Announces Fruit and Vegetable Industry Advisory Committee Meeting (*Tentative* Week of October 3)
- Secretary Vilsack Names New Members to Fruit and Vegetable Industry Advisory Committee (*Tentative* Week of October 3)

Stakeholder Announcements

- Notice to Trade: USDA Proposes Revising Walnut Grade Standards (TBD)
- Notice to Trade: USDA Revises Cauliflower Grade Standards (TBD)
- Notice to Trade: USDA Issues Draft Guidance on Calculating Percentage of Organic Ingredients; Invites Public Comment (TBD)

- Notice to Trade: USDA Issues Final Guidance on Classification of Materials and Materials for Organic Crop Production (TBD)
- Notice to Trade: USDA Amends Rules of Practice under Various Statutes (TBD)
- Notice to Trade: Hearing Set for Amendments to Marketing Order for Hazelnuts (TBD)

Reports:

Blogs:

- New Insight into the Cage Free Market (September 28)
- A Track Record of Local Food Success (September 29)
- Organic Opportunities (September 30)
- Agri-Environmental Demo @ the Farmers Market (October 4)
- Fed & State Commit to Food Hub Success (October 6)
- Hunger Knows No Season (October 7)
- Helping States Support their Growers (October 10)
- Hispanic Heritage Month (October 12)

30-60 DAY LOOK AHEAD

Press Releases

- USDA Announces Proposed Rule to Establish Organic Aquaculture Standards; Invites Public Comments (TBD)
- USDA Appoints Members to the National Organic Standards Board (TBD)

Stakeholder Announcements:

- Federal Register Notice: USDA issues Proposed Rule for organic pet food; Invites Public Comments
- Federal Register Notice: USDA issues Proposed Rule for organic apiculture standards; Invites Public Comments
- Federal Register Notice: USDA issues Proposed Rule for organic compost standards; Invites Public Comments
- Meeting: National Organic Standards Board to meet November 16-18, 2016, in St. Louis.

Reports:

Blogs:

- CSA Survey Paints Bigger Local Food Picture (October 18)
- GroupGAP is Alive in the 1890s (October 20)
- Prime, Choice, or Select? Grade A or AA? USDA Labels Explained (October 25)
- USDA's Process Verified Program Helps Offer More Consumer Choices (October 26)
- Veterans Apprenticeship Program (October 27)
- Day in the Life of an R&P Specialist (October TBD)

- 50 Years of Service (October TBD)
- First Organic Steps with U.S.-Mexico Arrangement (October TBD)
- Cranberries at the People's Garden (November TBD)

Potential Legal Issues

- On September 19, 2016, the Agricultural Marketing Service (AMS) received a Freedom of Information Act request from Noah Gillespie, Schulte Roth & Zabel LLP, for documents and records held by the USDA relating to the daily dock quoted price index for whole chickens and chicken parts, maintained by the Georgia Department of Agriculture ("Georgia Dock Index") that was made public through AMS' website from December 1, 2015, to present. Mr. Gillespie is requesting any communications among or including USDA staff, including memos, relating to the decision to provide an external link to the Georgia Dock Index instead of posting the Georgia Dock Index price quotes on the AMS website and any communications that mention, discuss, or evaluate the Georgia Dock Index.

Media Flags

Legislative or Policy Issues

- On September 19, 2016, the Agricultural Marketing Service (AMS) notified various Congressional offices of the issuance of an USDA policy memo to ensure consistency between the National Bioengineered Food Disclosure Standard and regulations to implement the standards of the Organic Foods Production Act of 1990.
- On September 20, 2016, the Agricultural Marketing Service (AMS) provided Representative Sam Farr's (D-CA) staff with further information of the transfer of the organic certification cost-share programs from AMS to the Farm Service Agency.
- On September 20, 2016, the Agricultural Marketing Service (AMS) provided House Agriculture Committee Minority staff with an update on when appointments to the National Organic Standards Board will be made (likely in early November).
- On September 20, 2016, the Agricultural Marketing Service (AMS) and several other USDA agencies had a call with Marcy Kaptur's (D-OH) staff to provide technical assistance on a draft urban agriculture bill.
- On September 20, 2016, House Agriculture Committee staff contacted the Office of Congressional Relations to share its concerns about mandatory livestock reporting, particularly for lambs. We are waiting for staff to get back to us with their specific questions.
- On September 21, 2016, the Agricultural Marketing Service (AMS) provided the Congressional Research Service with an update on when the Farmers Market Directory will be completed (likely November).
- On September 21, 2016, the Agricultural Marketing Service (AMS) provided the Office of Congressional Relations clarification on the inspections and grading services provided by USDA for rabbits for Representative Richard M. Nolan (D-MN).
- On September 22, 2016, the Agricultural Marketing Service (AMS) confirmed for Representative Chellie Pingree's (D-ME) staff that a decision will be made soon regarding a constituent's request for an organic pasture variance due to drought conditions.
- On September 23, 2016, the Agricultural Marketing Service (AMS) notified various Congressional offices of appointments to the United Sorghum Checkoff Program Board.

- On September 26, 2016, the Agricultural Marketing Service (AMS) and several other USDA agencies are tentatively scheduled to meet with Senator Jeanne Sheehan's (D-NH) staff to share information on USDA programs to aid struggling dairy farmers.

Other Media Inquiries

- On September 12, 2016, *Spudman*, the national magazine for potato growers, packers, shippers, and processors, asked the Agricultural Marketing Service (AMS) for information about the expenses paid out by the potato board (Potatoes USA) for food trucks used by the program and income generated by the food trucks. AMS directed the reporter to the board, due to the question involving a program the board implemented and not a USDA action.
- On September 19, 2016, *Prevention* magazine asked the Agricultural Marketing Service (AMS) if chitosan is allowed in certified organic products. AMS confirmed that it is not allowed per the USDA organic regulations.
- On September 19, 2016, *Sustain Aqua* asked the Agricultural Marketing Service (AMS) for an update on the proposed rule for organic aquaculture. AMS provided: "We are currently in the process of developing a proposed rule for organic aquaculture standards. The proposed rule has been provided to the Office of Management and Budget (OMB). We do not have a timeline as to when the proposed rule will be published. Once published, there will be an opportunity for interested parties to comment on the development of these standards."
- On September 19, 2016, *Minnesota Public Radio* asked the Agricultural Marketing Service (AMS) for information about milk dumping. AMS responded with data about milk dumping from January 2000 through August 2016.
- On September 20, 2016, *Agri-Pulse* asked the Agricultural Marketing Service (AMS) background questions on a proposed rule amending the beef and soybean checkoff programs. AMS provided background information to explain the proposed rule and explained the goal of the rule is to provide producers with options on how to direct their assessments collected through the checkoff programs.
- On September 21, 2016, *Cotton Inc.* asked the Agricultural Marketing Service (AMS) for a videotaped interview with the AMS Deputy Administrator for the AMS Cotton and Tobacco Program about the cotton classing process at the program's Memphis facility. AMS regularly approves such interviews and will work with *Cotton Inc.* to schedule the interview.
- On September 21, 2016, the Raisin Administrative Committee asked the Agricultural Marketing Service (AMS) for permission for a production crew to film USDA inspectors at work at a raisin farm in Fresno, CA, for an industry video to show to foreign customers. AMS provided the guidance that the production crew could not interview USDA employees; however, they could film the product being inspected, including parts of employees' bodies (i.e., hands and the backs of employees) as long as no USDA logo or branding was visible in the shot.
- On September 22, 2016, the Agricultural Marketing Service (AMS) Deputy Administrator for the Livestock, Poultry and Seed Program interviewed with the *Wall Street Journal* to discuss the Livestock Mandatory Reporting program. AMS discussed the history of Livestock Mandatory Reporting, how the program is reauthorized every 5 years, and how AMS is working with the industry on the next reauthorization.

Other Items of Interest

- On July 27, 2016, the Surface Transportation Board (STB) proposed revised competitive switching regulations. Under competitive switching, an incumbent carrier would transport a shipper's traffic to a nearby interchange point, where it switches the cars over to a competing carrier for a fee. Competitive switching represents an opportunity for some agricultural shippers to reach alternative markets and perhaps lower their transportation costs and obtain improved service through enhanced competition. While shippers generally support proposals to allow competitive switching, railroads are opposed. STB has opened a proceeding, Ex Parte 711 Sub 1, and is seeking comments from interested parties by September 26, 2016. USDA has participated in previous STB proceedings on this subject; the Agricultural Marketing Service (AMS) is drafting the necessary documents for participation, should USDA policy makers decide participation is warranted. Several interested parties have already petitioned STB for a slight delay in the proceeding, so it is possible the comment date could be extended by up to 30 days.
- On November 2-3, 2016, the Agricultural Marketing Service (AMS), Foreign Agriculture Service, and Office of the U.S. Trade Representative will participate in the "International Expert Workshop on a Plurilateral Arrangement in the Organic Sector" in Bern, Switzerland. Representatives from Canada, the European Union, Japan, and Korea also will participate. The workshop, which is hosted by the Swiss Federal Office of Agriculture, will explore potential opportunities and challenges of a plurilateral organic trade arrangement.

Outreach

- On October 20, 2016, the Agricultural Marketing Service (AMS) and Federal Trade Commission (FTC) will host a roundtable to examine consumer perceptions of "organic" claims for non-agricultural products.
- On October 31, 2016, the Agricultural Marketing Service will provide an update on COOL activities to the Association of Food and Drug Officials (AFDO) in Washington, DC. AFDO is an international, non-profit organization that works to streamline and simplify food and drug regulations by either drafting regulatory rules or by commenting on government proposals.

From: [Singh, Harjaap - OSEC, Washington, DC](#)
To: [Howard, David- OSEC](#); [Mabry, Brian - OSEC](#); [Harless, Angela - OC](#); [McCarron, Jessica - OC](#); [Kuhn, Elena - OC, Washington, DC](#)
Cc: [Cordova, Elvis - OSEC](#); [Thomas, Ben - OSEC](#); [Peters, Joanne - OC](#); [Cochran, Catherine - OC](#); [Scanlon, Sarah - OSEC](#); [Neagu, Sara - OSEC](#); [Barsi, Janel L - APHIS](#); [Cooper, Bridget M - APHIS](#); [Jarred, Katherine A - APHIS](#); [Myers, Christina J - APHIS](#); [Richmond, William - AMS](#); [Morris, Erin - AMS](#); [Bailey, Shayla - AMS](#); [Masterson, Kirk - GIPSA](#); [Thomas, Raymond - GIPSA](#); [Perez, Ignacio - GIPSA](#)
Subject: MRP Weekly Activity Report 09.27.16
Date: Tuesday, September 27, 2016 12:31:35 PM
Attachments: [MRP Weekly Reports Sep-27-2016.docx](#)
[092216 dEIS CBG.DOCX](#)
[Combined Closures Stakeholder Announcement.docx](#)
[Layer Indemnity Calculator Change Rollout.docx](#)
[Layer Indemnity Calculator Change Stakeholder.docx](#)
[Layer Indemnity Calculator Changes QA.DOCX](#)
[Layer Indemnity Calculator Changes TPs.docx](#)
[NEW - Combined Port Closures Rollout Plan.docx](#)

Good Afternoon,

Attached is MRP's weekly activity report, along with associated APHIS attachments.

Best Regards,

Harjaap Singh

Confidential Assistant, MRP
United States Department of Agriculture
harjaap.singh@osec.usda.gov
Desk: 1 (202) 720-6960
Mobile: (b) (6)

From: Howard, David- OSEC
Sent: Monday, September 19, 2016 7:55 PM
To: Mabry, Brian - OSEC <Brian.Mabry@oc.usda.gov>; Harless, Angela - OC <Angela.Harless@oc.usda.gov>; McCarron, Jessica - OC <Jessica.McCarron@oc.usda.gov>; Kuhn, Elena - OC, Washington, DC <Elena.Kuhn@oc.usda.gov>; Singh, Harjaap - OSEC, Washington, DC <Harjaap.Singh@osec.usda.gov>
Cc: Cordova, Elvis - OSEC <Elvis.Cordova@osec.usda.gov>; Thomas, Ben - OSEC <Ben.Thomas@osec.usda.gov>; Peters, Joanne - OC <Joanne.Peters@oc.usda.gov>; Cochran, Catherine - OC <Catherine.Cochran.1@oc.usda.gov>; Scanlon, Sarah - OSEC <Sarah.Scanlon@osec.usda.gov>; Neagu, Sara - OSEC <Sara.Neagu@osec.usda.gov>; Barsi, Janel L - APHIS <Janel.L.Barsi@aphis.usda.gov>; Cooper, Bridget M - APHIS <Bridget.M.Cooper@aphis.usda.gov>; Jarred, Katherine A - APHIS <Katherine.A.Jarred@aphis.usda.gov>; Myers, Christina J - APHIS <Christina.J.Myers@aphis.usda.gov>; Richmond, William - AMS <William.Richmond@ams.usda.gov>; Morris, Erin - AMS <erin.morris@ams.usda.gov>; Bailey, Shayla - AMS <Shayla.Bailey@ams.usda.gov>; Masterson, Kirk - GIPSA <Kirk.J.Masterson@usda.gov>; Thomas, Raymond - GIPSA <R.Dexter.Thomas@usda.gov>; Perez, Ignacio - GIPSA <Ignacio.J.Perez@usda.gov>
Subject: MRP Weekly Activity Report 09.19.16

Good evening,

Attached is MRP's weekly activity report, with associated attachments regarding the Simplot potato docket, the port closures, and the changes to the egg layer indemnity calculator.

Also, I have included on this email, our new confidential assistant, Harjaap Singh. We are excited to have Harjaap join us in MRP and will be folding him into this and other work over the coming days.

Please include Harjaap if you have any questions on this or regarding upcoming announcements in general.

Thank you!

David Howard
Chief of Staff, MRP
Desk: 202-720-5759

FOR INTERNAL USE ONLY
WEEKLY REPORT TO SECRETARY VILSACK
MARKETING AND REGULATORY PROGRAMS

Sep. 26 – Oct. 7

(b) (5)



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(b) (5)



(b) (5)



(b) (5)



(b) (5)



From: [Smith, AlexandriaP - AMS](#)
To: [Stewart, Dana - AMS](#)
Cc: [AMS - LPS EXECS](#); [Comfort, Karen - AMS](#); [Walker, Natosha - AMS](#); [Wang, Kenneth - AMS](#); [Taylor, Jameelah - AMS](#); [Flores, Elizabeth R - AMS](#); [Starmer, Elanor - AMS](#); [Jones, Samuel - AMS](#); [Richmond, William - AMS](#)
Subject: Weekly Activity Report - LPS
Date: Thursday, September 29, 2016 2:40:46 PM
Attachments: [LPS Weekly Activity Report 09-30-16.docx](#)

Hi Dana:

The LPS Program's Weekly Activity Report is attached for your review and use.

Please contact me with any questions.

Thank You,
Alex

Alexandria Smith

U.S. Department of Agriculture

Agricultural Marketing Service

(936) 202-9366 | AlexandriaP.Smith@ams.usda.gov

**LPS Weekly Activity Report
Agricultural Marketing Service**

Deputy Administrator Craig Morris

Friday, September 30, 2016

Agency Accomplishments

Reform-Based Actions

Important Events for the Upcoming Week

Media Flags

Press Releases, Reports and Blogs for the Upcoming Week

Stakeholder Announcements:

Blogs:

Reports:

30-60 Day Look-Ahead

Press Releases:

Stakeholder Announcements:

Blogs:

Reports:

Potential Legal Issues

Items Submitted to OGC (still pending):

- October 30, 2014 – USDA filed a complaint against John R. Shoup, d/b/a Dinsdale Elevator (Respondent) alleging violations of the Soybean Promotion, Research, and Consumer Information Act who failed to submit assessments collected from producers in a timely manner from Nov 1, 2009, through the date of complaint being filed. The Administrative Law Judge (ALJ) presiding over the case retired and AMS is now waiting for reassignment of the case to another ALJ.

- March 8, 2016 – Request for legal opinion concerning Federal regulation of *Cannabis sativa*.
- July 28, 2016 – Review of State statutes regarding redirection of assessments.
- September 8, 2016 – Final rule on Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary under Various Statutes (AMS-LPS-16-0051).

Other Issues:

UPDATE:

In September 2012, the Humane Society of the United States (HSUS) filed suit in the Federal District Court of the District of Columbia against the Secretary of Agriculture under the Administrative Procedure Act (APA) challenging the approval of the National Pork Board's (Board) purchase of four trademarks including the "Pork. The Other White Meat" (PTOWM) slogan from the National Pork Producers Council (NPPC). On August 14, 2015, HSUS won its appeal for standing. The case is still pending with each party submitting records to the Court. The decision will be based upon the administrative records filed on June 29, 2016. In addition, based on discussions with DOJ, on August 24, 2016, DOJ filed additional materials to supplement USDA's administrative record that was originally filed with the court on June 29, 2016.

Beginning September 2, 2015, several articles appeared in the media concerning American Egg Board (AEB) communications about Beyond Eggs, an egg replacer product. Based on the articles, it appears that Beyond Eggs' parent company could be considering a lawsuit or prompting an investigation. As a result of the articles, AMS initiated a review of the allegations. In addition, AEB conducted its own internal review of the allegations, the results of which were reported to its Executive Committee on October 13, 2015.

On January 6, 2016, the Physicians Committee for Responsible Medicine (PCRM) filed a lawsuit in the Federal Court in the Northern District of California against USDA and the Department of Health and Human Services. The lawsuit alleges that the government had allowed the food industry and financial inducements to dictate the Dietary Guidelines Advisory Committee's (DGAC) new recommendations on cholesterol. PCRM is requesting injunctive relief in the suit preventing defendants from relying on DGAC recommendations. RPD is assisting OGC with preliminary litigation matters relating to the case.

On May 2, 2016, R-CALF USA filed suit in Federal District Court in Montana against the USDA Secretary of Agriculture arguing that the Beef Checkoff Program should be promoting only U.S. beef. In the complaint, R-CALF USA argued that its members in

the State of Montana are having their First Amendment rights denied because they are being forced to pay into the Montana Beef Council without having a say in the marketing strategy. DOJ filed a motion to dismiss the case on August 4, 2016. On August 24, 2016, R-CALF responded to the motion to dismiss. AMS is currently working with DOJ to provide additional materials responsive to R-CALF's August 24, 2016, response. On September 20, 2016, the Court issued an Order for a hearing to take place on October 25, 2016, at 2 p.m., regarding DOJ's Motion to Dismiss and Plaintiff's Motions for Summary Judgment and for a Temporary Restraining Order. AMS continues to work with DOJ and OGC by developing declarations, statement of facts, and other materials as needed.

On August 8, 2016, the Good Food Institute (GFI) filed a lawsuit against the U.S. Department of Agriculture (USDA) for allegedly refusing to release American Egg Board (AEB) documents under Freedom of Information Act (FOIA) requests. In a complaint filed in the U.S. District Court for the District of Columbia, GFI, a food advocacy group, says USDA did not fulfill three FOIA requests in late 2015 and early 2016 regarding AEB and Hampton Creek's egg-free mayonnaise line. The group is asking that the court force the USDA to release the records and pay its legal and search fees.

Freedom of Information Act (FOIA) Requests

FOIA Request 2016-AMS-02754-F – Daniel J. Stotter

On April 20, 2016, LPS received a FOIA request from Daniel J. Stotter, Attorney, seeking various National Organic Program records. Since QAD issued a certificate of conformance to the business entity named Organic Materials Review Commission, we are being asked to conduct a search for records. LPS' response was due on May 16, 2016.

FOIA Request 2016-AMS-03668-F – Matthew Penzer, HSUS

On May 4, 2016, AMS received a request Matthew Penzer, of the Humane Society of the United States (HSUS), seeking National Pork Board records relating to the trademark valuation conducted for the National Pork Board by Stout Risius Ross ("SRR"), and resulting in the issuance of a report dated March 30, 2016. AMS has been asked to construe the scope of this request broadly, including all communications with or about SRR, engagement letters and any other agreements, agency memoranda or instructions relating to the valuation, post-report consultations, and any budget or expenditure records. Records, from August 2015 to present, that contain any of the following terms: "SRR"; "Stout Risius Ross"; "PTOWM"; "TOWM"; "The Other White Meat"; "stipulation"; "Humane Society"; "HSUS"; "Penzer." Communications, of either the Pork Board or AMS with or about the National Pork Producers Council or any representative of the Council. Response was due to AMS by June 6, 2016. AMS has received records from the Board and is processing the request.

FOIA Request 2016-AMS-04210-F – Stephen Schwartz, Cause of Action Institute

On May 24, 2016, AMS received a request from Stephen Schwartz, with the Cause of Action Institute, seeking American Egg Board records recording multiple different egg substitute and

replacement products from May 20, 2011, to May 20, 2016. AMS is reviewing documents. Response was due to AMS by July 11, 2016.

FOIA Request 2016-AMS-05234-F – Llewellyn Hinkes-Jones, Bloomberg BNA

On August 17, 2016, AMS received a request from Llewellyn Hinkes-Jones, with Bloomberg BNA, requesting all contracts between the Cattlemen's Beef Board made with outside vendors in 2010. Response is due to AMS by September 8, 2016.

FOIA Request 2016-AMS-00963-F – Russell Carollo

On August 18, 2016, AMS received a request from Russell Carollo, which was submitted to AMS on November 20, 2015. Mr. Carollo is seeking records released and related to two former Humane Society of the United States FOIA requests: 2012-AMS-01694-F and 2012-AMS-01947-F.

FOIA Request 2016-AMS-05749-F – Noah Gillespie, Schulte Roth & Zabel LLP

On September 19, 2016, AMS received a request from Noah Gillespie, with Schulte Roth & Zabel LLP, requesting documents and records held by the USDA relating to the daily dock quoted price index for whole chickens and chicken parts, maintained by the Georgia Department of Agriculture ("Georgia Dock Index") that was made public through AMS' website from December 1, 2015, to present. Mr. Gillespie is requesting any communications among or including USDA staff, including memos, relating to the decision to provide an external link to the Georgia Dock Index instead of posting the Georgia Dock Index price quotes on the AMS website and any communications that mention, discuss, or evaluate the Georgia Dock Index. Response is due to AMS by October 13, 2016.

Legislative or Policy Issues

Other Media Inquiries

Other Items of Interest

LPS Agricultural Analytics Division (AAD)

- October 22-28 – Participating in the working groups meeting of the International Organization for Standardization's technical committee, "Biotechnology." Being held in Dublin, Ireland.
- September 29 – Completed the addendum to the economic assessment for the surplus removal of catfish. The addendum updates the report from August in response to an appeal from the Catfish Farmers of America to reconsider the decision to not purchase catfish under Section 32C authority.

- October 30 – Submitting a technical review on Fatty Alcohols for tobacco topping and suckering to the National Organic Program.

LPS Country of Origin Labeling (COOL) Division

- October 31 – Providing an update on COOL's activities with the Association of Food and Drug Officials in Washington, DC.

LPS Food Safety and Commodity Specification (FSCS) Division

- October 6 – Visiting Keystone Foods corporate headquarters and research and development center in Westchester, PA, to discuss product development efforts and AMS purchase specifications for poultry items.

LPS GMO Disclosure Division

- October 3 – Discussing the status of GMO Disclosure Implementation with the AMS Administrator and the FDA Deputy Commissioner.
- October 25 – Speaking to the AACC International, a non-profit focusing on cereal grain science, on the status of GMO Disclosure Implementation in Savannah, GA.

LPS Livestock, Poultry, and Grain Market News (LPGMN) Division

- August 22-October 11 – Holding stakeholder teleconferences in Des Moines, IA, to prepare industry for the implementation of changes to Livestock Mandatory Swine Reporting, which will be effective October 11, 2016.
- October 5 – Improving the National and Regional direct negotiated slaughter cattle reports to include cattle purchased through the Fed Cattle Exchange by packers required to report according to the LMR Act and regulation.
- October 7 – Changing name of report GX_GR212, the Illinois Ethanol Corn and Co-Products Processing Values, to the Eastern Corn Belt Ethanol Corn and Co-Products Processing Values as it utilizes corn, ethanol, and distiller's bids from the states of Illinois, Indiana, Ohio, and Michigan.
- October 7 – Enhancing the Weekly National Whole Broiler Fryer Report that will separate whole bird trading by weight ranges on a national basis to allow customers to see the price differences associated with various sizes and volumes being traded, and the impact these sizes and volumes have on the marketplace.
- October 10-14 – Releasing the first Missouri Farm to School report.

Livestock, Poultry and Seed Program Weekly Activity Report
Page 6

- October 11 – Implementing changes that will impact all LMR live swine purchase and slaughter reports per the 2015 reauthorization.
- October 11-13 – Meeting with visitors from DMI (Driving Mobile Innovation) to discuss and study LMR processes, work to resolve new and existing issues, and continue working towards completion of ongoing projects, as well as fulfill contract obligations with DMI.
- October 12 – Meeting with DMI (Driving Mobile Innovation) staff in the St. Joseph, MO, office to collaborate on future enhancements and to expand DMI's knowledge by working alongside LPGMN staff to gain a better understanding of the work LPGMN performs.
- October 31 – Releasing an enhancement to LMR Pork Reporting that will place additional product (insides, outsides, and knuckles) into the ham primal and the pork cutout, thus providing a stronger and more reflective ham primal value and enhanced overall cutout value.

LPS Quality Assessment Division (QAD)

- September 29 – Discussed China's announcement regarding the reopening of their market for U.S. beef via conference call with FAS, APHIS, and FSIS. The U.S. government and industry are awaiting China's official report outlining specific conditions for trade to commence. Traceability is expected to be a major component.
- October 4-7 – Meeting with representatives from JTM, Advance Pierre, and a number of shell egg grading facilities near Dayton, OH.
- October 5 – Discussing auditing requirements for programs requiring traceability and segregation with APHIS via conference call. APHIS has been asked by the pork industry to develop a program to ensure packers are sourcing hogs from farms participating in the Pork Quality Assurance Plus program as a mitigation measure for *Trichinella spiralis*.
- October 9-14 – Assisting Department of Defense (DOD) officials in Fort Lee, VA, in reviewing pork and beef items from various vendors to determine which meet purchasing requirements for DOD troop support.

LPS Research and Promotion (R&P) Division

LPS Seed Regulatory and Testing Division (SRTD)

- October 6 – Participating in a conference call with the Association of Official Seed Analysts Board of Directors.

Outreach

- October 4 – Traveling to the Tulsa State Fair in Tulsa, OK, to assist the Oklahoma State Department of Agriculture with grading feeder cattle and slaughter cows for the Commercial Cattle Grading School and Contest. Over 800 4-H or FFA members are expected to be in attendance.
- October 4 – Presenting an overview of opportunities in USDA and QAD's grading activities to agriculture students at the Snow College in Ephraim, UT.
- October 5 – Presenting an overview of seed services offered by AMS at the Analytical Environmental Immunochemical Consortium Meeting in Decatur, IL.
- October 5 – Conducting a livestock grading demonstration in Guntersville, AL, for a local 4-H livestock judging team.
- October 12-13 – Attending the American Fats and Oils Association Conference in Chicago, IL, to enhance relationships with industry as well as promote Market News reports and services.
- October 13 – Attending the 54th annual "Good Egg Breakfast" in Modesto, CA. This event is sponsored by local egg and poultry industry organizations, and city and county governments to show support for the agriculture industries in California.
- October 17-20 – Speaking at the United Egg Producers annual meeting and conference in Miami, FL.
- October 19 – Presenting at a meeting of catfish industry stakeholders sponsored by the LPS Quality Assessment Division in Hernando, MS, to give an overview of the AMS catfish purchase program.
- October 24-27 – Participating in an ISTA Statistics workshop in Zurich, Switzerland, to assist working groups in evaluating data from rule proposal submissions.
- October 25 – Participating at the Utah State University Career Fair in Logan, UT.
- October 27 – Participating in a meeting with the United Egg Producers and representatives from several U.S. egg companies in Washington, DC, to discuss development of an industry standard definition for the term "cage-free."
- October 31-November 4 – Traveling to San Juan, Puerto Rico, to discuss and promote poultry reporting services at LPGMN to various government and industry representatives.

Livestock, Poultry and Seed Program Weekly Activity Report
Page 8

- November 2 – Presenting at the Grocery Manufacturers Association’s Food Labeling Workshop: Complying with Regulatory Requirements for the Labeling of Packaged Foods to provide guidance on Country of Origin Labeling requirements in Washington, DC.
- November 15-16 – Hosting the first stakeholder meeting in Washington, DC, to gather feedback on Livestock Mandatory Reporting for the study being conducted. The following national organizations requested to participate: American Farm Bureau Federation, American Sheep Industry, CME Group, Livestock Market Information Center, Livestock Marketing Association, National Cattlemen’s Beef Association, National Farmers Union, National Pork Producers Council, North American Meat Institute, R-CALF, Southwest Meat Association, Texas Cattle Feeders Association, and U.S. Cattlemen.

Employee Engagement

- October 4 – Participating the in Feds Feed Families Closing Ceremony in Washington, DC.
- October 5 – Participating in an OGC Regulatory Information session in Washington, DC.
- October 11-13 – Participating in the LPS Senior Management retreat in Hume, VA, to hold teambuilding exercises, plan for 2017, and take communications training.
- October 17-21 – Conducting new employee orientation in Sacramento, CA.

From: [Smith, AlexandriaP - AMS](#)
To: [Stewart, Dana - AMS](#)
Cc: [AMS - LPS EXECS](#); [Comfort, Karen - AMS](#); [Walker, Natosha - AMS](#); [Wang, Kenneth - AMS](#); [Taylor, Jameelah - AMS](#); [Flores, Elizabeth R - AMS](#); [Starmer, Elanor - AMS](#); [Jones, Samuel - AMS](#); [Richmond, William - AMS](#)
Subject: Weekly Activity Report - LPS
Date: Thursday, October 06, 2016 2:11:16 PM
Attachments: [LPS Weekly Activity Report 10-07-16.docx](#)

Hi Dana:

The LPS Program's Weekly Activity Report is attached for your review and use.

Please contact me with any questions.

**Thank You,
Alex**

Alexandria Smith
U.S. Department of Agriculture
Agricultural Marketing Service
(936) 202-9366 | AlexandriaP.Smith@ams.usda.gov

**LPS Weekly Activity Report
Agricultural Marketing Service**

Deputy Administrator Craig Morris

Friday, October 7, 2016

Agency Accomplishments

Reform-Based Actions

Important Events for the Upcoming Week

Media Flags

Press Releases, Reports and Blogs for the Upcoming Week

Stakeholder Announcements:

Blogs:

Reports:

30-60 Day Look-Ahead

Press Releases:

Stakeholder Announcements:

Blogs:

Reports:

Potential Legal Issues

Items Submitted to OGC (still pending):

- - October 30, 2014 – USDA filed a complaint against John R. Shoup, d/b/a Dinsdale Elevator (Respondent) alleging violations of the Soybean Promotion, Research, and Consumer Information Act who failed to submit assessments collected from producers in a timely manner from Nov 1, 2009, through the date of complaint being filed. The Administrative Law Judge (ALJ) presiding over the case retired and AMS is now waiting for reassignment of the case to another ALJ.

- March 8, 2016 – Request for legal opinion concerning Federal regulation of *Cannabis sativa*.
- July 28, 2016 – Review of State statutes regarding redirection of assessments.
- September 8, 2016 – Final rule on Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary under Various Statutes (AMS-LPS-16-0051).

Other Issues:

UPDATE:

In September 2012, the Humane Society of the United States (HSUS) filed suit in the Federal District Court of the District of Columbia against the Secretary of Agriculture under the Administrative Procedure Act (APA) challenging the approval of the National Pork Board's (Board) purchase of four trademarks including the "Pork. The Other White Meat" (PTOWM) slogan from the National Pork Producers Council (NPPC). On August 14, 2015, HSUS won its appeal for standing. The case is still pending with each party submitting records to the Court. The decision will be based upon the administrative records filed on June 29, 2016. In addition, based on discussions with DOJ, on August 24, 2016, DOJ filed additional materials to supplement USDA's administrative record that was originally filed with the court on June 29, 2016.

Beginning September 2, 2015, several articles appeared in the media concerning American Egg Board (AEB) communications about Beyond Eggs, an egg replacer product. Based on the articles, it appears that Beyond Eggs' parent company could be considering a lawsuit or prompting an investigation. As a result of the articles, AMS initiated a review of the allegations. In addition, AEB conducted its own internal review of the allegations, the results of which were reported to its Executive Committee on October 13, 2015. On October 6, 2016, AMS released the results of the review and posted the report and associated document to the AMS reading room.

On January 6, 2016, the Physicians Committee for Responsible Medicine (PCRM) filed a lawsuit in the Federal Court in the Northern District of California against USDA and the Department of Health and Human Services. The lawsuit alleges that the government had allowed the food industry and financial inducements to dictate the Dietary Guidelines Advisory Committee's (DGAC) new recommendations on cholesterol. PCRM is requesting injunctive relief in the suit preventing defendants from relying on DGAC recommendations. RPD is assisting OGC with preliminary litigation matters relating to the case.

On May 2, 2016, R-CALF USA filed suit in Federal District Court in Montana against the USDA Secretary of Agriculture arguing that the Beef Checkoff Program should be

promoting only U.S. beef. In the complaint, R-CALF USA argued that its members in the State of Montana are having their First Amendment rights denied because they are being forced to pay into the Montana Beef Council without having a say in the marketing strategy. DOJ filed a motion to dismiss the case on August 4, 2016. On August 24, 2016, R-CALF responded to the motion to dismiss. AMS is currently working with DOJ to provide additional materials responsive to R-CALF's August 24, 2016, response. On September 20, 2016, the Court issued an Order for a hearing to take place on October 25, 2016, at 2 p.m., regarding DOJ's Motion to Dismiss and Plaintiff's Motions for Summary Judgment and for a Temporary Restraining Order. AMS continues to work with DOJ and OGC by developing declarations, statement of facts, and other materials as needed.

On August 8, 2016, the Good Food Institute (GFI) filed a lawsuit against the U.S. Department of Agriculture (USDA) for allegedly refusing to release American Egg Board (AEB) documents under Freedom of Information Act (FOIA) requests. In a complaint filed in the U.S. District Court for the District of Columbia, GFI, a food advocacy group, says USDA did not fulfill three FOIA requests in late 2015 and early 2016 regarding AEB and Hampton Creek's egg-free mayonnaise line. The group is asking that the court force the USDA to release the records and pay its legal and search fees.

Freedom of Information Act (FOIA) Requests

FOIA Request 2016-AMS-02754-F – Daniel J. Stotter

On April 20, 2016, LPS received a FOIA request from Daniel J. Stotter, Attorney, seeking various National Organic Program records. Since QAD issued a certificate of conformance to the business entity named Organic Materials Review Commission, we are being asked to conduct a search for records. LPS' response was due on May 16, 2016.

FOIA Request 2016-AMS-03668-F – Matthew Penzer, HSUS

On May 4, 2016, AMS received a request Matthew Penzer, of the Humane Society of the United States (HSUS), seeking National Pork Board records relating to the trademark valuation conducted for the National Pork Board by Stout Risius Ross ("SRR"), and resulting in the issuance of a report dated March 30, 2016. AMS has been asked to construe the scope of this request broadly, including all communications with or about SRR, engagement letters and any other agreements, agency memoranda or instructions relating to the valuation, post-report consultations, and any budget or expenditure records. Records, from August 2015 to present, that contain any of the following terms: "SRR"; "Stout Risius Ross"; "PTOWM"; "TOWM"; "The Other White Meat"; "stipulation"; "Humane Society"; "HSUS"; "Penzer." Communications, of either the Pork Board or AMS with or about the National Pork Producers Council or any representative of the Council. Response was due to AMS by June 6, 2016. AMS has received records from the Board and is processing the request.

FOIA Request 2016-AMS-04210-F – Stephen Schwartz, Cause of Action Institute

On May 24, 2016, AMS received a request from Stephen Schwartz, with the Cause of Action

Institute, seeking American Egg Board records recording multiple different egg substitute and replacement products from May 20, 2011, to May 20, 2016. AMS is reviewing documents. Response was due to AMS by July 11, 2016. Final response provided to AMS FOIA office on August 8, 2016.

FOIA Request 2016-AMS-05234-F – Llewellyn Hinkes-Jones, Bloomberg BNA

On August 17, 2016, AMS received a request from Llewellyn Hinkes-Jones, with Bloomberg BNA, requesting all contracts between the Cattlemen's Beef Board made with outside vendors in 2010. AMS received records from the Board and provided a response to the AMS FOIA office on September 13, 2016.

FOIA Request 2016-AMS-00963-F – Russell Carollo

On August 18, 2016, AMS received a request from Russell Carollo, which was submitted to AMS on November 20, 2015. Mr. Carollo is seeking records released and related to two former Humane Society of the United States FOIA requests: 2012-AMS-01694-F and 2012-AMS-01947-F. Final response provided to AMS FOIA office on September 15, 2016.

FOIA Request 2016-AMS-05749-F – Noah Gillespie, Schulte Roth & Zabel LLP

On September 19, 2016, AMS received a request from Noah Gillespie, with Schulte Roth & Zabel LLP, requesting documents and records held by the USDA relating to the daily dock quoted price index for whole chickens and chicken parts, maintained by the Georgia Department of Agriculture ("Georgia Dock Index") that was made public through AMS' website from December 1, 2015, to present. Mr. Gillespie is requesting any communications among or including USDA staff, including memos, relating to the decision to provide an external link to the Georgia Dock Index instead of posting the Georgia Dock Index price quotes on the AMS website and any communications that mention, discuss, or evaluate the Georgia Dock Index. Response is due to AMS by October 13, 2016.

Legislative or Policy Issues

Other Media Inquiries

Other Items of Interest

LPS Agricultural Analytics Division (AAD)

- October 3 – Revised and submitted the final draft of the economic analysis of the Catfish Farmers of America's request for a surplus removal under Section 32 authority.
- October 11 – Participating in the inaugural meeting of the AMS working group to identify efficiencies and develop sampling methods for U.S. Farmers Markets in Washington, DC.

- October 18 – Participating in the meeting of the Know your Farmer, Know your Food taskforce in Washington, DC.
- October 22-28 – Participating in the working groups meeting of the International Organization for Standardization's technical committee, "Biotechnology." Being held in Dublin, Ireland.
- October 30 – Submitting a technical review on Fatty Alcohols for tobacco topping and suckering to the National Organic Program.

LPS Country of Origin Labeling (COOL) Division

- October 31 – Providing an update on COOL's activities with the Association of Food and Drug Officials in Washington, DC.

LPS Food Safety and Commodity Specification (FSCS) Division

LPS GMO Disclosure Division

- October 24 – Presenting via teleconference to the Soyfoods Association of North America Technical Committee on the status of GMO Disclosure Implementation.
- October 25 – Speaking to the AACC International, a non-profit focusing on cereal grain science, on the status of GMO Disclosure Implementation in Savannah, GA.

LPS Livestock, Poultry, and Grain Market News (LPGMN) Division

- August 22-October 11 – Holding stakeholder teleconferences in Des Moines, IA, to prepare industry for the implementation of changes to Livestock Mandatory Swine Reporting, which will be effective October 11, 2016.
- October 10-14 – Releasing the first Missouri Farm to School report.
- October 11 – Implementing changes that will impact all LMR live swine purchase and slaughter reports per the 2015 reauthorization.
- October 11 – Hosting the MARS development team at the Middleburg Livestock Auction in Middleburg, PA, to test the functionality of the reporting system in real-time and to determine what improvements need to be made.
- October 11-13 – Meeting with visitors from DMI (Driving Mobile Innovation) to discuss and study LMR processes, work to resolve new and existing issues, and continue working towards completion of ongoing projects, as well as fulfill contract obligations with DMI.

- October 12 – Meeting with DMI (Driving Mobile Innovation) staff in the St. Joseph, MO, office to collaborate on future enhancements and to expand DMI's knowledge by working alongside LPGMN staff to gain a better understanding of the work LPGMN performs.
- October 13 – Participating in a meeting with GIPSA, AMS, and GAO to discuss GAO's upcoming review of the structure of U.S. cattle markets in Washington, DC.
- October 31 – Releasing an enhancement to LMR Pork Reporting that will place additional product (insides, outsides, and knuckles) into the ham primal and the pork cutout, thus providing a stronger and more reflective ham primal value and enhanced overall cutout value.

LPS Quality Assessment Division (QAD)

- October 9-14 – Assisting Department of Defense (DOD) officials in Fort Lee, VA, in reviewing pork and beef items from various vendors to determine which meet purchasing requirements for DOD troop support.

LPS Research and Promotion (R&P) Division

LPS Seed Regulatory and Testing Division (SRTD)

- October 5 – Planted Trueness-To-Variety grass seedlings at the Upper Coastal Plain Research Station in Rocky Mount, NC.
- November 6-10 – Participating in combined annual meetings of the American Society of Agronomy, Crop Science Society of America and Soil Science Society of America in Phoenix AZ, and conducting OECD Seed Schemes program review at Arizona Crop Improvement Association in Tucson, AZ.

Outreach

- October 5 – Presenting an overview of seed services offered by AMS at the Analytical Environmental Immunochemical Consortium Meeting in Decatur, IL.
- October 6 – Met with American Farm Bureau Federation's Washington, DC, staff and discussed the Livestock Mandatory Reporting (LMR) program and the upcoming LMR Stakeholder Meeting in November.
- October 6-8 – Attended the American Agriculture Law Symposium in Oklahoma City, OK, for continuing legal education credits.

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Page 7

- October 11-13 – Participating in the Oklahoma State University’s Beef Summit in Stillwater, OK, by demonstrating the use of instrument augmented beef grading to attendees from the beef industry, culinary purveyors, the packing industry, and students enrolled in meat classes.
- October 12 – Hosting the Native American and Alaskan Native booth at the AMS Diversity Day event in Washington, DC.
- October 12-13 – Attending the American Fats and Oils Association Conference in Chicago, IL, to enhance relationships with industry as well as promote Market News reports and services.
- October 12-13 & 20-22 – Participating in local meetings throughout Mississippi to highlight current and future local/regional market reporting with industry stakeholders.
- October 13 – Attending the 54th annual “Good Egg Breakfast” in Modesto, CA. This event is sponsored by local egg and poultry industry organizations, and city and county governments to show support for the agriculture industries in California.
- October 14-15 – Presenting a sheep and goat grading demonstration in Gouverneur, NY, for Cornell Extension Agents and New York producers as well as grading a sheep and goat special sale for Empire Livestock Auction.
- October 14-16 – Serving on the official committee for the Intercollegiate Meat Judging contest for the American Royal being held at Nebraska Beef in Omaha, NE.
- October 17-20 – Speaking at the United Egg Producers annual meeting and conference in Miami, FL.
- October 17-20 – Staffing the Department of Agriculture booth at the North Carolina State Fair in Raleigh, NC, to promote and inform the public about Market News.
- October 18 – Attending the Data Users meeting in Chicago, IL, to update data users on recent and pending changes in the various statistical and information programs important to agriculture and to seek to comments and input on these programs.
- October 19 – Presenting at a meeting of catfish industry stakeholders sponsored by the LPS Quality Assessment Division in Hernando, MS, to give an overview of the AMS catfish purchase program.
- October 23-24 – Participating in a meeting of the American Lamb Board in Denver, CO.

Livestock, Poultry and Seed Program Weekly Activity Report
Page 8

- October 24 – Speaking to a class at the University of Arkansas in Fayetteville, AR, about LPGMN and career options with the division.
- October 24-27 – Participating in an ISTA Statistics workshop in Zurich, Switzerland, to assist working groups in evaluating data from rule proposal submissions.
- October 25 – Participating at the Utah State University Career Fair in Logan, UT.
- October 25 – Presenting to the Fruit and Vegetable Industry Advisory Committee on the status of GMO Disclosure Implementation in Crystal City, VA.
- October 26-27 – Participating in the Commodity Procurement Annual Industry Meeting for USDA foods contractors and suppliers in Crystal City, VA.
- October 27 – Participating in a meeting with the United Egg Producers and representatives from several U.S. egg companies in Washington, DC, to discuss development of an industry standard definition for the term "cage-free."
- October 27-28 – Delivering a live feeder cattle and slaughter cow grading demonstration at the North Mississippi Beef Expo/Mississippi Cattlemen's Association. This event is hosted by the Mississippi State Extension and the Mississippi Farm Bureau in Hattiesburg, MS and Batesville, MS.
- October 28-30 – Serving on the official committee for the Junior Division Colleges National Champions High Plains Intercollegiate Meat Judging contest at Cargill Meat Solutions in Friona, TX.
- October 31-November 3 – Meeting with APHIS to discuss hiring qualifications in Minneapolis, MN.
- October 31-November 4 – Traveling to San Juan, Puerto Rico, to discuss and promote poultry reporting services at LPGMN to various government and industry representatives.
- November 1-3 – Participating in a meeting of the American Egg Board's Executive Committee and their four subcommittees to discuss the 2017 Strategic Plan.
- November 2 – Presenting at the Grocery Manufacturers Association's Food Labeling Workshop: Complying with Regulatory Requirements for the Labeling of Packaged Foods to provide guidance on Country of Origin Labeling requirements in Washington, DC.
- November 2-3 – Participating in a New Director Orientation for the United Soybean Board in St. Louis, MO.

- November 10 – Attending the annual Poultry Institute meeting at Washington State University's Puyallup Research and Extension Center in Puyallup, WA.
- November 10-13 – Serving on the official committee for the Senior Division Universities National Championship International Intercollegiate Meat Judging Contest at Tyson Foods in Dakota City, NE.
- November 15-16 – Conducting the first in a series of stakeholder meetings for the Livestock Mandatory Reporting (LMR) program to gather consensus feedback on what the industry would like to see changed in the statute and regulation for the next reauthorization in 2020.
- November 15-16 – Hosting the first stakeholder meeting in Washington, DC, to gather feedback on Livestock Mandatory Reporting for the study being conducted. The following national organizations requested to participate: American Farm Bureau Federation, American Sheep Industry, CME Group, Livestock Market Information Center, Livestock Marketing Association, National Cattlemen's Beef Association, National Farmers Union, National Pork Producers Council, North American Meat Institute, R-CALF, Southwest Meat Association, Texas Cattle Feeders Association, and U.S. Cattlemen.

Employee Engagement

- October 4 – Participated the in Feds Feed Families Closing Ceremony in Washington, DC.
- October 5 – Participated in an OGC Regulatory Information session in Washington, DC.
- October 11-13 – Participating in the LPS Senior Management retreat in Hume, VA, to hold teambuilding exercises, plan for 2017, and take communications training.
- October 17-21 – Conducting new employee orientation in Sacramento, CA.
- October 31-November 4 – Conducting training for poultry graders in Ontario, CA, and Fresno, CA, to strengthen the uniformity of grading poultry across the nation.
- November 1-4 – Discussing organization goals and challenges, participating in teambuilding and educational development training, and building stronger working relationships in Oklahoma City, OK.

From: [Starmer, Elanor - AMS](#)
To: [Richmond, William - AMS](#)
Cc: [Taylor, Jameelah - AMS](#)
Subject: Re: Chicken Pricing Indexes in AMS Market News
Date: Tuesday, July 05, 2016 5:25:02 PM

(b) (5)



As long as Mark can come here we can do in person; otherwise let's do phone. We can do these topics back to back so Angie/Mike don't need to sit through the R&P issue.

Bruce, Dana and I should be there for the whole time (and Bill if available).

Could you ask him to send a copy of the legislation so we can share with staff ahead of the meeting?

Thanks!

Sent from my iPhone

On Jul 5, 2016, at 4:40 PM, Richmond, William - AMS <William.Richmond@ams.usda.gov> wrote:

(b) (5)



Thanks

From: Taylor, Jameelah - AMS
Sent: Tuesday, July 05, 2016 4:33 PM
To: Starmer, Elanor - AMS <Elanor.Starmer@ams.usda.gov>
Cc: Richmond, William - AMS <William.Richmond@ams.usda.gov>
Subject: FW: Chicken Pricing Indexes in AMS Market News

Hi Elanor,

Please let me know how you would like to meet with Mark. Also, is there anyone you would like to invite to the meeting(s)?

Thank you,

Jameelah

From: Tobey, Mark [<mailto:Mark.Tobey@usdoj.gov>]
Sent: Tuesday, July 05, 2016 4:04 PM

To: Starmer, Elanor - AMS
Cc: Taylor, Jameelah - AMS; Richmond, William - AMS
Subject: RE: Chicken Pricing Indexes in AMS Market News

Thanks for getting back so quickly. It would be ideal if we could meet or talk tomorrow or Thursday. I would prefer to meet you in person but a phone call may need to suffice due to tight timing.

(b) (5)




article: <<http://www.theguardian.com/us-news/2015/sep/02/usda-american-egg-board-hampton-creek-just-mayo>>. I am happy to send a working draft of the legislation if you have not seen it.

I realize that these two meetings may involve different personnel on my end and yours – and for that I apologize - but I wanted to try to deal with both as soon as we can. The legislation has a shorter deadline if that helps. Thanks again. mt

Mark Tobey
Special Counsel for State Relations and Agriculture
U. S. Department of Justice
Anti trust Division
Rm 11022 - LSB
450 5th Street, N.W.
Washington, D. C. 20530
(202)532-4763

From: Starmer, Elanor - AMS [<mailto:Elanor.Starmer@ams.usda.gov>]
Sent: Tuesday, July 05, 2016 2:37 PM
To: Tobey, Mark
Cc: Taylor, Jameelah - AMS; Richmond, William - AMS
Subject: RE: Chicken Pricing Indexes in AMS Market News

Mark, I'd be happy to talk, and apologies that we weren't able to connect last week – I was out of the office on work travel. My assistant Jameelah, cc'd here, can help us find a time. Bill Richmond, also cc'd, has taken over the AMS Chief of Staff role as Sara transitioned to the Secretary's office. (b) (6)



(b) (6)

Thanks,
Elanor

Elanor Starmer
Administrator
Agricultural Marketing Service
U.S. Department of Agriculture
202-720-5115
elanor.starmer@ams.usda.gov

From: Tobey, Mark [<mailto:Mark.Tobey@usdoj.gov>]
Sent: Tuesday, July 05, 2016 2:26 PM
To: Starmer, Elanor - AMS
Subject: Chicken Pricing Indexes in AMS Market News

Ms. Starmer,

Larry Mitchell and Susan Keith from GIPSA suggested that we contact you about the Georgia Dock chicken pricing index which USDA republishes weekly as part of the AMS Market News. Larry and Susan may have mentioned (b) (5)

(b) (6)
(b) (6)
(b) (6) Would you

have time for a brief meeting or call? Please let us know. (b) (6)

(b) (6)
(b) (6)
(b) (6)

Mark Tobey
Special Counsel for State Relations and Agriculture
U.S. Department of Justice
Antitrust Division
Rm 11022 - LSB
450 5th Street, N.W.
Washington, D.C. 20530
(202)532-4763

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message in error, please notify the sender and delete the email immediately.

From: [Taylor, Jameelah - AMS](#)
To: Mark.Tobey@usdoj.gov
Subject: RE: Chicken Pricing Indexes in AMS Market News
Date: Wednesday, July 06, 2016 12:48:15 PM
Attachments: [image001.png](#)

Good Afternoon Mark,

Thank you for your call this morning. As discussed, this meeting is set for 12:30 – 1:00 p.m. tomorrow.

Administrator Starmer's office is in the USDA South Building, which is on the south side of Independence between 12th and 14th (1400 Independence Ave. SW). It's easily accessed by metro train, if you emerge from the Smithsonian Metro Stop using the South exit on Independence and 12th (not the National Mall exit). The building has 7 wings (entrances) that face Independence Ave. The visitor entrance is located at the 3rd wing. Please arrive at least 10 minutes early to allow for security screening. Upon arrival, call 202-720-5115 and someone from the Administrator's Office will come to escort you to the meeting.

Also, as a friendly reminder, please be sure to send the litigation and attendee information.

Feel free to contact me if you have any questions.

Thank you,

Jameelah

From: Taylor, Jameelah - AMS
Sent: Wednesday, July 06, 2016 11:27 AM
To: 'Mark.Tobey@usdoj.gov'
Subject: RE: Chicken Pricing Indexes in AMS Market News

Also, could you please forward a copy of the legislation this afternoon so that I can share with the staff? Thank you!

From: Taylor, Jameelah - AMS
Sent: Wednesday, July 06, 2016 11:24 AM
To: 'Tobey, Mark'
Subject: RE: Chicken Pricing Indexes in AMS Market News

Good Morning Mark,

Will you be able to meet tomorrow at 12:30 – 1:00 p.m. or 2:30 – 3:00 p.m.? Please let me know if either of these times will work with your schedule. If so, will you be calling in or coming into the office?

Thank you,

Jameelah Taylor
Executive Assistant to the Administrator
Agricultural Marketing Service
1400 Independence Avenue, SW
Room 3071-S, STOP 0201
Washington, DC 20250
Office: 202-720-5115
Email: Jameelah.Taylor@ams.usda.gov
<http://www.ams.usda.gov/>



From: Tobey, Mark [<mailto:Mark.Tobey@usdoj.gov>]
Sent: Tuesday, July 05, 2016 4:04 PM
To: Starmer, Elanor - AMS
Cc: Taylor, Jameelah - AMS; Richmond, William - AMS
Subject: RE: Chicken Pricing Indexes in AMS Market News

Thanks for getting back so quickly. It would be ideal if we could meet or talk tomorrow or Thursday. I would prefer to meet you in person but a phone call may need to suffice due to tight timing.

(b) (5)

A large black rectangular box redacts the content of the email body, covering the text between the (b) (5) label and the paragraph starting with "described in this article".

described in this article: <<http://www.theguardian.com/us-news/2015/sep/02/usda-american-egg-board-hampton-creek-just-mayo>>. I am happy to send a working draft of the legislation if you have not seen it.

I realize that these two meetings may involve different personnel on my end and yours – and for that I apologize - but I wanted to try to deal with both as soon as we can. The legislation has a shorter deadline if that helps. Thanks again. mt

Mark Tobey
Special Counsel for State Relations and Agriculture
U. S. Department of Justice
Anti trust Division
Rm 11022 - LSB
450 5th Street, N.W.
Washington, D.C. 20530

(202)532-4763

From: Starmer, Elanor - AMS [<mailto:Elanor.Starmer@ams.usda.gov>]
Sent: Tuesday, July 05, 2016 2:37 PM
To: Tobey, Mark
Cc: Taylor, Jameelah - AMS; Richmond, William - AMS
Subject: RE: Chicken Pricing Indexes in AMS Market News

Mark, I'd be happy to talk, and apologies that we weren't able to connect last week – I was out of the office on work travel. My assistant Jameelah, cc'd here, can help us find a time. Bill Richmond, also cc'd, has taken over the AMS Chief of Staff role as Sara transitioned to the Secretary's office. (b) [REDACTED]

Thanks,
Elanor

Elanor Starmer
Administrator
Agricultural Marketing Service
U.S. Department of Agriculture
202-720-5115
elanor.starmer@ams.usda.gov

From: Tobey, Mark [<mailto:Mark.Tobey@usdoj.gov>]
Sent: Tuesday, July 05, 2016 2:26 PM
To: Starmer, Elanor - AMS
Subject: Chicken Pricing Indexes in AMS Market News

Ms. Starmer,

Larry Mitchell and Susan Keith from GIPSA suggested that we contact you about the Georgia Dock chicken pricing index which USDA republishes weekly as part of the AMS Market News. Larry and Susan may have mentioned (b) (5) [REDACTED]

[REDACTED] Would you have time for a brief meeting or call? Please let us know. (b) (6) [REDACTED]

Mark Tobey

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From: [Tobey, Mark](#)
To: [Taylor, Jameelah - AMS](#)
Cc: [Klovers, Amanda](#); [Rathbun, Douglas](#)
Subject: RE: Chicken Pricing Indexes in AMS Market News
Date: Wednesday, July 06, 2016 12:52:14 PM
Attachments: [image001.png](#)
[DRAFT Check Off Reform Bill clean 7 5 16.docx](#)

Ms. Taylor - Draft legislation is attached. Also, we would like to come over there tomorrow to meet in person. The time of 12:30 – 1:00 works best for us. Please tell us where to come. Right now attending the meeting will be Amanda Klovers, Douglas Rathbun and myself. Amanda is in our section that does agricultural enforcement and Douglas works on policy and legislative matters. Thank you for seeing us on such short notice. Copying Amanda and Douglas. mt

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Special Counsel for State Relations and Agriculture
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Anti trust Division
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450 5th Street, N.W.
Washington, D. C. 20530
(202)532-4763

From: Taylor, Jameelah - AMS [mailto:Jameelah.Taylor@ams.usda.gov]
Sent: Wednesday, July 06, 2016 11:27 AM
To: Tobey, Mark
Subject: RE: Chicken Pricing Indexes in AMS Market News

Also, could you please forward a copy of the legislation this afternoon so that I can share with the staff? Thank you!

From: Taylor, Jameelah - AMS
Sent: Wednesday, July 06, 2016 11:24 AM
To: 'Tobey, Mark'
Subject: RE: Chicken Pricing Indexes in AMS Market News

Good Morning Mark,

Will you be able to meet tomorrow at 12:30 – 1:00 p.m. or 2:30 – 3:00 p.m.? Please let me know if either of these times will work with your schedule. If so, will you be calling in or coming into the office?

Thank you,

Jameelah Taylor
Executive Assistant to the Administrator
Agricultural Marketing Service
1400 Independence Avenue, SW
Room 3071-S, STOP 0201
Washington, DC 20250
Office: 202-720-5115
Email: Jameelah.Taylor@ams.usda.gov
<http://www.ams.usda.gov/>



From: Tobey, Mark [<mailto:Mark.Tobey@usdoj.gov>]
Sent: Tuesday, July 05, 2016 4:04 PM
To: Starmer, Elanor - AMS
Cc: Taylor, Jameelah - AMS; Richmond, William - AMS
Subject: RE: Chicken Pricing Indexes in AMS Market News

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(b) (5)

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described in this article: <<http://www.theguardian.com/us-news/2015/sep/02/usda-american-egg-board-hampton-creek-just-mayo>>. I am happy to send a working draft of the legislation if you have not seen it.

I realize that these two meetings may involve different personnel on my end and yours – and for that I apologize - but I wanted to try to deal with both as soon as we can. The legislation has a shorter deadline if that helps. Thanks again. mt

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From: Starmer, Elanor - AMS [<mailto:Elanor.Starmer@ams.usda.gov>]
Sent: Tuesday, July 05, 2016 2:37 PM
To: Tobey, Mark
Cc: Taylor, Jameelah - AMS; Richmond, William - AMS
Subject: RE: Chicken Pricing Indexes in AMS Market News

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[REDACTED]

Thanks,
Elanor

Elanor Starmer
Administrator
Agricultural Marketing Service
U.S. Department of Agriculture
202-720-5115
elanor.starmer@ams.usda.gov

From: Tobey, Mark [<mailto:Mark.Tobey@usdoj.gov>]
Sent: Tuesday, July 05, 2016 2:26 PM
To: Starmer, Elanor - AMS
Subject: Chicken Pricing Indexes in AMS Market News

Ms. Starmer,

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[REDACTED]

[REDACTED]

[REDACTED]

Would you have time for a brief meeting or call? Please let us know. (b) (6)

[REDACTED]

[REDACTED]

[REDACTED]

Mark Tobey
Special Counsel for State Relations and Agriculture
U. S. Department of Justice

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From: [Taylor, Jameelah - AMS](#) on behalf of [Starmer, Elanor - AMS](#)
To: [Coale, Dana - AMS](#); [Summers, Bruce - AMS](#); [Richmond, William - AMS](#); [Allen, William - AMS](#); [Snyder, Angie - AMS](#); [Lynch, Michael - AMS](#)
Subject: Chicken Pricing Indexes - Georgia Dock

The following are attending this meeting with Mark Tobey:

Amanda Klovers
Douglas Rathbun

Mark Tobey's message:

Ms. Starmer,

Larry Mitchell and Susan Keith from GIPSA suggested that we contact you about the Georgia Dock chicken pricing index which USDA republishes weekly as part of the AMS Market News. Larry and Susan may have mentioned (b) (5)

Would you have time for a brief meeting or call? Please let us know. (b) (5)

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Special Counsel for State Relations and Agriculture
U.S. Department of Justice
Antitrust Division
Rm 11022 - LSB
450 5th Street, N.W.
Washington, D.C. 20530
(202)532-4763

From: [Taylor, Jameelah - AMS](#) on behalf of [Starmer, Elanor - AMS](#)
To: [Harrison, Carolyn - AMS](#); [Wright, Erica - AMS](#); [Rick, Whitney - AMS](#); [Pritchett, Nichole - AMS](#); [Jamison, David - AMS](#)
Subject: Chicken Pricing Indexes - Georgia Dock

The following are attending this meeting with Mark Tobey:

Amanda Klovers
Douglas Rathbun

Mark Tobey's message:

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Larry Mitchell and Susan Keith from GIPSA suggested that we contact you about the Georgia Dock chicken pricing index which USDA republishes weekly as part of the AMS Market News. Larry and Susan may have mentioned (b) (5)

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(202)532-4763

From: [Taylor, Jameelah - AMS](#) on behalf of [Starmer, Elanor - AMS](#)
To: [Pratt, Maria - AMS](#); [Foy, Cherry - AMS](#)
Subject: Chicken Pricing Indexes - Georgia Dock

The following are attending this meeting with Mark Tobey:

Amanda Klovers
Douglas Rathbun

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Washington, D.C. 20530
(202)532-4763

From: [Starmer, Flanor - AMS](#)
To: [Quick, Ada - OGC](#); [McFadden, Joyce - OGC](#); [Coale, Dana - AMS](#); [Summers, Bruce - AMS](#); [Richmond, William - AMS](#); [Allen, William - AMS](#); [Snyder, Angie - AMS](#); [Lynch, Michael - AMS](#)
Subject: Chicken Pricing Indexes - Georgia Dock
Start: Thursday, July 07, 2016 1:00:00 PM
End: Thursday, July 07, 2016 1:30:00 PM
Location: 3074-S; (b) (6) Access Code (b) (6)

The following are attending this meeting with Mark Tobey:

Amanda Klovers
Douglas Rathbun

Mark Tobey's message:

Ms. Starmer,

Larry Mitchell and Susan Keith from GIPSA suggested that we contact you about the Georgia Dock chicken pricing index which USDA republishes weekly as part of the AMS Market News. Larry and Susan may have mentioned (b) (5)

Would you have time for a brief meeting or call? Please let us know. (b) (6)

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From: [Starmer, Elanor - AMS](#)
To: [Tobey, Mark](#)
Cc: [Taylor, Jameelah - AMS](#); [Richmond, William - AMS](#); [Rathbun, Douglas](#); [Klovers, Amanda](#); [Snyder, Angie - AMS](#); [Coale, Dana - AMS](#)
Subject: RE: Chicken Pricing Indexes in AMS Market News
Date: Friday, July 08, 2016 10:47:44 AM

Mark, our pleasure – thank you for making the trip over. We will be in touch if we have any further questions. We appreciate all of the information you shared yesterday.

Elanor

Elanor Starmer
Administrator
Agricultural Marketing Service
U.S. Department of Agriculture
202-720-5115
elanor.starmer@ams.usda.gov

From: Tobey, Mark [mailto:Mark.Tobey@usdoj.gov]
Sent: Friday, July 08, 2016 10:34 AM
To: Starmer, Elanor - AMS
Cc: Taylor, Jameelah - AMS; Richmond, William - AMS; Rathbun, Douglas; Klovers, Amanda
Subject: RE: Chicken Pricing Indexes in AMS Market News

Thanks again to you and your colleagues for meeting with us on such short notice yesterday about

(b) (5) Please let us know if you (b) (5)

mt

Mark Tobey
Special Counsel for State Relations and Agriculture
U. S. Department of Justice
Anti trust Division
Rm 11022 - LSB
450 5th Street, N.W.
Washington, D. C. 20530
(202)532-4763

From: Starmer, Elanor - AMS [mailto:Elanor.Starmer@ams.usda.gov]
Sent: Tuesday, July 05, 2016 2:37 PM
To: Tobey, Mark
Cc: Taylor, Jameelah - AMS; Richmond, William - AMS
Subject: RE: Chicken Pricing Indexes in AMS Market News

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the office on work travel. My assistant Jameelah, cc'd here, can help us find a time. Bill Richmond, also cc'd, has taken over the AMS Chief of Staff role as Sara transitioned to the Secretary's office. (b)

[REDACTED]

Thanks,
Elanor

Elanor Starmer
Administrator
Agricultural Marketing Service
U.S. Department of Agriculture
202-720-5115
elanor.starmer@ams.usda.gov

From: Tobey, Mark [<mailto:Mark.Tobey@usdoj.gov>]
Sent: Tuesday, July 05, 2016 2:26 PM
To: Starmer, Elanor - AMS
Subject: Chicken Pricing Indexes in AMS Market News

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[REDACTED]

(b) (5)

[REDACTED] Would you have time for a brief meeting or call? Please let us know. (b) (6)

[REDACTED]

[REDACTED]

[REDACTED]

Mark Tobey
Special Counsel for State Relations and Agriculture
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From: [Starmer, Elanor - AMS](#)
To: [Taylor, Jameelah - AMS](#)
Cc: [Morris, Craig - AMS](#)
Subject: RE: Georgia Dock Follow-up
Date: Wednesday, July 13, 2016 2:39:03 PM

Jameelah, please see below.

-----Original Message-----

From: Morris, Craig - AMS
Sent: Wednesday, July 13, 2016 1:05 PM
To: Starmer, Elanor - AMS
Subject: Re: Georgia Dock Follow-up

That's fine.

Sent from my iPhone

>
> Hi Craig,
>
> There is now a conflict with this meeting at 4:00 p m. I am sending an updated invite to move this meeting to 4:30 p m. today. Please let me know if this will not work with your schedule.
>
> Thank you,
>
> Jameelah
>
> <meeting.ics>

Little, Jewell (CTR) - AMS

Subject: GA Dock Discussion

Location: 3069-S; (b) (6) Access Code (b) (6)

Start: Wed 7/27/2016 2:00 PM

End: Wed 7/27/2016 2:30 PM

Show Time As: Tentative

Recurrence: (none)

Meeting Status: Not yet responded

Organizer: Starmer, Elanor - AMS

Required Attendees: Morris, Craig - AMS; Snyder, Angie - AMS; Cox, Taylor - AMS; Richmond, William - AMS; Summers, Bruce - AMS; Allen, William - AMS; Jones, Samuel - AMS; Bernau, Jim - AMS

From: [Starmer, Elanor - AMS](#)
To: [Morris, Craig - AMS](#)
Cc: [Richmond, William - AMS](#); [Summers, Bruce - AMS](#)
Subject: Re: Attached is AMS-LPS-2016-28 Information Memorandum for Secretary Georgia Dock 07-29-16.
Date: Friday, July 29, 2016 10:48:59 AM

Thank you. Bill, could you let Jameelah know this is a rush? Need to get it in his book this afternoon.

Sent from my iPhone

On Jul 29, 2016, at 10:47 AM, Morris, Craig - AMS <Craig.Morris@ams.usda.gov> wrote:

FYI only

From: Snyder, Angie - AMS
Sent: Friday, July 29, 2016 10:46 AM
To: Morris, Craig - AMS <Craig.Morris@ams.usda.gov>
Cc: Flores, Elizabeth R - AMS <ElizabethR.Flores@ams.usda.gov>
Subject: FW: Attached is AMS-LPS-2016-28 Information Memorandum for Secretary Georgia Dock 07-29-16.

Done.

From: McDonald, DonnaR - AMS
Sent: Friday, July 29, 2016 10:41 AM
To: Taylor, Jameelah - AMS <Jameelah.Taylor@ams.usda.gov>
Cc: Bernau, Jim - AMS <Jim.Bernau@ams.usda.gov>; Snyder, Angie - AMS <Angie.Snyder@ams.usda.gov>; Templin, Elizabeth - AMS <Elizabeth.Templin@ams.usda.gov>
Subject: Attached is AMS-LPS-2016-28 Information Memorandum for Secretary Georgia Dock 07-29-16.

Good Morning Jameelah,

Attached is AMS-LPS-2016-28 Information Memorandum for Secretary Georgia Dock 07-29-16.

Thank you,

Donna R. McDonald
Secretary
USDA, AMS, Livestock, Poultry & Seed Program
Office of The Deputy Administrator, STOP 0249
1400 Independence Avenue S.W. Room 2092-S
Washington, DC 20250-0249
Office Phone Number: (202) 720-3215
Office Fax Number: (202) 720-3499
Donnar.McDonald@ams.usda.gov

<AMS-LPS-2016-28 Information Memorandum for Secretary Georgia Dock 07-29-16 no Legend.docx>

From: [Starmer, Elanor - AMS](#)
To: [Morris, Craig - AMS](#)
Cc: [Coale, Dana - AMS](#); [Richmond, William - AMS](#); [Morris, Erin - AMS](#); [Summers, Bruce - AMS](#); [Allen, William - AMS](#); [Bailey, Shayla - AMS](#)
Subject: Re: GA Dock Follow-up
Date: Tuesday, July 26, 2016 6:39:58 PM

Thanks. I just checked in with Jameelah - I know she is working on scheduling it.

Sent from my iPhone

On Jul 26, 2016, at 6:36 PM, Morris, Craig - AMS <Craig.Morris@ams.usda.gov> wrote:

Elanor:

This is for ahead of our meeting on this. I still haven't seen it scheduled.

Craig

Sent from my iPhone

Begin forwarded message:

From: "Bernau, Jim - AMS" <Jim.Bernau@ams.usda.gov>
Date: July 26, 2016 at 6:08:17 PM EDT
To: "Morris, Craig - AMS" <Craig.Morris@ams.usda.gov>
Cc: "Lynch, Michael - AMS" <Michael.Lynch@ams.usda.gov>, "Snyder, Angie - AMS" <Angie.Snyder@ams.usda.gov>
Subject: GA Dock Follow-up

Craig,

This morning, I spoke with Dr. Cobb about the GA Dock report and he expressed an appreciation for the LPGMN visit and assistance last week. As a reminder, the GA Dock report is created from data gathered by the Georgia Department of Agriculture (GDA) and then disseminated by LPGMN on the AMS website.

During our conversation today, Dr. Cobb spoke in length about the significance of the GA Dock report to stakeholders, the report's 50-year history, and the need for the report to continue as is unless stakeholders request a change to the report. As Dr. Cobb stressed, (b) (5)

[REDACTED]

[REDACTED]

GDA and Dr. Cobb were told by stakeholders that an in-person or conference call meeting would likely be held early next week [week of

August 1]. When speaking with Dr. Cobb today, LPGMN requested an opportunity to participate in the meeting, but Dr. Cobb stated stakeholders would need to invite us to the meeting.

When asked about possible resistance to the changes agreed upon during last week's meetings, Dr. Cobb could not give any specific examples of resistance or names of those unwilling to assist or accept any changes to the report.

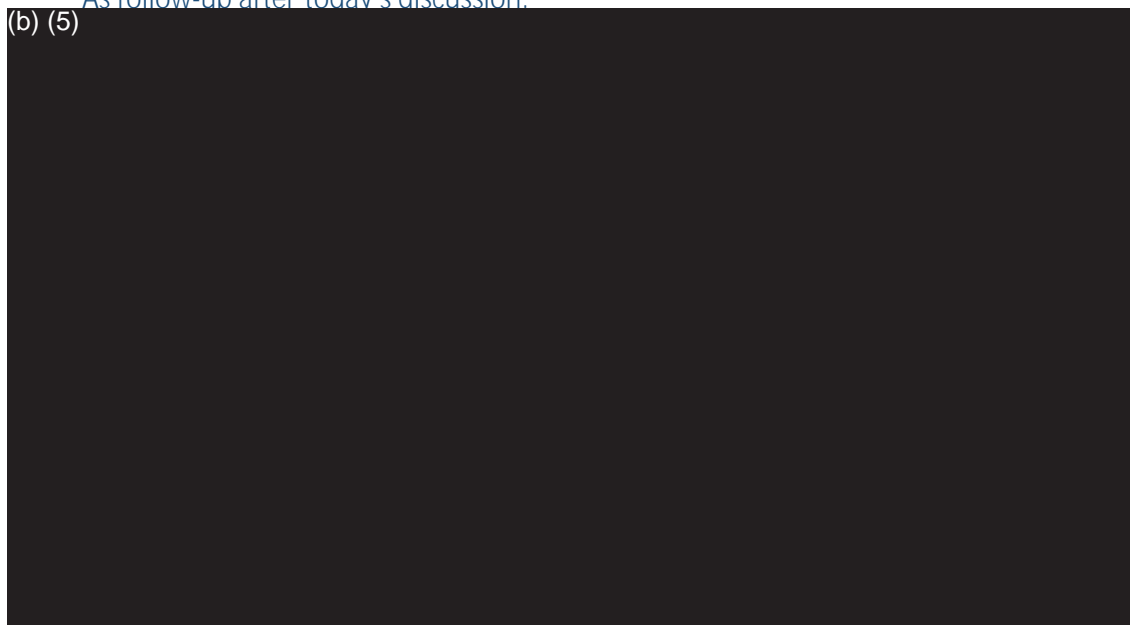
As stated in Mike's email last week, LPGMN believes the following to be the next steps:

(b) (5)



As follow-up after today's discussion:

(b) (5)



Please let me know if you have additional questions.

Thanks
Jim

James Bernau
Deputy Director
Livestock, Poultry and Grain Market News Division
USDA Agricultural Marketing Service
1400 Independence Ave, SW
Room 2619
Washington, DC 20250
jim.bernaul@ams.usda.gov
Office: 202-720-1749
Cell: (b) (6)

From: [Starmer, Elanor - AMS](#)
To: [Taylor, Jameelah - AMS](#)
Subject: Re: GA Dock
Date: Tuesday, July 26, 2016 6:39:17 PM

Yes, thank you! Sorry that wasn't clear. I thought there was an earlier message where I asked about this, but maybe not. Thanks.

Sent from my iPhone

On Jul 26, 2016, at 4:47 PM, Taylor, Jameelah - AMS <Jameelah.Taylor@ams.usda.gov> wrote:

Hi Elanor,

Did you want me to setup the meeting that is referenced below and should I include everyone that is listed in Craig's email response?

Thank you,

Jameelah

From: Starmer, Elanor - AMS
Sent: Monday, July 25, 2016 7:20 PM
To: Bernau, Jim - AMS
Cc: Morris, Craig - AMS; Snyder, Angie - AMS; Lynch, Michael - AMS; Cox, Taylor - AMS; Richmond, William - AMS; Summers, Bruce - AMS; Allen, William - AMS; Jones, Samuel - AMS; Taylor, Jameelah - AMS
Subject: Re: GA Dock

Looping Jameelah.

Sent from my iPhone

On Jul 25, 2016, at 6:09 PM, Bernau, Jim - AMS <Jim.Bernau@ams.usda.gov> wrote:

Can we try for earlier in the day? (b) (6)

trying to leave around 2:30 pm.

Sent from my iPhone

On Jul 25, 2016, at 5:15 PM, Morris, Craig - AMS
<Craig.Morris@ams.usda.gov> wrote:

Thanks Jim. Looping in others. Elanor is trying to set up a meeting for Wednesday that you will be a part of if that

works with your schedule.

Sent from my iPhone

On Jul 25, 2016, at 4:57 PM, Bernau, Jim - AMS

<Jim.Bernau@ams.usda.gov> wrote:

Craig,

Taylor Cox received a call from Dr. Cobb with the Georgia Department of Agriculture (GDA) this afternoon. Dr. Cobb said, (b) (5)

[REDACTED]

[REDACTED]

[REDACTED] Once the notice appeared on the USDA-AMS-LPGMN report last Friday, some processors began giving feedback and did not like the change. GDA would like to try and hold a stakeholder meeting soon, but have not yet decided on a date.

Last week, two LPGMN reporters and a Field Chief traveled to the GDA Atlanta office to review GDA procedures for the GA Dock report information collection. Our goal for this review was to determine if a new spot market report, entirely different to what is currently collected, was warranted. One of the main issues with the current report is that no one at GDA Market News can identify the information collected for the report nor is the information verified through buyer confirmation, i.e., the prices reported by processors are for items neither produced or sold and therefore buyers do not exist. (b) (5)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Today, we encouraged Dr. Cobb to have the state reporter continue to collect the spot market information, as was done last week. Dr. Cobb said, "At this time, the GA Department of Agriculture will not be collecting any spot

market prices." (b) (5), (b) (6)

GA has requested time to review their options and will not collect any new information at this time.

(b) (5)

Thanks
Jim

James Bernau
Deputy Director
Livestock, Poultry and Grain Market News
Division
USDA Agricultural Marketing Service
1400 Independence Ave, SW
Room 2619
Washington, DC 20250
jim.bernau@ams.usda.gov
Office: 202-720-1749
Cell: (b) (6)

From: [Starmer, Elanor - AMS](#)
To: [Morris, Craig - AMS](#)
Cc: [Richmond, William - AMS](#); [Coale, Dana - AMS](#); [Summers, Bruce - AMS](#); [Bernau, Jim - AMS](#); [Lynch, Michael - AMS](#); [Snyder, Angie - AMS](#); [Flores, Elizabeth R - AMS](#); [Jones, Samuel - AMS](#); [Allen, William - AMS](#)
Subject: RE: Georgia Dock Report (b) (5)
Date: Monday, July 25, 2016 4:09:37 PM

My goodness. Ok – why don't we set up a meeting for Wednesday (I'm in NY all day tomorrow) to do a status check and discuss next steps. I will hold off on reaching out to Mark Tobey for now.

Jameelah, could you get time on my calendar Wednesday for a half hour meeting with Craig, Sam Jones, Bill Allen, Bill R. and whomever Craig would like in the room from LPS?

Thanks for keeping me posted.
Elanor

Elanor Starmer
Administrator
Agricultural Marketing Service
U.S. Department of Agriculture
202-720-5115
elanor.starmer@ams.usda.gov

From: Morris, Craig - AMS
Sent: Monday, July 25, 2016 3:28 PM
To: Starmer, Elanor - AMS
Cc: Richmond, William - AMS; Coale, Dana - AMS; Summers, Bruce - AMS; Bernau, Jim - AMS; Lynch, Michael - AMS; Snyder, Angie - AMS; Flores, Elizabeth R - AMS; Jones, Samuel - AMS; Allen, William - AMS
Subject: RE: Georgia Dock Report (b) (5)

I was just notified that this has turned 180 degrees around from where we were an hour ago. Apparently the State of GA did get a couple of complaints about changes being made to the report in response to the disclaimer that appeared on Friday's report. Now, the State does not want to change the report. We asked them to slow down to see if we could talk this through but they said no. (b) (5)

More to follow (b) (5)

I'm also looping in Bill Allen. Craig

From: Starmer, Elanor - AMS
Sent: Monday, July 25, 2016 3:02 PM
To: Morris, Craig - AMS <Craig.Morris@ams.usda.gov>
Cc: Richmond, William - AMS <William.Richmond@ams.usda.gov>; Coale, Dana - AMS <Dana.Coale@ams.usda.gov>; Summers, Bruce - AMS <Bruce.Summers@ams.usda.gov>
Subject: RE: Georgia Dock Report (b) (5)

Great, thank you. Bill, let's flag this up the chain in case anyone gets a call on it.

Elanor Starmer
Administrator
Agricultural Marketing Service
U.S. Department of Agriculture
202-720-5115
elanor.starmer@ams.usda.gov

From: Morris, Craig - AMS
Sent: Monday, July 25, 2016 2:58 PM
To: Starmer, Elanor - AMS
Cc: Richmond, William - AMS; Coale, Dana - AMS; Summers, Bruce - AMS
Subject: Georgia Dock Report (b) (5)

Elanor:

(b) (5)

Beginning August 5, 2016, the Georgia Department of Agriculture will be issuing a new weekly market report for negotiated Georgia broiler/fryer whole birds and bird parts, which will replace the current Georgia F.O.B. Dock Broiler/Fryers-Parts report.

This link shows the statement at the top of the report:

https://www.ams.usda.gov/mnreports/aj_py018.txt.

I'm still awaiting confirmation that Mike has finished all of his notifications to DOJ (Mark Tobey, Amanda Klovers, and Douglas Rathbun) and will let you know when that has occurred.

Thanks,
Craig

From the desk of:
Craig A. Morris, Ph.D.
Deputy Administrator, Livestock, Poultry and Seed Program
U.S. Department of Agriculture
Agricultural Marketing Service
<http://www.ams.usda.gov/LPS>

From: [Starmer, Elanor - AMS](#)
To: [Morris, Craig - AMS](#)
Cc: [Richmond, William - AMS](#); [Coale, Dana - AMS](#); [Summers, Bruce - AMS](#); [Morris, Erin - AMS](#); [Allen, William - AMS](#); [Jones, Samuel - AMS](#); [Bailey, Shayla - AMS](#); [Snyder, Angie - AMS](#); [Flores, Elizabeth R - AMS](#)
Subject: Re: Informational Memo For Secretary - Georgia Dock
Date: Thursday, July 28, 2016 9:10:51 PM

(b) (5)



Thanks for your and Jim's work on this. If your office could finalize asap tomorrow, we can route through MRP and get it in Scuse's book by tomorrow afternoon.

Elanor

Sent from my iPad

On Jul 28, 2016, at 7:33 PM, Morris, Craig - AMS <Craig.Morris@ams.usda.gov> wrote:

Elanor:

As discussed, please find attached a draft informational memorandum that would be from you to the Secretary outlining the Georgia Dock situation and our plan of action.

Please let me know if you have any edits. Once this is completed we can final for you in our office.

Thank you,
Craig

From the desk of:

Craig A. Morris, Ph.D.
Deputy Administrator, Livestock, Poultry and Seed Program
U.S. Department of Agriculture
Agricultural Marketing Service
<http://www.ams.usda.gov/LPS>

<Informational Memo For Secretary - Georgia Dock.docx>

From: [Starmer, Elanor - AMS](#)
To: [Morris, Craig - AMS](#)
Cc: [Richmond, William - AMS](#); [Coale, Dana - AMS](#); [Summers, Bruce - AMS](#); [Morris, Erin - AMS](#); [Allen, William - AMS](#); [Jones, Samuel - AMS](#); [Bailey, Shayla - AMS](#); [Snyder, Angie - AMS](#); [Flores, Elizabeth R - AMS](#)
Subject: Re: Informational Memo For Secretary - Georgia Dock
Date: Thursday, July 28, 2016 8:52:48 PM

Thanks, Craig. I will review tonight and let you know if there are any suggested edits.

Elanor

On Jul 28, 2016, at 7:33 PM, Morris, Craig - AMS <Craig.Morris@ams.usda.gov> wrote:

Elanor:

As discussed, please find attached a draft informational memorandum that would be from you to the Secretary outlining the Georgia Dock situation and our plan of action.

Please let me know if you have any edits. Once this is completed we can final for you in our office.

Thank you,
Craig

From the desk of:
Craig A. Morris, Ph.D.
Deputy Administrator, Livestock, Poultry and Seed Program
U.S. Department of Agriculture
Agricultural Marketing Service
<http://www.ams.usda.gov/LPS>

<Informational Memo For Secretary - Georgia Dock.docx>

From: [Starmer, Elanor - AMS](#)
To: [Morris, Craig - AMS](#)
Cc: [Richmond, William - AMS](#); [Bernau, Jim - AMS](#); [Allen, William - AMS](#); [Bailey, Shayla - AMS](#); [Jones, Samuel - AMS](#); [Summers, Bruce - AMS](#)
Subject: RE: Update - Georgia Dock
Date: Wednesday, July 27, 2016 3:59:43 PM

Great, thank you.

Elanor Starmer
Administrator
Agricultural Marketing Service
U.S. Department of Agriculture
202-720-5115
elanor.starmer@ams.usda.gov

From: Morris, Craig - AMS
Sent: Wednesday, July 27, 2016 3:56 PM
To: Starmer, Elanor - AMS
Cc: Richmond, William - AMS; Bernau, Jim - AMS; Allen, William - AMS; Bailey, Shayla - AMS; Jones, Samuel - AMS; Summers, Bruce - AMS
Subject: RE: Update - Georgia Dock

That totally works and I can make 10 a.m.

Craig

From: Starmer, Elanor - AMS
Sent: Wednesday, July 27, 2016 3:55 PM
To: Morris, Craig - AMS <Craig.Morris@ams.usda.gov>
Cc: Richmond, William - AMS <William.Richmond@ams.usda.gov>; Bernau, Jim - AMS <Jim.Bernau@ams.usda.gov>; Allen, William - AMS <William.Allen@ams.usda.gov>; Bailey, Shayla - AMS <Shayla.Bailey@ams.usda.gov>; Jones, Samuel - AMS <Samuel.Jones@ams.usda.gov>; Summers, Bruce - AMS <Bruce.Summers@ams.usda.gov>
Subject: Update - Georgia Dock

Craig,

ADS Scuse is out on annual leave this week, so we have a meeting scheduled for Monday.

In the interim, MRP has just rescheduled issues and dockets for tomorrow (Thursday) at 10am. Could we brief Ed on the issue at that time? It's ok if we don't have the info memo for him yet. We can walk him through it verbally. Please let Bill know if you and/or Jim are available to attend.

If possible I would like to provide ADS Scuse with the background memo on Friday so that he can read it over the weekend in preparation for the meeting.

So this extends the period of uncertainty, but I don't see any way around it. That work for you?

Thanks,
Elanor

Elanor Starmer
Administrator
Agricultural Marketing Service
U.S. Department of Agriculture
202-720-5115
elanor.starmer@ams.usda.gov

From: [Starmer, Elanor - AMS](#)
To: [Johnson, Ashlee - OSEC](#)
Subject: Re: Attached is AMS-LPS-2016-28 Information Memorandum for Secretary Georgia Dock 07-29-16.
Date: Monday, August 01, 2016 11:45:25 AM

That's frustrating. I'm sorry. And yes, please do sit in. There are potential implications to this change that we didn't spell out in the memo but will share verbally when we meet.

Thanks!
Elanor

Sent from my iPhone

On Aug 1, 2016, at 11:42 AM, Johnson, Ashlee - OSEC <Ashlee.Johnson@osec.usda.gov> wrote:

This did not make it to us. Thank you for sending. Can I sit in on the meeting?

Ashlee Nicole Johnson

Chief of Staff to the Deputy Secretary
U.S. Department of Agriculture
Direct: 202-720-4032 Cell: (b) (6)
ashlee.johnson@osec.usda.gov

From: Starmer, Elanor - AMS
Sent: Monday, August 01, 2016 11:11 AM
To: Johnson, Ashlee - OSEC
Subject: FW: Attached is AMS-LPS-2016-28 Information Memorandum for Secretary Georgia Dock 07-29-16.

Here's what we sent up on Friday. Thanks!

Elanor Starmer
Administrator
Agricultural Marketing Service
U.S. Department of Agriculture
202-720-5115
elanor.starmer@ams.usda.gov

From: Morris, Craig - AMS
Sent: Friday, July 29, 2016 10:47 AM
To: Starmer, Elanor - AMS
Cc: Richmond, William - AMS; Summers, Bruce - AMS
Subject: FW: Attached is AMS-LPS-2016-28 Information Memorandum for Secretary Georgia Dock 07-29-16.

FYI only

From: Snyder, Angie - AMS
Sent: Friday, July 29, 2016 10:46 AM
To: Morris, Craig - AMS <Craig.Morris@ams.usda.gov>
Cc: Flores, Elizabeth R - AMS <ElizabethR.Flores@ams.usda.gov>
Subject: FW: Attached is AMS-LPS-2016-28 Information Memorandum for Secretary Georgia Dock 07-29-16.

Done.

From: McDonald, DonnaR - AMS
Sent: Friday, July 29, 2016 10:41 AM
To: Taylor, Jameelah - AMS <Jameelah.Taylor@ams.usda.gov>
Cc: Bernau, Jim - AMS <Jim.Bernau@ams.usda.gov>; Snyder, Angie - AMS <Angie.Snyder@ams.usda.gov>; Templin, Elizabeth - AMS <Elizabeth.Templin@ams.usda.gov>
Subject: Attached is AMS-LPS-2016-28 Information Memorandum for Secretary Georgia Dock 07-29-16.

Good Morning Jameelah,

Attached is AMS-LPS-2016-28 Information Memorandum for Secretary Georgia Dock 07-29-16.

Thank you,

Donna R. McDonald
Secretary
USDA, AMS, Livestock, Poultry & Seed Program
Office of The Deputy Administrator, STOP 0249
1400 Independence Avenue S.W. Room 2092-S
Washington, DC 20250-0249
Office Phone Number: (202)720-3215
Office Fax Number: (202) 720-3499
Donnar.McDonald@ams.usda.gov

From: [Morris, Craig - AMS](#)
To: [Starmer, Elanor - AMS](#)
Cc: [Snyder, Angie - AMS](#); [Richmond, William - AMS](#); [Allen, William - AMS](#); [Coale, Dana - AMS](#); [Summers, Bruce - AMS](#)
Subject: RE: Georgia Dock resolution plan
Date: Tuesday, August 02, 2016 5:41:37 PM

We do extrapolate prices in certain situations for our reports (b) (5)

Here is an example of how we provide that standard calculation to packers:
<https://www.ams.usda.gov/sites/default/files/media/Wholesale%20Pork%20FOB%20Omaha%20Calculuations.pdf>.

(b) (5)

From: Starmer, Elanor - AMS
Sent: Tuesday, August 02, 2016 5:29 PM
To: Morris, Craig - AMS <Craig.Morris@ams.usda.gov>
Cc: Snyder, Angie - AMS <Angie.Snyder@ams.usda.gov>; Richmond, William - AMS <William.Richmond@ams.usda.gov>; Allen, William - AMS <William.Allen@ams.usda.gov>; Coale, Dana - AMS <Dana.Coale@ams.usda.gov>; Summers, Bruce - AMS <Bruce.Summers@ams.usda.gov>
Subject: Re: Georgia Dock resolution plan

Craig, thank you for keeping me in the loop. I know you've been working on talking points; (b) (5)

(b) (5), (b) (6)

I'd like to provide Scuse's office with a status report prior to the website change Friday, so let's check in quickly on Thursday so I know where things stand in the discussions. Thanks for your and the team's work on this.

Elanor

On Aug 2, 2016, at 4:57 PM, Morris, Craig - AMS <Craig.Morris@ams.usda.gov> wrote:

Elanor:

Attached is the plan to resolve the Georgia Dock situation. We will keep you informed as we continue to monitor this.

Thanks,
Craig

From the desk of:

Craig A. Morris, Ph.D.

Deputy Administrator, Livestock, Poultry and Seed Program

U.S. Department of Agriculture

Agricultural Marketing Service

<http://www.ams.usda.gov/LPS>

<Plan to Resolve Georgia Dock Issues 8-2-16.docx>

From: [Starmer, Elanor - AMS](#)
To: [Morris, Craig - AMS](#)
Cc: [Snyder, Angie - AMS](#); [Richmond, William - AMS](#); [Allen, William - AMS](#); [Coale, Dana - AMS](#); [Summers, Bruce - AMS](#)
Subject: Re: Georgia Dock resolution plan
Date: Tuesday, August 02, 2016 5:29:29 PM

Craig, thank you for keeping me in the loop. I know you've been working on talking points;

(b) (5), (b) (6)



I'd like to provide Scuse's office with a status report prior to the website change Friday, so let's check in quickly on Thursday so I know where things stand in the discussions. Thanks for your and the team's work on this.

Elanor

On Aug 2, 2016, at 4:57 PM, Morris, Craig - AMS <Craig.Morris@ams.usda.gov> wrote:

Elanor:

Attached is the plan to resolve the Georgia Dock situation. We will keep you informed as we continue to monitor this.

Thanks,
Craig

From the desk of:
Craig A. Morris, Ph.D.
Deputy Administrator, Livestock, Poultry and Seed Program
U.S. Department of Agriculture
Agricultural Marketing Service
<http://www.ams.usda.gov/LPS>

<Plan to Resolve Georgia Dock Issues 8-2-16.docx>

From: [Morris, Craig - AMS](#)
To: [Starmer, Elanor - AMS](#)
Cc: [Coale, Dana - AMS](#); [Richmond, William - AMS](#); [Summers, Bruce - AMS](#); [Morris, Erin - AMS](#)
Subject: GA Dock Update
Date: Friday, September 02, 2016 11:39:37 AM

On September 1, 2016, Mike Lynch, David Garcia and Annie Terry, met with Dr. Sutton and Alec Asbridge from the Georgia Department of Agriculture (GDA). AMS shared a mock-up of a new addition to our Weekly National Whole Broiler/Fryer Report to get their feedback as whether this would be helpful to the Georgia poultry industry. The new feature shows current price information for three different weight categories of whole birds, including light weight birds weighing 2.5# and less. GDA gave the report good reviews, but they were unsure how the Georgia poultry industry could use it to price off of because those processors utilize longer term contract prices that do not fluctuate like the spot market. However, GDA said they would help promote our report to their processors.

(b) (5)



From the desk of:
Craig A. Morris, Ph.D.
Deputy Administrator, Livestock, Poultry and Seed Program
U.S. Department of Agriculture
Agricultural Marketing Service
<http://www.ams.usda.gov/LPS>

From: [Starmer, Elanor - AMS](#)
To: [Morris, Craig - AMS](#)
Cc: [Coale, Dana - AMS](#); [Richmond, William - AMS](#); [Summers, Bruce - AMS](#); [Morris, Erin - AMS](#)
Subject: RE: GA Dock Update
Date: Friday, September 02, 2016 11:51:15 AM

Sounds like things are moving in a good direction. Thanks, Craig.

Elanor Starmer
Administrator
Agricultural Marketing Service
U.S. Department of Agriculture
202-720-5115
elanor.starmer@ams.usda.gov

From: Morris, Craig - AMS
Sent: Friday, September 02, 2016 11:40 AM
To: Starmer, Elanor - AMS
Cc: Coale, Dana - AMS; Richmond, William - AMS; Summers, Bruce - AMS; Morris, Erin - AMS
Subject: GA Dock Update

On September 1, 2016, Mike Lynch, David Garcia and Annie Terry, met with Dr. Sutton and Alec Asbridge from the Georgia Department of Agriculture (GDA). AMS shared a mock-up of a new addition to our Weekly National Whole Broiler/Fryer Report to get their feedback as whether this would be helpful to the Georgia poultry industry. The new feature shows current price information for three different weight categories of whole birds, including light weight birds weighing 2.5# and less. GDA gave the report good reviews, but they were unsure how the Georgia poultry industry could use it to price off of because those processors utilize longer term contract prices that do not fluctuate like the spot market. However, GDA said they would help promote our report to their processors.

(b) (5)



From the desk of:
Craig A. Morris, Ph.D.
Deputy Administrator, Livestock, Poultry and Seed Program
U.S. Department of Agriculture

Agricultural Marketing Service
<http://www.ams.usda.gov/LPS>

From: [Starmer, Elanor - AMS](#)
To: [Johnson, Ashlee - OSEC](#)
Subject: FW: Attached is AMS-LPS-2016-28 Information Memorandum for Secretary Georgia Dock 07-29-16.
Date: Monday, August 01, 2016 11:11:09 AM
Attachments: [AMS-LPS-2016-28 Information Memorandum for Secretary Georgia Dock 07-29-16 no Legend.docx](#)

Here's what we sent up on Friday. Thanks!

Elanor Starmer
Administrator
Agricultural Marketing Service
U.S. Department of Agriculture
202-720-5115
elanor.starmer@ams.usda.gov

From: Morris, Craig - AMS
Sent: Friday, July 29, 2016 10:47 AM
To: Starmer, Elanor - AMS
Cc: Richmond, William - AMS; Summers, Bruce - AMS
Subject: FW: Attached is AMS-LPS-2016-28 Information Memorandum for Secretary Georgia Dock 07-29-16.

FYI only

From: Snyder, Angie - AMS
Sent: Friday, July 29, 2016 10:46 AM
To: Morris, Craig - AMS <Craig.Morris@ams.usda.gov>
Cc: Flores, Elizabeth R - AMS <ElizabethR.Flores@ams.usda.gov>
Subject: FW: Attached is AMS-LPS-2016-28 Information Memorandum for Secretary Georgia Dock 07-29-16.

Done.

From: McDonald, DonnaR - AMS
Sent: Friday, July 29, 2016 10:41 AM
To: Taylor, Jameelah - AMS <Jameelah.Taylor@ams.usda.gov>
Cc: Bernau, Jim - AMS <Jim.Bernau@ams.usda.gov>; Snyder, Angie - AMS <Angie.Snyder@ams.usda.gov>; Templin, Elizabeth - AMS <Elizabeth.Templin@ams.usda.gov>
Subject: Attached is AMS-LPS-2016-28 Information Memorandum for Secretary Georgia Dock 07-29-16.

Good Morning Jameelah,

Attached is AMS-LPS-2016-28 Information Memorandum for Secretary Georgia Dock 07-29-16.

Thank you,

Donna R. McDonald
Secretary
USDA, AMS, Livestock, Poultry & Seed Program
Office of The Deputy Administrator, STOP 0249
1400 Independence Avenue S.W. Room 2092-S
Washington, DC 20250-0249
Office Phone Number: (202) 720-3215
Office Fax Number: (202) 720-3499
Donnar.McDonald@ams.usda.gov



1400 Independence Avenue, SW.
Room 3071-S, STOP 0201
Washington, DC 20250-0201

INFORMATIONAL MEMORANDUM FOR THE ACTING DEPUTY SECRETARY

THROUGH: Edward M. Avalos
Under Secretary
Marketing and Regulatory Programs

FROM: Elanor Starmer
Administrator
Agricultural Marketing Service

SUBJECT: Discontinuing Publication of the Georgia Department of Agriculture's "Georgia Dock" Poultry Market News Report

ISSUE:

The Agricultural Marketing Service (AMS) plans to discontinue an AMS Market News report based on the Georgia Dock report, a Georgia Department of Agriculture (GDA) poultry report, after discovering issues with the methodology behind the Georgia Dock report, including that the reported price of broilers and fryers (chicken) in the report could not be verified.

SUMMARY:

GDA collects and disseminates daily market information in a series of reports featuring Georgia processed poultry prices (Georgia Dock). AMS has been publishing a truncated version of the Georgia Dock report since 1993. AMS recently discovered that GDA does not and could not verify the information reported in its Georgia Dock report. AMS attempted to work with GDA officials on the methodology and a report that reflects verifiable market prices, but GDA decided to continue publishing the Georgia Dock report without change. As a result, AMS plans to discontinue an AMS Market News report based upon the Georgia Dock report and will begin issuing a new report using reporting methods consistent with AMS confidentiality guidelines, with data verified by AMS Market News reporters.

DISCUSSION:

The GDA Poultry Market News Division collects and disseminates daily market information on Georgia poultry and poultry products in a series of reports featuring prices of broilers and fryers f.o.b. (free on board) dock (i.e., processed poultry prices offered by Georgia processors to buyers). These reports include the *Georgia Dock Quoted Poultry Prices* report issued by GDA every Wednesday and the corresponding *Georgia Preliminary Weighted Average Poultry Prices*

INFORMATIONAL MEMORANDUM FOR THE ACTING DEPUTY SECRETARY

Page 2

report issued every Friday and *Georgia Final Weighted Average Poultry Prices* report issued every Monday. This series of reports was initiated about 40 years ago, covers prices and volumes for small birds weighing 2.5-3.0 pounds, and is the only poultry market information report issued by GDA.

Through its Federal-State Cooperative Agreement with GDA, AMS has issued a truncated version of the Georgia Dock report since 1993, the *Georgia F.O.B Dock Broiler/Fryers Price* report. On each of these reports issued three times a week on its Web site, AMS includes a disclosure which states, "This information is supplied by the Georgia Department of Agriculture's Poultry Market News Service."

In January 2016, the Georgia Dock report came under public scrutiny after a *Wall Street Journal* article noted prices reported on the Georgia Dock report are consistently higher than poultry prices reported on two other reports (unidentified in the article) and raised the possibility of market manipulation. Around the time of this article, an individual approached the U.S. Department of Justice (DOJ) about the report and, in turn, a member of DOJ reached out to AMS for background information about this report.

Then on July 7, DOJ requested a meeting with AMS where they shared the work they had done since January looking into the issue and shared that they had concerns with the report. At that meeting, AMS agreed to look into the matter.

During the week of July 18, 2016, three members of the AMS Livestock, Poultry, and Seed Program met with Dr. James Sutton, GDA's Director of Operations; and Dr. Robert Cobb, GDA's Division Director of Animal Industry. They also worked with GDA personnel to review reporting procedures concerning the Georgia Dock report. After observing GDA market reporters collect the information from processors, AMS found that GDA was unable to verify the information reported on its Georgia Dock report.

AMS observed that GDA collects volume and price information from the processors for poultry weighing 2.5-3.0 pounds. Small chickens weighing 2.5-3.0 pounds do not make up the majority of current poultry markets, are in very tight supply, and are generally marketed through forward contracts. When actual prices are not available for this smaller size bird, processors estimate equivalent prices. Each week, processors submit summaries to GDA of their forward contract business, which GDA then uses to create its Georgia Dock report. GDA does not have any method in place to verify the data it receives for this report.

AMS also observed that there are not enough daily trade data available for poultry weighing 2.5-3.0 pounds and recommended that GDA issue a weekly comprehensive report instead. AMS assisted GDA in creating a new collection worksheet and a new report format to include negotiated spot market prices covering all poultry sizes and grades. AMS believes the prices reported on this report will better reflect eastern region prices as reported on its *USDA Weekly National Whole Broiler/Fryer* report due to the adoption of standardized reporting

INFORMATIONAL MEMORANDUM FOR THE ACTING DEPUTY SECRETARY

Page 3

methodologies (i.e., all poultry is aggregated regardless of weight or grade). This method will allow the report to meet AMS confidentiality guidelines, enabling data to be verified. GDA initially agreed to these changes.

Accordingly, on July 22, 2016, AMS announced via the header of its *Georgia F.O.B Dock Broiler/Fryers Price* report that GDA will be issuing a new weekly report to replace the current report issued on the AMS Web site. However, then on July 25, 2016, GDA informed AMS of its decision to continue publishing its Georgia Dock report, unchanged, on the GDA Web site because of concerns raised by the poultry processors who contribute data to the current report.

Due to the inability of GDA to verify the Georgia Dock report information, AMS will discontinue publishing its *Georgia F.O.B Dock Broiler/Fryers Price* report on the AMS Web site. However, AMS will develop a separate, new weekly report covering the same regional market as discussed above and publish this new report on the AMS Web site. AMS will draft a Notice to the Trade describing this new report and the discontinuation of the AMS dissemination of the GDA-derived report.

From: [Starmer, Elanor - AMS](#)
To: [Morris, Craig - AMS](#)
Cc: [Richmond, William - AMS](#)
Subject: RE: Update on Georgia Dock
Date: Monday, July 18, 2016 1:42:07 PM

Sounds like a great start. Thanks for keeping us informed.

Elanor

Elanor Starmer
Administrator
Agricultural Marketing Service
U.S. Department of Agriculture
202-720-5115
elanor.starmer@ams.usda.gov

From: Morris, Craig - AMS
Sent: Monday, July 18, 2016 12:11 PM
To: Starmer, Elanor - AMS
Cc: Richmond, William - AMS
Subject: FW: Update on Georgia Dock

Just a status report. I hope to know more this week about what the issues may be and a timeline moving forward.

From: Lynch, Michael - AMS
Sent: Monday, July 18, 2016 8:39 AM
To: Morris, Craig - AMS <Craig.Morris@ams.usda.gov>
Cc: Snyder, Angie - AMS <Angie.Snyder@ams.usda.gov>; Flores, Elizabeth R - AMS <ElizabethR.Flores@ams.usda.gov>; Bernau, Jim - AMS <Jim.Bernau@ams.usda.gov>
Subject: Update on Georgia Dock

Craig-

Taylor Cox, Jason Karwal, and Annie Terry held a conference call with the Georgia Department of Agriculture (GDA) staff on Friday. The GDA staff included Deputy Commissioners Dr. Cobb and Dr. Sutton, Market News reporting supervisor Dan Duncan, and the market reporter, Arty Schronce. Taylor stressed that restoring the integrity of the Georgia Dock report is a high priority, and we need to start immediately on this. They worked out the game plan below for this week:

(b) (5)



(b) (5)



Mike

Mike Lynch

Director

AMS Livestock, Poultry, and Grain Market News

1400 Independence Ave, SW, Room 2619-S

Washington, DC 20250

Office: 202-720-4846

Mobile: (b) (6)

Michael.Lynch@ams.usda.gov



From: [Starmer, Elanor - AMS](#)
To: [Morris, Craig - AMS](#)
Subject: RE: Update on Georgia Dock
Date: Wednesday, August 03, 2016 12:45:55 PM

Excellent. Thanks!

From: Morris, Craig - AMS
Sent: Wednesday, August 03, 2016 12:44 PM
To: Starmer, Elanor - AMS
Subject: Fwd: Update on Georgia Dock

Status.

Sent from my iPhone

Begin forwarded message:

From: "Lynch, Michael - AMS" <Michael.Lynch@ams.usda.gov>
Date: August 3, 2016 at 12:38:01 PM EDT
To: "Morris, Craig - AMS" <Craig.Morris@ams.usda.gov>, "Snyder, Angie - AMS" <Angie.Snyder@ams.usda.gov>
Cc: "Bernau, Jim - AMS" <Jim.Bernau@ams.usda.gov>
Subject: Update on Georgia Dock

Craig and Angie-

I spoke with Dr. Cobb this morning. He said they (GDA) understand the issue of having the processors create a number to represent a 2.5# base equivalent that is reported to Market News, which is then used to formulate off of by the same processors. He informed me that the Commissioner has tasked some members of his staff to immediately begin working to come up with some options to correct this scenario. However, he did not have a timeline other than to say the work was to begin immediately.

(b) (5)

He seemed to welcome the idea and said they would appreciate our help with developing the alternative to current methodology. I offered any technical help our LPGMN staff can provide to assist them with this process.

I specifically asked him whether GDA has any issues or expects any issues with AMS ceasing the publishing the Georgia Dock report. I told him that we plan to replace the report with a redirect message to their site. He said they do not have any issues with that. Dr. Cobb believes the majority of users get the report from GDA. When GDA posts the report on their web site, the report is also simultaneously disseminated to

their Listserv subscribers, which would include their stakeholders.

Dr. Cobb and I plan to keep in close contact by email and telephone as we work to resolve the issue.

Mike Lynch

Director

AMS Livestock, Poultry, and Grain Market News

1400 Independence Ave, SW, Room 2619-S

Washington, DC 20250

Office: 202-720-4846

Mobile: (b) (6)

Michael.Lynch@ams.usda.gov



From: [Stewart, Dana - AMS](#)
To: [Richmond, William - AMS](#)
Cc: [Walker, Natosha - AMS](#); [Taylor, Jameelah - AMS](#)
Subject: AMS Hot Issues Report
Date: Thursday, July 28, 2016 11:19:55 AM
Attachments: [2016-07-29 AMS Hot Issues.docx](#)

From: [Stewart, Dana - AMS](#)
To: [Allen, William - AMS](#); [Betts, Marlene - AMS](#); [Bowden, David - AMS](#); [Coale, Dana - AMS](#); [Dock, Yvonne - AMS](#); [Eckhouse, Sara - OSEC](#); [Flores, Elizabeth R - AMS](#); [Jones, Samuel - AMS](#); [Keeler, Douglas - AMS](#); [Ladd, Jessica - AMS](#); [McEvoy, Miles - AMS](#); [Morris, Craig - AMS](#); [Morris, Erin - AMS](#); [Neal, Arthur - AMS](#); [Nelson, Kristen - AMS](#); [Parrott, Charles - AMS](#); [Richmond, William - AMS](#); [Smith, Catherine - AMS](#); [Spriggs, Kimberly - AMS](#); [Stahl, Dana - AMS](#); [Stanziani, Pamela - AMS](#); [Stewart, Dana - AMS](#); [Summers, Bruce - AMS](#); [Trykowski, David - AMS](#); [Tucker, Jennifer - AMS](#); [Tuckwiller, David - AMS](#); [Turpin, Jennifer - AMS](#); [Ulibarri, Ronald - AMS](#); [Unkenholz, Becky - AMS](#); [Woods, Frank - AMS](#)
Subject: AMS Hot Issues Report
Date: Friday, July 29, 2016 11:48:56 AM
Attachments: [2016-07-29 AMS Hot Issues.docx](#)

Greetings. Here is this week's report. Your updates to me and BILL RICHMOND by next Thursday, noon, please.

Dana

AMS Weekly Hot Issues
Week Ending July 29, 2016

Issue: Labeling of Bioengineered Food

On June 23, U.S. Senate agriculture leadership announced a Bill to require mandatory labeling of food products containing genetically modified ingredients. Food companies would have several options on ways to alert consumers of GMO ingredients. If enacted, AMS will be the USDA Agency responsible for implementation of the labeling requirements. The Bill cleared the Senate on July 7 and the House on July 14. The bill is at the White House and expected to be signed by the President soon. A USDA working group has been established to help facilitate the rulemaking process once the Bill is signed. On July 28, 2016, AMS held a brown bag lunch to inform AMS staff of the expected process.

Next Steps: AMS is working to understand the requirements of the Bill, establish funding for staffing and study requirements and analyze potential interactions with existing AMS programs.

Issue: Georgia Department of Agriculture Poultry Market News Report (Georgia Dock)

On July 20, 2016, AMS discovered that a price report issued by the Georgia Department of Agriculture (GDA) for processed poultry prices (Georgia Dock) was not being properly verified. The price information in the report has been included in an AMS issued market news report since 1993. This week, AMS attempted to work with GDA officials to refine the methodology of the report so it reflects verifiable market prices, but GDA decided to continue publishing the Georgia Dock report without change. As a result, AMS plans to discontinue the AMS Market News report based upon the Georgia Dock report and issue a new report using reporting methods consistent with AMS confidentiality guidelines, with data verified by AMS Market News reporters.

Next Steps: AMS will discontinue issuing the AMS Market News report based on the unverified GDA poultry market report. AMS will continue to talk with GDA about issuing a new report consistent with AMS Market News reporting methodologies and confidentiality guidelines.

Issue: U.S. District Court Decision on Resolute Forest Products, Inc.

On April 15, 2015, Resolute Forest Products filed a motion for summary judgment claiming that the Softwood Lumber Research and Promotion Order is unconstitutional. USDA has been involved in ongoing deliberation since the initial filing. On May 17, 2016, the U.S. District Court found that USDA's Softwood Lumber Order was unlawful as promulgated. At a June 1, 2016, hearing held to discuss remedies, the court ordered: (1) USDA and the Softwood Lumber Board are prohibited from collecting further assessments from Resolute under the current Order; (2) USDA and the Board must maintain a balance of funds of not less than \$1.1 million under the current Order; and, (3) USDA and Department of Justice (DOJ) shall file a brief supporting USDA's position that the \$1.1 million is assessments paid by Resolute should not be refunded in its entirety. A brief developed by AMS and DOJ for the court was filed on June 30, 2016. Resolute filed its response on July 20, 2016; USDA/DOJ's reply is due by August 10, 2016. On June 30, 2016, AMS posted external Q&As about the case per the industry's request. AMS published a notice on July 20, 2016, notifying industry that a continuance referendum originally scheduled for August 2016 will not be held. On July 13, 2016, AMS met with the Office of the

Chief Economist (OCE) to discuss analyses necessary for upcoming rulemaking on the de minimis provisions of the order.

Next Steps: AMS will continue to work with the OCE to determine the appropriate de minimis exemption threshold for softwood lumber. Upon Departmental clearance, AMS will publish an interim final rule suspending order language on the continuance referendum.

Issue: R-CALF USA v. USDA/Vilsack

On May 2, 2016, R-CALF USA filed suit in Federal District Court in Montana against Secretary Vilsack arguing that the Beef Checkoff Program should be promoting only U.S. beef. The complaint argues that the Checkoff Program denies R-CALF USA members in Montana their First Amendment rights since they are required to pay into the Montana chapter of the Checkoff program without a say in the marketing strategy. AMS will soon issue a rule regarding the redirection of beef Checkoff funds so producers have the option of directing their full assessment under the Beef Checkoff go entirely to the National Board. According to R-CALF's legal challenge, the activities of the National Board are considered constitutionally sound by the Supreme Court, while the activities of the State Beef Councils are not. Thus, by giving producers the option to direct their monies to the National Board, R-CALF's purported violations of First Amendment rights should be addressed. On June 7, AMS asked if the Montana Beef Council would comply if a producer requested that they redirect assessments to the Cattlemen's Beef Board. The Montana Beef Council responded that any redirection request, accompanied by appropriate and timely documentation, would be considered independently and that all state and Federal laws would be considered when making board decisions. The redirection rule was published on July 15, 2016, with a 60-day comment period that closes on September 13, 2016.

Next Steps: AMS is in discussions with OGC and DOJ regarding the lawsuit.

Issue: Mosquito/Zika Virus Control in Puerto Rico

AMS continues to coordinate with the Center for Disease Control (CDC) regarding potential pesticide application in Puerto Rico in efforts to mitigate the spread of Zika virus. (b) (5)

AMS relayed to the CDC that any organic produce sprayed with certain pesticides cannot be labeled as organic. The long-term certification of an organic farm would not be impacted. AMS is also researching the potential to utilize Section 32 funds to help reimburse organic farmers for reductions in income stemming from loss of organic certification.

Next Steps: AMS continues to discuss with leadership and other USDA agencies to plan for potential large scale emergency spraying efforts throughout the mainland U.S.

Additional Pending Issues

- Marketing Order for Pecans
 - The Final Rule cleared the Office of the General Counsel on July 18, 2016 and is in Departmental clearance. Once the final rule is published in the Federal Register, AMS will begin the process of collecting nominations for the administrative council.
- Notice Seeking Comments on U.S. Standards for Grades of Catfish and Catfish Products

- On July 14, 2016, AMS published a Notice in the Federal Register seeking comments, data, research, and other information to help the Agency carry out the 2014 Farm Bill mandate to establish a voluntary fee-based grading program for catfish and catfish products. AMS is coordinating with the Department of Commerce's National Marine Fisheries Service (NMFS), which has a program for quality evaluation of product, grading, and certification of fish (including catfish), shellfish, and fish products. The comment period ends September 12, 2016.
- Issue: (b) (6) Suspended from Export Verification Programs
 - On January 5 and 13, 2016, Chicago Meat Authority (CMA) sent non-conforming product produced from both Canadian cattle imported for direct slaughter and over 30 month cattle, to Korea. The product was accepted by Korea and was consumed. This was discovered during an audit completed on April 26, 2016. CMA buys product from (b) (6) with the intent to export that product to Korea, and the company requested revised shipping documentation after product was delivered without the proper statements on December 21, 2015. On December 22, 2015, (b) (6) supplied amended paperwork to CMA. AMS discovered that (b) (6) personnel applied the QSA statement to the shipping documentation without confirming the products were eligible for Korea. On April 26, AMS notified the company, as well as FSIS and FAS, of the suspension. Per protocol agreements, AMS notified Japan and Korea of the shipping violations. Corrective actions are required by the facility, and an onsite audit is required before the plant can be re-approved. In addition, AMS must receive confirmation from the respective foreign governments before we can relist the plant as approved for these programs. AMS reviewed the audits, which were completed during the week of May 23. AMS held a meeting with (b) (6) officials on June 2, 2016, to review the results of our for-cause audits and provided notification that (b) (6) would be required to undergo quarterly audits for at least the next year, including at their corporate location. Initial corrective actions were received and reviewed. From follow-up discussions with (b) (6) officials on July 5, 2016, AMS expects additional corrective actions to be submitted for review within the next several weeks.
- Idaho/Eastern Oregon Potato Committee Potential Theft of Funds
 - On July 22, 2016, AMS's Compliance and Analysis Program released its report and recommendations after conducting a site visit with the Committee on June 6, 2016. The report includes six recommendations, (b) (5)
 - On April 5, the Idaho/Eastern Oregon Potato Committee manager informed AMS that a Committee employee allegedly forged checks and manipulated bank statements. The Committee hired an independent forensic accountant, whose final report confirmed the theft of funds. AMS confirmed that the Committee maintained the required fidelity bond that insures the funds against loss. The overall loss is estimated to be \$15,000, which includes the cost of hiring the forensic accountant.
 - The Idaho Falls Police Department completed its investigation of the theft; the case is pending prosecution.
- Fowl Meat to Canada
 - Domestic fowl processors and the USA Poultry and Egg Export Council (USAPEEC) have expressed concern to FSIS, FAS, and AMS about possible fraudulent export certificates accompanying shipments of fowl meat into Canada. USAPEEC will likely

continue to raise the issue with officials within USDA and the Office of the U.S. Trade Representative. FAS is engaging with Canada on this issue and discussing increased enforcement. Canada has not formally reported this issue to the U.S. government, but it was a topic of discussion at the British Columbia Poultry Conference in Vancouver in March. During the USAPEEC Annual Meeting on June 13-16, AMS presented an update on the current voluntary export fowl meat certification program and discussed future actions should Canada pursue a mandatory verification (Export Verification) program for fowl meat from the United States.

- Cornucopia Institute v. USDA/Secretary Vilsack
 - On April 19, the Cornucopia Institute filed a complaint with the U.S. District Court for the Western District of Wisconsin on behalf of two organic producers. The complaint charges that USDA violated the Organic Foods Production Act (OFPA) in appointing members to the NOSB who did not meet OFPA qualifications. AMS held an initial call with DOJ on May 27 to discuss the case.
- National Organic Program Freedom of Information Act (FOIA) Lawsuits.
 - The Cornucopia Institute filed seven lawsuits over AMS handling of FOIA requests related to National Organic Program records. AMS is evaluating resource requirements to address these lawsuits and currently open FOIA requests and will continue to coordinate with General Law on case-specific actions.
- OIG Audit: “National Organic Program – International Trade Arrangements and Agreements”
 - On March 17, AMS and OIG conducted a meeting to initiate OIG’s audit of NOP’s processes for international agreements supporting organic trade. OIG has initiated its interviews and document reviews with AMS.
- Petition to Revise US Beef Standards to Allow Alternate Means of Age Determination in Carcass Beef
 - AMS received the petition on April 13. The Agency gathered grading information and data, conducted economic analyses to determine possible impacts on various stakeholders. AMS sent a decision memo to the Secretary that contains the results of the economic evaluation along with a recommendation to publish a Notice in the Federal Register seeking public comments on the changes proposed in the petition.
 - AMS drafted a Notice for the Federal Register seeking comments on the dentition proposal, which was sent to OGC on July 13, 2016, and is developing a communications plan to be implemented in coordination with publication of the Notice.
- Beef Exports to Saudi Arabia
 - On June 29, 2016, USTR received notice from Saudi Arabia that the decree lifting the ban on U.S. beef has been signed. The lifting of the ban was a precursory move toward implementing an export program.
 - On July 1, 2016, USDA and USTR issued a joint statement on the reopening of the Saudi Arabian market to U.S. beef. AMS has developed an Export Verification program that will verify companies are meeting Saudi Arabia’s requirements. AMS held a conference call with FSIS on July 18 to refine the program details. On July 22, 2012, FSIS updated the Export Library and AMS announced the EV requirements to the trade and industry. AMS is awaiting applications from industry to participate in the Saudi Arabia program.
- Sun-Maid Growers of California Filing Suit Against USDA

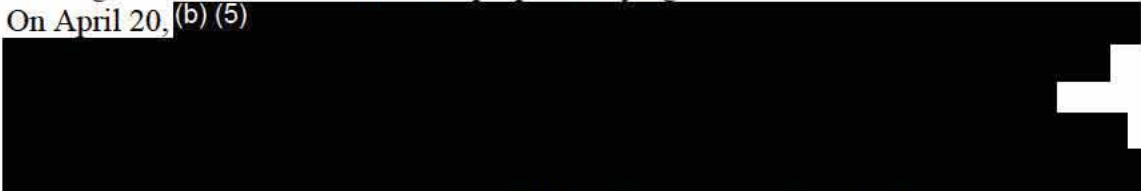
- On April 6, 2015, Sun-Maid Growers of California filed a lawsuit in Federal District Court of Washington, DC, seeking to overturn the Secretary's denial of the company's November 17, 2014, petition for proposed amendments and hearings on terminating volume control authority from the raisin marketing order.
- On August 28, 2015, DOJ filed a Motion to Dismiss Sun-Maid's suit against USDA. The April 23, 2016, hearing on the motion to dismiss was cancelled because of the May 3-4 rulemaking hearing on removing raisin reserve authority from the Federal marketing order for raisins. AMS will draft a Recommended Decision once the hearing record is certified and interested parties are provided the opportunity to file briefs.
- Raisin Compensation Lawsuits
 - USDA received three claims for compensation from Lion Farms, LLC, Bruce Ciapessoni et al., and Boyajian et al. in the U.S. Court of Federal Claims. DOJ filed responses for the first two cases, and OGC has placed a litigation hold on all documents related to the raisin marketing order. In early December 2015, USDA's motions to consolidate the Lion Farms and Ciapessoni cases were denied. Boyajian et al. filed suit on December 28, 2015. DOJ filed motions to dismiss the three cases, concluding with a February 26, 2016 motion to dismiss the Boyajian et al case.
 - On May 2, 2016, the three plaintiffs filed motions in opposition to USDA's motions to dismiss, asking the court to either dismiss the USDA motions or to grant summary judgment based on current facts. AMS has until August 5, 2016, to file reply briefs to these motions.
- Center for Food Safety, et al. v. Vilsack, et al/Green Waste
 - On October 30, 2015, the Center for Food Safety filed an Amended Complaint related to the Sunset Notice litigation. The amended complaint adds new allegations regarding the renewal of Aqueous Potassium Silicate, appends the declarations from prior briefing, and adds a new Exhibit B showing vote counts on 2017 sunset substance renewals. On December 10, 2015, DOJ filed a Motion to Dismiss the amended complaint. The hearing on the Motion to Dismiss scheduled for February 18, 2016 in San Francisco, California was cancelled by the judge, who is taking the motion under submission for decision.
 - A second complaint, filed on April 14, 2015, relates to Guidance Document – NOP 5016 (Allowance of Green Waste in Organic Production Systems). On June 20, 2016, the U.S. District Court Judge for the Northern District of California ruled that NOP 5016 should be vacated by August 22, 2016. AMS developed a work plan for a proposed rule to replace the guidance with a regulatory rule change, with the opportunity for public comment. The work plan will be submitted to OMB for review by the week of July 18. A Notice to Trade will be prepared to communicate with industry about next steps.
- ISO Technical Specification on Animal Welfare for Food Animals
 - AMS chairs U.S. representation to the International Organization for Standardization's (ISO) Technical Committee 34 (TC34)/Working Group 16 (WG), a group of experts in the field of animal welfare assembled to develop industry consensus on technical specification (TS) for food producing animals. On February 8, 2016, the TS was sent for a vote through a three month ballot process. The results of the vote were positive, and AMS notified the U.S. Technical Advisory Group to discuss the next steps in the process. AMS will attend the ISO TC34 plenary meeting in Paris, France, on July 7-8. AMS, as part of the smaller drafting group, is reviewing the comments provided during the vote. The WG will meet in Paris in September to finalize the TS, incorporating edits based on

the comments. Once finalized, the intent is to have the TS published by December 1, in time for it to be announced at the next OIE Global Conference on Animal Welfare in December 2016.

- Livestock Mandatory Reporting (LMR)
- On September 30, 2015, the Agriculture Reauthorizations Act of 2015 reauthorized the LMR program for an additional 5 years, and directed the Secretary of Agriculture to amend the LMR lamb reporting requirements by redefining terms within the Code of Federal Regulations not later than 180 days after enactment. To address these changes, AMS published a direct final rule that went into effect on May 31, 2016. AMS provided technical guidance to help lamb packers and importers affected by the direct final rule and began receiving files in mid-June. The Reauthorizations Act also directed AMS to amend the LMR swine reporting requirements, which was handled through a proposed rule that also included some specific lamb reporting revisions requested by the lamb industry. The comment period closed on April 29, 2016. (b) (5)

[REDACTED] The final rule is in clearance.

- USDA PVP Program for Non-GE/GMO Marketing Claims
 - AMS is in the final steps of approving Ozark Mountain Poultry's Process Verified Program (PVP) covering the following claims: Raised with Non-GE/Non-GMO Grains; Raised With No Antibiotics Ever; Never Fed Animal By-Products. This will be the first USDA PVP approved covering animal products with non-GE/GMO feed claims. AMS also is in the final stages of approving Del Monte Foods' PVP for a marketing claim for non-GE sweet corn. Del Monte's product is produced from identity-preserved non-GE seed, similar to the process point approved for SunOpta in 2015. Both companies plan to use the USDA PVP shield on their products, with process points listed in close proximity. Both companies were approved and listed on the AMS PVP Web listings on July 19, 2016.
- Burnette Foods Inc. v. USDA Case Related to the Federal Marketing Order for Tart Cherries
 - On July 25, 2016, the District Court Judge rescheduled the hearing from July 27 to August 11, 2016. Following the oral arguments, a decision will most likely occur within several months. USDA and DOJ will have 14 days to file a response to any claims not dismissed during this proceeding.
 - On December 21, 2015, Judicial Officer (JO) William Jenson confirmed his ruling in USDA's favor on all of the issues raised in Burnette Foods, Inc.'s petition challenging the tart cherry marketing order, denying Burnette's administrative 15a filing. On January 11, 2016, Burnette appealed the 15a decision by filing suit in Federal District Court. In his complaint, Burnette seeks a declaratory judgment to overturn the JO's order recognizing that tart cherry canners are separately situated from other segments of the tart cherry industry as being arbitrary and capricious. Mr. Burnette contends the Cherry Industry Administrative Board is improperly structured and that the tart cherry marketing order is unconstitutional because it ignores imported cherries, does not apply to all states, and places a season-to-season reserve requirement on products with short shelf life.
 - OGC issued a litigation hold on all Burnette related tart cherry documents and e-mails.
- PCRM Litigation - FOIA Request for Beef and Dairy Checkoff Documents

- AMS is working with OGC and DOJ to respond to the allegations of improper processing of FOIA requests and appeals. The FOIA suit was filed against USDA by the Physician's Committee for Responsible Medicine on April 12, 2013.
- PCRM Litigation – PCRM v USDA and HHS On January 6, 2016, PCRM filed a lawsuit in Federal Court in the Northern District of California, against USDA and the Department of Health and Human Services alleging that the government had allowed the food industry and financial inducements to dictate the Dietary Guidelines Advisory Committee's (DGAC) new recommendations on cholesterol. PCRM is requesting injunctive relief in the suit preventing Defendants from relying on DGAC recommendations. AMS is helping OGC with preliminary litigation matters.
- Humane Society of the United States (HSUS) vs. Vilsack
 - In September 2012, HSUS filed suit in the Federal District Court of the District of Columbia against the Secretary under the Administrative Procedure Act (APA) challenging the approval of the National Pork Board's purchase of four trademarks including the "Pork. The Other White Meat" (PTOWM) slogan from the National Pork Producers Council (NPPC). On August 14, 2015, HSUS won its appeal for standing.
 - On December 23, 2015, DOJ and HSUS filed a joint stipulation agreeing to a partial settlement regarding the purchase of the PTOWM brand and trademarks, and a stay of the litigation until May 2, 2016. On December 24, AMS approved the Board's 2016 budget while holding in abeyance the \$3 million payment to NPPC until June 30, 2016.
 - As part of the settlement, USDA agreed to review the contract between the Board and NPPC for the purchase of PTOWM by May 1, 2016. On January 4, the Board issued a Request for Proposals from trademark valuation firms to provide independent current valuations of PTOWM.
 - On April 8, HSUS sent a letter to the Secretary expressing concerns about the Board's advisement urging the Secretary to defend the case. HSUS has requested that USDA investigate whether it constituted improper lobbying.
 - On April 20, (b) (5)  NPB had 30 days from April 20 to provide a full accounting of all pork checkoff funds related to the Delegate Body action and subsequent NPB actions and reimburse those funds from non-checkoff sources. NPB submitted the accounting to AMS for review. OGC suggested that the COO, NPB officers, and any other critical staff attend a remedial training on the proper use of pork checkoff funds. AMS and OGC conducted this training on June 6, 2016, in Des Moines, IA. DOJ and OGC are working with the Plaintiffs on a proposed schedule.
 - On May 5, 2016, the U.S. District Court for the District of Columbia granted the NPPC's request to intervene in the lawsuit.
 - On July 27, 2016, AMS, OGC, and DOJ representatives met to review materials available to supplement the administrative record that have been exchanged with the parties.
- USDA Certified Transitional Program
 - AMS is reviewing the Organic Trade Association's Transitional Certification standard, which was submitted on May 20. The standard will allow AMS to approve Accredited

Certifying Agents (ACAs) to verify processes and practices used by producers during the 3-year transition period required by the National Organic Program regulations when moving from conventional to organic production. On June 7, AMS teleconferenced with the Organic Trade Association to discuss some of the concerns the National Organic Program (NOP) has with the standard. AMS submitted an information paper to the OSEC on June 13.

- Hearing Proposal for Oregon and Washington Hazelnut Marketing Order.
 - On May 16, 2016, the Hazelnut Marketing Board submitted a request for a formal rulemaking hearing to add quality control provisions to the Federal Marketing Order for Hazelnuts Grown in Oregon and Washington. The proposed amendment would allow the Board to implement quality control regulations, namely pasteurization, to reduce the prevalence of pathogens in hazelnuts. Following a hearing, the Board would propose specific procedures to be considered through informal rulemaking.
 - AMS has tentatively identified a date and location for the formal rulemaking hearings in mid- to late-October in the production area. Once the date and location are confirmed, AMS will draft a Notice of Hearing for agency clearance and publication in the Federal Register.
- Request from National Sunflower Association to Revise Sunflower Butter Specifications
 - On June 13, AMS received a request from the National Sunflower Association (NSA) to revise the procurement specifications for sunflower butter to minimize exposure to allergens. According to the NSA, USDA procurement specifications for sunflower butter should be revised to explicitly prohibit the processing of sunflower butter in facilities that also process peanuts and/or tree nuts. Currently, USDA requires that sunflower butter processing equipment be free of allergens and that sunflower seed butter be certified to be allergen free. According to the NSA, protein-based allergens are smaller than bacteria and cannot be destroyed with thermal sanitization techniques. A conference call with NSA was held on June 23 with the NSA, AMS and FNS personnel. AMS met with the NSA on July 14, 2016, and is further researching the allergen claims.

From: [Richmond, William - AMS](#)
To: [Howard, David- OSEC](#); [Holliday, Jayme - OSEC](#)
Cc: [Starmer, Elanor - AMS](#); [Morris, Erin - AMS](#); [Comfort, Karen - AMS](#); [Summers, Bruce - AMS](#); [Walker, Natosha - AMS](#); [Taylor, Jameelah - AMS](#); [Coale, Dana - AMS](#); [Bailey, Shayla - AMS](#); [Cordova, Elvis - OSEC](#); [Thomas, Ben - OSEC](#); [Allen, William - AMS](#); [Stewart, Dana - AMS](#); [Tucker, Jennifer - AMS](#); [Flores, Elizabeth R - AMS](#); [Unkenholz, Becky - AMS](#); [Mann, Renee - AMS](#)
Subject: AMS Hot Issues Report, Week Ending August 5, 2016
Date: Friday, August 05, 2016 12:42:24 PM
Attachments: [2016-08-05 AMS Hot Issues.docx](#)

David and Jayme,

The AMS Hot Issues Report for the week ending August 5, 2016, is attached.

Please drop a line with questions and have a great weekend.

Bill

Bill Richmond

USDA, Agricultural Marketing Service
Chief of Staff
202-260-8019

AMS Weekly Hot Issues
Week Ending August 5, 2016

Issue: Labeling of Bioengineered Food

On June 23, U.S. Senate agriculture leadership announced a Bill to require mandatory labeling of food products containing genetically modified ingredients. Food companies would have several options on ways to alert consumers of GMO ingredients. The Bill cleared the Senate on July 7 and the House on July 14, and was signed into law by the President on July 29, 2016. AMS is the USDA Agency responsible for implementation of the labeling requirements. AMS has introduced the new law on its website and provided an opportunity for the public to provide comments and ask questions on the new law via phone and email.

Next Steps: AMS is working to understand the requirements of the new law, establish funding for staffing and study requirements, analyze potential interactions with existing AMS programs, and start the regulatory process to publish an advanced notice of public rulemaking in the *Federal Register*.

Issue: Congressional Request for Dairy Price Relief

On July 28, sixty-one U.S. Congress members submitted a letter to the Secretary requesting USDA assistance for dairy farmers in addressing depressed milk and dairy product prices. The signatories cited increased U.S. and international production, challenges in export markets, and poor domestic and international economic growth projections as underlying causes for depressed dairy farm prices, which are sometimes below the cost of production. USDA has been asked to consider ways to address the current situation and help expand and maintain domestic markets without stimulating further overproduction, potentially utilizing Section 32 funding.

Next Steps: AMS is analyzing considering potential options for response and action in coordination with the Farm Service Agency.

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Next Steps: AMS will continue to work with the OCE to determine the appropriate de minimis exemption threshold for softwood lumber. Upon Departmental clearance, AMS will publish an interim final rule suspending order language on the continuance referendum.

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Next Steps: AMS is in discussions with OGC and DOJ regarding the lawsuit and DOJ filed a motion to dismiss the case on August 4, 2016.

Additional Pending Issues

- Marketing Order for Pecans
 - The Final Rule was published in the Federal Register on August 4, 2016. AMS will soon begin the process of collecting nominations for the administrative council. On September 1, 2016, AMS will attend the National Pecan Shellers Association conference in Chicago, IL where AMS employees will be available to answer questions regarding the new marketing order.
- Notice Seeking Comments on U.S. Standards for Grades of Catfish and Catfish Products
 - On July 14, 2016, AMS published a Notice in the Federal Register seeking comments, data, research, and other information to help the Agency carry out the 2014 Farm Bill mandate to establish a voluntary fee-based grading program for catfish and catfish products. AMS is coordinating with the Department of Commerce's National Marine Fisheries Service (NMFS), which has a program for quality evaluation of product, grading, and certification of fish (including catfish), shellfish, and fish products. The comment period ends September 12, 2016. As of August 1, there has been one comment received on the Notice.
- (b) (6) Suspended from Export Verification Programs
 - On January 5 and 13, 2016, Chicago Meat Authority (CMA) sent non-conforming product supplied by (b) (6) to Korea, which was accepted by Korea and consumed. This was discovered during an AMS audit completed on April 26, 2016. It was found that CMA requested revised shipping documentation after product was delivered without the proper statements and that (b) (6) supplied amended paperwork to CMA applying the QSA statement without confirming the products were eligible for Korea. On April 26, AMS notified the company of the suspension, as well as FSIS and FAS, and notified Japan and Korea per protocol agreements. Corrective actions and an onsite audit were required for the plant to be re-approved and confirmation from the respective foreign governments must be received before we can relist the plant as approved for these programs. Because of the concerns raised at (b) (6), however, AMS required all remaining (b) (6) facilities to undergo a for-cause audit.
 - For-cause audits were completed during the week of May 23, and AMS held a meeting with (b) (6) officials on June 2, 2016, to review the results and provided notification that (b) (6) would be required to undergo quarterly audits for at least the next year, including at their corporate location. Initial corrective actions were received and reviewed. AMS requested additional corrective actions from (b) (6) facilities from July 5th –July 29th when (b) (6) finished completing corrective actions and training.
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- Idaho/Eastern Oregon Potato Committee Potential Theft of Funds
 - On July 22, 2016, AMS's Compliance and Analysis Program released its report and recommendations after conducting a site visit with the Committee on June 6, 2016. The report includes six recommendations, (b) (5)
 - On April 5, the Idaho/Eastern Oregon Potato Committee manager informed AMS that a Committee employee allegedly forged checks and manipulated bank statements. The

- Committee hired an independent forensic accountant, whose final report confirmed the theft of funds. AMS confirmed that the Committee maintained the required fidelity bond that insures the funds against loss. The overall loss is estimated to be \$15,000, which includes the cost of hiring the forensic accountant.
- The Idaho Falls Police Department completed its investigation of the theft; the case is pending prosecution.
 - Fowl Meat to Canada
 - Domestic fowl processors and the USA Poultry and Egg Export Council (USAPEEC) have expressed concern to FSIS, FAS, and AMS about possible fraudulent export certificates accompanying shipments of fowl meat into Canada. USAPEEC will likely continue to raise the issue with officials within USDA and the Office of the U.S. Trade Representative. FAS is engaging with Canada on this issue and discussing increased enforcement. Canada has not formally reported this issue to the U.S. government, but it was a topic of discussion at the British Columbia Poultry Conference in Vancouver in March. During the USAPEEC Annual Meeting on June 13-16, AMS presented an update on the current voluntary export fowl meat certification program and discussed future actions should Canada pursue a mandatory verification (Export Verification) program for fowl meat from the United States.
 - Cornucopia Institute v. USDA/Secretary Vilsack
 - On April 19, the Cornucopia Institute filed a complaint with the U.S. District Court for the Western District of Wisconsin on behalf of two organic producers. The complaint charges that USDA violated the Organic Foods Production Act (OFPA) in appointing members to the NOSB who did not meet OFPA qualifications. AMS held an initial call with DOJ on May 27 to discuss the case.
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 - The Cornucopia Institute filed eight lawsuits over AMS handling of FOIA requests related to National Organic Program records. AMS is evaluating resource requirements to address these lawsuits and currently open FOIA requests and will continue to coordinate with General Law on case-specific actions.
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 - On March 17, AMS and OIG conducted a meeting to initiate OIG’s audit of NOP’s processes for international agreements supporting organic trade. . OIG is near completion of the compliance portion of the audit and is on schedule to finish fieldwork in September 2016. OIG will schedule a meeting with NOP to discuss audit findings and possible recommendations in the fall.
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 - AMS received the petition on April 13. The Agency gathered grading information and data, conducted economic analyses to determine possible impacts on various stakeholders. AMS sent a decision memo to the Secretary that contains the results of the economic evaluation along with a recommendation to publish a Notice in the Federal Register seeking public comments on the changes proposed in the petition.
 - The Notice has been cleared by OGC and the Agency is preparing the final draft as well as a communications plan for Departmental clearance.
 - Beef Exports to Saudi Arabia

- On June 29, 2016, USTR received notice from Saudi Arabia that the decree lifting the ban on U.S. beef has been signed. The lifting of the ban was a precursory move toward implementing an export program.
- On July 1, 2016, USDA and USTR issued a joint statement on the reopening of the Saudi Arabian market to U.S. beef. AMS has developed an Export Verification program that will verify companies are meeting Saudi Arabia's requirements. AMS held a conference call with FSIS on July 18 to refine the program details. On July 22, 2012, FSIS updated the Export Library and AMS announced the EV requirements to the trade and industry. AMS is awaiting applications from industry to participate in the Saudi Arabia program.
- On August 3, AMS hosted a conference call for the U.S. beef industry to discuss the requirements for beef exports to Saudi Arabia with interested parties.
- Sun-Maid Growers of California Filing Suit Against USDA
 - On April 6, 2015, Sun-Maid Growers of California filed a lawsuit in Federal District Court of Washington, DC, seeking to overturn the Secretary's denial of the company's November 17, 2014, petition for proposed amendments and hearings on terminating volume control authority from the raisin marketing order.
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work plan was submitted to OMB on August 1. AMS is currently working with OMB to respond to questions related to the significance of this rule. A Notice to Trade will be prepared to communicate with industry about next steps.

- ISO Technical Specification on Animal Welfare for Food Animals
 - AMS chairs U.S. representation to the International Organization for Standardization's (ISO) Technical Committee 34 (TC34)/Working Group 16 (WG), a group of experts in the field of animal welfare assembled to develop industry consensus on technical specification (TS) for food producing animals. On February 8, 2016, the TS was sent for a vote through a three month ballot process. The results of the vote were positive, and AMS notified the U.S. Technical Advisory Group to discuss the next steps in the process. AMS will attend the ISO TC34 plenary meeting in Paris, France, on July 7-8. AMS, as part of the smaller drafting group, is reviewing the comments provided during the vote. The WG will meet in Paris in September to finalize the TS, incorporating edits based on the comments. Once finalized, the intent is to have the TS published by December 1, in time for it to be announced at the next OIE Global Conference on Animal Welfare in December 2016.
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 - On September 30, 2015, the Agriculture Reauthorizations Act of 2015 reauthorized the LMR program for an additional 5 years, and directed the Secretary of Agriculture to amend the LMR lamb reporting requirements by redefining terms within the Code of Federal Regulations not later than 180 days after enactment. To address these changes, AMS published a direct final rule that went into effect on May 31, 2016. AMS provided technical guidance to help lamb packers and importers affected by the direct final rule and began receiving files in mid-June. The Reauthorizations Act also directed AMS to amend the LMR swine reporting requirements, which was handled through a proposed rule that also included some specific lamb reporting revisions requested by the lamb industry. The comment period closed on April 29, 2016. (b) (5)
 - [REDACTED]
 - [REDACTED] The final rule is in clearance.
- Burnette Foods Inc. v. USDA Case Related to the Federal Marketing Order for Tart Cherries
 - On July 25, 2016, the District Court Judge rescheduled the hearing from July 27 to August 11, 2016. Following the oral arguments, a decision will most likely occur within several months. USDA and DOJ will have 14 days to file a response to any claims not dismissed during this proceeding.
 - On December 21, 2015, Judicial Officer (JO) William Jenson confirmed his ruling in USDA's favor on all of the issues raised in Burnette Foods, Inc.'s petition challenging the tart cherry marketing order, denying Burnette's administrative 15a filing. On January 11, 2016, Burnette appealed the 15a decision by filing suit in Federal District Court. In his complaint, Burnette seeks a declaratory judgment to overturn the JO's order recognizing that tart cherry canners are separately situated from other segments of the tart cherry industry as being arbitrary and capricious. Mr. Burnette contends the Cherry Industry Administrative Board is improperly structured and that the tart cherry marketing order is unconstitutional because it ignores imported cherries, does not apply to all states, and places a season-to-season reserve requirement on products with short shelf life.
 - OGC issued a litigation hold on all Burnette related tart cherry documents and e-mails.

- PCRM Litigation - FOIA Request for Beef and Dairy Checkoff Documents
 - AMS is working with OGC and DOJ to respond to the allegations of improper processing of FOIA requests and appeals. The FOIA suit was filed against USDA by the Physician's Committee for Responsible Medicine on April 12, 2013.
 - PCRM Litigation – PCRM v USDA and HHS On January 6, 2016, PCRM filed a lawsuit in Federal Court in the Northern District of California, against USDA and the Department of Health and Human Services alleging that the government had allowed the food industry and financial inducements to dictate the Dietary Guidelines Advisory Committee's (DGAC) new recommendations on cholesterol. PCRM is requesting injunctive relief in the suit preventing Defendants from relying on DGAC recommendations. AMS is helping OGC with preliminary litigation matters.
- Humane Society of the United States (HSUS) vs. Vilsack
 - In September 2012, HSUS filed suit in the Federal District Court of the District of Columbia against the Secretary under the Administrative Procedure Act (APA) challenging the approval of the National Pork Board's purchase of four trademarks including the "Pork. The Other White Meat" (PTOWM) slogan from the National Pork Producers Council (NPPC). On August 14, 2015, HSUS won its appeal for standing.
 - On December 23, 2015, DOJ and HSUS filed a joint stipulation agreeing to a partial settlement regarding the purchase of the PTOWM brand and trademarks, and a stay of the litigation until May 2, 2016. On December 24, AMS approved the Board's 2016 budget while holding in abeyance the \$3 million payment to NPPC until June 30, 2016.
 - As part of the settlement, USDA agreed to review the contract between the Board and NPPC for the purchase of PTOWM by May 1, 2016. On January 4, the Board issued a Request for Proposals from trademark valuation firms to provide independent current valuations of PTOWM.
 - On April 8, HSUS sent a letter to the Secretary expressing concerns about the Board's advisement urging the Secretary to defend the case. HSUS has requested that USDA investigate whether it constituted improper lobbying.
 - On April 20, (b) (5)

NPB had 30 days from April 20 to provide a full accounting of all pork checkoff funds related to the Delegate Body action and subsequent NPB actions and reimburse those funds from non-checkoff sources. NPB submitted the accounting to AMS for review. OGC suggested that the COO, NPB officers, and any other critical staff attend a remedial training on the proper use of pork checkoff funds. AMS and OGC conducted this training on June 6, 2016, in Des Moines, IA. DOJ and OGC are working with the Plaintiffs on a proposed schedule.
 - On May 5, 2016, the U.S. District Court for the District of Columbia granted the NPPC's request to intervene in the lawsuit.
 - On July 27, 2016, AMS, OGC, and DOJ representatives met to review materials available to supplement the administrative record that have been exchanged with the parties.
- USDA Certified Transitional Program

- AMS is reviewing the Organic Trade Association's Transitional Certification standard, which was submitted on May 20. The standard will allow AMS to approve Accredited Certifying Agents (ACAs) to verify processes and practices used by producers during the 3-year transition period required by the National Organic Program regulations when moving from conventional to organic production. On June 7, AMS teleconferenced with the Organic Trade Association to discuss some of the concerns the National Organic Program (NOP) has with the standard. AMS submitted an information paper to the OSEC on June 13.
- Hearing Proposal for Oregon and Washington Hazelnut Marketing Order.
 - On May 16, 2016, the Hazelnut Marketing Board submitted a request for a formal rulemaking hearing to add quality control provisions to the Federal Marketing Order for Hazelnuts Grown in Oregon and Washington. The proposed amendment would allow the Board to implement quality control regulations, namely pasteurization, to reduce the prevalence of pathogens in hazelnuts. Following a hearing, the Board would propose specific procedures to be considered through informal rulemaking.
 - AMS has tentatively identified a date and location for the formal rulemaking hearings in mid- to late-October in the production area. Once the date and location are confirmed, AMS will draft a Notice of Hearing for agency clearance and publication in the Federal Register.
- Request from National Sunflower Association to Revise Sunflower Butter Specifications
 - On June 13, AMS received a request from the National Sunflower Association (NSA) to revise the procurement specifications for sunflower butter to minimize exposure to allergens. According to the NSA, USDA procurement specifications for sunflower butter should be revised to explicitly prohibit the processing of sunflower butter in facilities that also process peanuts and/or tree nuts. Currently, USDA requires that sunflower butter processing equipment be free of allergens and that sunflower seed butter be certified to be allergen free. According to the NSA, protein-based allergens are smaller than bacteria and cannot be destroyed with thermal sanitization techniques. A conference call with NSA was held on June 23 with the NSA, AMS and FNS personnel. AMS met with the NSA on July 14, 2016, and is further researching the allergen claims.

From: [Richmond, William - AMS](#)
To: [Howard, David- OSEC](#)
Cc: [Starmer, Elanor - AMS](#); [Morris, Erin - AMS](#); [Comfort, Karen - AMS](#); [Summers, Bruce - AMS](#); [Walker, Natosha - AMS](#); [Taylor, Jameelah - AMS](#); [Coale, Dana - AMS](#); [Bailey, Shayla - AMS](#); [Cordova, Elvis - OSEC](#); [Thomas, Ben - OSEC](#); [Allen, William - AMS](#); [Stewart, Dana - AMS](#); [Tucker, Jennifer - AMS](#); [Flores, Elizabeth R - AMS](#); [Unkenholz, Becky - AMS](#); [Mann, Renee - AMS](#)
Subject: AMS Hot Issues Report, Week Ending August 12, 2016
Date: Friday, August 12, 2016 12:48:43 PM
Attachments: [2016-8-12 AMS Hot Issues.docx](#)

David,

The AMS Hot Issues Report is attached. Please get in touch with questions.

Thank You

Bill Richmond

USDA, Agricultural Marketing Service

Chief of Staff

202-260-8019

AMS Weekly Hot Issues
Week Ending August 12, 2016

Issue: Labeling of Bioengineered Food

On June 23, U.S. Senate agriculture leadership announced a Bill to require mandatory labeling of food products containing genetically modified ingredients. Food companies would have several options on ways to alert consumers of GMO ingredients. The Bill cleared the Senate on July 7, and the House on July 14, and was signed into law by the President on July 29, 2016. AMS is the USDA Agency responsible for implementation of the labeling requirements. AMS has published the new law on its website and provided an opportunity for the public to provide comments and ask questions on the new law via phone and email.

Next Steps: AMS is working to understand the requirements of the new law, establish funding for staffing and study requirements, analyze potential interactions with existing AMS programs, and start the regulatory process to publish an advanced notice of public rulemaking in the *Federal Register*.

Issue: Congressional Request for Dairy Price Relief

On July 28, sixty-one U.S. Congress members submitted a letter to the Secretary requesting USDA assistance for dairy farmers in addressing depressed milk and dairy product prices. The signatories cited increased U.S. and international production, challenges in export markets, and poor domestic and international economic growth projections as underlying causes for depressed dairy farm prices, which are sometimes below the cost of production. USDA has been asked to consider ways to address the current situation and help expand and maintain domestic markets without stimulating further overproduction, potentially utilizing Section 32 funding.

Next Steps: AMS is analyzing considering potential options for response.

Issue: Georgia Department of Agriculture Poultry Market News Report (Georgia Dock)

On July 20, 2016, AMS discovered that a price report issued by the Georgia Department of Agriculture (GDA) for processed poultry prices (Georgia Dock) was not being properly verified. The price information in the report has been included in an AMS issued market news report since 1993. AMS has been working with GDA officials to seek options to change the methodology of the report so it reflects verifiable market prices, but GDA plans to continue publishing the Georgia Dock report without change until an alternative methodology can be developed. In the meantime, AMS discontinued publishing the AMS Market News report based upon the Georgia Dock report on August 5, 2016.

Next Steps: AMS will continue working with GDA and offering technical assistance to develop new report procedures consistent with AMS Market News reporting methodologies and confidentiality guidelines. In addition, AMS is developing a new spot market poultry report in effort to meet industry needs.

Issue: U.S. District Court Decision on Resolute Forest Products, Inc.

On April 15, 2015, Resolute Forest Products filed a motion for summary judgment claiming that the Softwood Lumber Research and Promotion Order is unconstitutional. USDA has been involved in ongoing deliberation since the initial filing. On May 17, 2016, the U.S. District Court found that USDA's Softwood Lumber Order was unlawful as promulgated. At a June 1, 2016, hearing held to discuss remedies, the court ordered: (1) USDA and the Softwood Lumber Board are prohibited from collecting further assessments from Resolute under the current Order; (2) USDA and the Board must maintain a balance of funds of not less than \$1.1 million under the current Order; and, (3) USDA and Department of Justice (DOJ) shall file a brief supporting USDA's position that the \$1.1 million in assessments paid by Resolute should not be refunded in its entirety. A brief developed by AMS and DOJ for the court was filed on June 30, 2016. Resolute filed its response on July 20, 2016; USDA/DOJ's reply was due by August 10, 2016, however, an extension was requested and granted, and the reply is now due on August 24, 2016. On June 30, 2016, AMS posted external Q&As about the case per the industry's request. AMS published a notice on July 20, 2016, notifying industry that a continuance referendum originally scheduled for August 20 will not be held. On July 13, 2016, AMS met with the Office of the Chief Economist (OCE) to discuss analyses necessary for upcoming rulemaking on the de minimis provisions of the order.

Next Steps: AMS will continue to work with the OCE to determine the appropriate de minimis exemption threshold for softwood lumber. Upon Departmental clearance, AMS will publish an interim final rule suspending order language on the continuance referendum.

Issue: R-CALF USA v. USDA/Vilsack

On May 2, 2016, R-CALF USA filed suit in Federal District Court in Montana against Secretary Vilsack arguing that the Beef Checkoff Program should be promoting only U.S. beef. The complaint argues that the Checkoff Program denies R-CALF USA members in Montana their First Amendment rights since they are required to pay into the Montana chapter of the Checkoff program without a say in the marketing strategy. AMS will soon issue a rule regarding the redirection of beef Checkoff funds so producers have the option of directing their full assessment under the Beef Checkoff go entirely to the National Board. According to R-CALF's legal challenge, the activities of the National Board are considered constitutionally sound by the Supreme Court, while the activities of the State Beef Councils are not. Thus, by giving producers the option to direct their monies to the National Board, R-CALF's purported violations of First Amendment rights should be addressed. On June 7, AMS asked if the Montana Beef Council would comply if a producer requested that they redirect assessments to the Cattlemen's Beef Board. The Montana Beef Council responded that any redirection request, accompanied by appropriate and timely documentation, would be considered independently and that all state and Federal laws would be considered when making board decisions. The redirection rule was published on July 15, 2016, with a 60-day comment period that closes on September 13, 2016.

Next Steps: AMS is in discussions with OGC and DOJ regarding the lawsuit and DOJ filed a motion to dismiss the case on August 4, 2016.

Additional Pending Issues

- Marketing Order for Pecans
 - The Final Rule was published in the Federal Register on August 4, 2016. AMS will soon begin the process of collecting nominations for the administrative council. On September 1, 2016, AMS will attend the National Pecan Shellers Association conference in Chicago, IL where AMS employees will be available to answer questions regarding the new marketing order.
- Notice Seeking Comments on U.S. Standards for Grades of Catfish and Catfish Products
 - On July 14, 2016, AMS published a Notice in the Federal Register seeking comments, data, research, and other information to help the Agency carry out the 2014 Farm Bill mandate to establish a voluntary fee-based grading program for catfish and catfish products. AMS is coordinating with the Department of Commerce's National Marine Fisheries Service (NMFS), which has a program for quality evaluation of product, grading, and certification of fish (including catfish), shellfish, and fish products. The comment period ends September 12, 2016. As of August 8, there has been one comment received on the Notice.
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 - The Notice has been cleared by OGC and is in Departmental clearance. A communications plan has also been developed.
- PVP Program for Non-GE/GMO Marketing Claim on Yogurt
 - Chobani, LLC first submitted an application for an approved Process Verified Program (PVP) for a non-genetically engineered/genetically modified (non-GE/GMO) marketing claim in December 2015. In March, an AMS desk audit of their Quality Manual determined that their program met the requirements for a PVP; however, further evaluation of the company’s application was suspended due to the increasing likelihood that a Federal law would pass that would address the labeling of GE/GMO foods.
 - With the signing of the National Bioengineered Food Disclosure Law on August 1, Chobani contacted AMS and renewed their request for PVP approval. AMS is currently

evaluating how to proceed with their proposed PVP, in light of the requirements of the new law.

- Sun-Maid Growers of California Filing Suit Against USDA
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The final rule was published in the Federal Register on August 11, 2016. The final rule becomes effective on October 11, 2016.

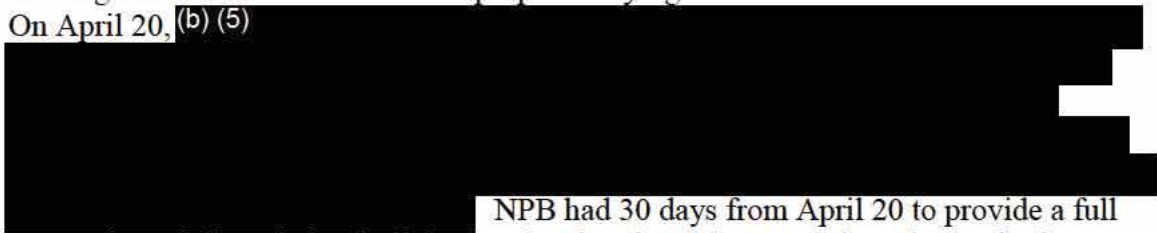
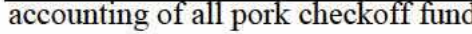
- Burnette Foods Inc. v. USDA Case Related to the Federal Marketing Order for Tart Cherries

- On July 25, 2016, the District Court Judge rescheduled the hearing from July 27 to August 11, 2016. Following the oral arguments, a decision will most likely occur within several months. USDA and DOJ will have 14 days to file a response to any claims not dismissed during this proceeding.
- On December 21, 2015, Judicial Officer (JO) William Jenson confirmed his ruling in USDA's favor on all of the issues raised in Burnette Foods, Inc.'s petition challenging the tart cherry marketing order, denying Burnette's administrative 15a filing. On January 11, 2016, Burnette appealed the 15a decision by filing suit in Federal District Court. In his complaint, Burnette seeks a declaratory judgment to overturn the JO's order recognizing that tart cherry canners are separately situated from other segments of the tart cherry industry as being arbitrary and capricious. Mr. Burnette contends the Cherry Industry Administrative Board is improperly structured and that the tart cherry marketing order is unconstitutional because it ignores imported cherries, does not apply to all states, and places a season-to-season reserve requirement on products with short shelf life.
- OGC issued a litigation hold on all Burnette related tart cherry documents and e-mails.

- PCRM Litigation - FOIA Request for Beef and Dairy Checkoff Documents

- AMS is working with OGC and DOJ to respond to the allegations of improper processing of FOIA requests and appeals. The FOIA suit was filed against USDA by the Physician's Committee for Responsible Medicine on April 12, 2013.
- PCRM Litigation – PCRM v USDA and HHS On January 6, 2016, PCRM filed a lawsuit in Federal Court in the Northern District of California, against USDA and the Department of Health and Human Services alleging that the government had allowed the food

industry and financial inducements to dictate the Dietary Guidelines Advisory Committee's (DGAC) new recommendations on cholesterol. PCRM is requesting injunctive relief in the suit preventing Defendants from relying on DGAC recommendations. AMS is helping OGC with preliminary litigation matters.

- Humane Society of the United States (HSUS) vs. Vilsack
 - In September 2012, HSUS filed suit in the Federal District Court of the District of Columbia against the Secretary under the Administrative Procedure Act (APA) challenging the approval of the National Pork Board's purchase of four trademarks including the "Pork. The Other White Meat" (PTOWM) slogan from the National Pork Producers Council (NPPC). On August 14, 2015, HSUS won its appeal for standing.
 - On December 23, 2015, DOJ and HSUS filed a joint stipulation agreeing to a partial settlement regarding the purchase of the PTOWM brand and trademarks, and a stay of the litigation until May 2, 2016. On December 24, AMS approved the Board's 2016 budget while holding in abeyance the \$3 million payment to NPPC until June 30, 2016.
 - As part of the settlement, USDA agreed to review the contract between the Board and NPPC for the purchase of PTOWM by May 1, 2016. On January 4, the Board issued a Request for Proposals from trademark valuation firms to provide independent current valuations of PTOWM.
 - On April 8, HSUS sent a letter to the Secretary expressing concerns about the Board's advisement urging the Secretary to defend the case. HSUS has requested that USDA investigate whether it constituted improper lobbying.
 - On April 20, (b) (5) 
 NPB had 30 days from April 20 to provide a full accounting of all pork checkoff funds related to the Delegate Body action and subsequent NPB actions and reimburse those funds from non-checkoff sources. NPB submitted the accounting to AMS for review. OGC suggested that the COO, NPB officers, and any other critical staff attend a remedial training on the proper use of pork checkoff funds. AMS and OGC conducted this training on June 6, 2016, in Des Moines, IA. DOJ and OGC are working with the Plaintiffs on a proposed schedule.
 - On May 5, 2016, the U.S. District Court for the District of Columbia granted the NPPC's request to intervene in the lawsuit.
 - On July 27, 2016, AMS, OGC, and DOJ representatives met to review materials available to supplement the administrative record that have been exchanged with the parties.
 - While Defendants continue to believe the certification, as filed, appropriately focuses on the 2016 review decision approving ongoing payments, as an accommodation to NPPC's request, Defendants now plan to file a supplement to the Administrative Record focused on AMS's 2006 approval of the TOWM purchase and AMS's 2011 approval of the Board's 2012 budget. DOJ plans to file this supplement by August 24.
- USDA Certified Transitional Program
 - AMS is reviewing the Organic Trade Association's Transitional Certification standard, which was submitted on May 20. The standard will allow AMS to approve Accredited Certifying Agents (ACAs) to verify processes and practices used by producers during the

3-year transition period required by the National Organic Program regulations when moving from conventional to organic production. On June 7, AMS teleconferenced with the Organic Trade Association to discuss some of the concerns the National Organic Program (NOP) has with the standard. AMS submitted an information paper to the OSEC on June 13.

- Hearing Proposal for Oregon and Washington Hazelnut Marketing Order.
 - On May 16, 2016, the Hazelnut Marketing Board submitted a request for a formal rulemaking hearing to add quality control provisions to the Federal Marketing Order for Hazelnuts Grown in Oregon and Washington. The proposed amendment would allow the Board to implement quality control regulations, namely pasteurization, to reduce the prevalence of pathogens in hazelnuts. Following a hearing, the Board would propose specific procedures to be considered through informal rulemaking.
 - AMS will hold a formal rulemaking hearing on October 18, 2016, in Wilsonville, Oregon. AMS is drafting a Notice of Hearing for agency clearance and publication in the Federal Register.

From: [Stewart, Dana - AMS](#)
To: [Allen, William - AMS](#); [Betts, Marlene - AMS](#); [Bowden, David - AMS](#); [Coale, Dana - AMS](#); [Dock, Yvonne - AMS](#); [Eckhouse, Sara - OSEC](#); [Flores, Elizabeth R - AMS](#); [Jones, Samuel - AMS](#); [Keeler, Douglas - AMS](#); [Ladd, Jessica - AMS](#); [McEvoy, Miles - AMS](#); [Morris, Craig - AMS](#); [Morris, Erin - AMS](#); [Neal, Arthur - AMS](#); [Nelson, Kristen - AMS](#); [Parrott, Charles - AMS](#); [Richmond, William - AMS](#); [Smith, Catherine - AMS](#); [Spriggs, Kimberly - AMS](#); [Stahl, Dana - AMS](#); [Stanziani, Pamela - AMS](#); [Stewart, Dana - AMS](#); [Summers, Bruce - AMS](#); [Trykowski, David - AMS](#); [Tucker, Jennifer - AMS](#); [Tuckwiller, David - AMS](#); [Turpin, Jennifer - AMS](#); [Ulibarri, Ronald - AMS](#); [Unkenholz, Becky - AMS](#); [Woods, Frank - AMS](#)
Subject: AMS Hot Issues Report
Date: Monday, August 15, 2016 7:50:55 AM
Attachments: [2016-8-12 AMS Hot Issues.docx](#)

Good morning. Here is last week's report. Your updates to me by noon, Thursday please. Thanks,

Dana

From: [Stewart, Dana - AMS](#)
To: [Richmond, William - AMS](#)
Cc: [Walker, Natosha - AMS](#); [Taylor, Jameelah - AMS](#)
Subject: AMS Hot Issues Report
Date: Thursday, August 18, 2016 4:19:11 PM
Attachments: [2016-8-19 AMS Hot Issues.docx](#)

Draft attached.

AMS Weekly Hot Issues
Week Ending August 19, 2016

(b) (5)



(b) (5)



(b) (5)



(b) (5)



(b) (5)



(b) (5)



(b) (5)



(b) (5)



From: [Stewart, Dana - AMS](#)
To: [Allen, William - AMS](#); [Betts, Marlene - AMS](#); [Bowden, David - AMS](#); [Coale, Dana - AMS](#); [Dock, Yvonne - AMS](#); [Eckhouse, Sara - OSEC](#); [Flores, Elizabeth R - AMS](#); [Jones, Samuel - AMS](#); [Keeler, Douglas - AMS](#); [Ladd, Jessica - AMS](#); [McEvoy, Miles - AMS](#); [Morris, Craig - AMS](#); [Morris, Erin - AMS](#); [Neal, Arthur - AMS](#); [Nelson, Kristen - AMS](#); [Parrott, Charles - AMS](#); [Richmond, William - AMS](#); [Smith, Catherine - AMS](#); [Spriggs, Kimberly - AMS](#); [Stahl, Dana - AMS](#); [Stanziani, Pamela - AMS](#); [Stewart, Dana - AMS](#); [Summers, Bruce - AMS](#); [Trykowski, David - AMS](#); [Tucker, Jennifer - AMS](#); [Tuckwiller, David - AMS](#); [Turpin, Jennifer - AMS](#); [Ulibarri, Ronald - AMS](#); [Unkenholz, Becky - AMS](#); [Woods, Frank - AMS](#)
Subject: AMS Hot Issues Report
Date: Friday, August 19, 2016 3:21:02 PM
Attachments: [2016-8-19 AMS Hot Issues.docx](#)

Good afternoon. Here is this week's report. Your updates to me by noon, next Thursday please.

Thanks,

Dana

AMS Weekly Hot Issues
Week Ending August 19, 2016

Issue: Labeling of Bioengineered Food

On June 23, U.S. Senate agriculture leadership announced a Bill to require mandatory labeling of food products containing genetically modified ingredients. Food companies would have several options on ways to alert consumers of GMO ingredients. The Bill cleared the Senate on July 7, and the House on July 14, and was signed into law by the President on July 29, 2016. AMS is the USDA Agency responsible for implementation of the labeling requirements. AMS has published the new law on its website and provided an opportunity for the public to provide comments and ask questions on the new law via phone and email.

Next Steps: AMS is working to understand the requirements of the new law, establish funding for staffing and study requirements, analyze potential interactions with existing AMS programs, and start the regulatory process to publish an advanced notice of public rulemaking in the *Federal Register*.

Issue: Congressional Request for Dairy Price Relief

On July 28, sixty-one U.S. Congress members submitted a letter to the Secretary requesting USDA assistance for dairy farmers in addressing depressed milk and dairy product prices. The signatories cited increased U.S. and international production, challenges in export markets, and poor domestic and international economic growth projections as underlying causes for depressed dairy farm prices, which are sometimes below the cost of production. USDA has been asked to consider ways to address the current situation and help expand and maintain domestic markets without stimulating further overproduction, potentially utilizing Section 32 funding.

Next Steps: AMS is analyzing considering potential options for response.

Issue: Georgia Department of Agriculture Poultry Market News Report (Georgia Dock)

On July 20, 2016, AMS discovered that a price report issued by the Georgia Department of Agriculture (GDA) for processed poultry prices (Georgia Dock) was not being properly verified. The price information in the report has been included in an AMS issued market news report since 1993. AMS has been working with GDA officials to seek options to change the methodology of the report so it reflects verifiable market prices, but GDA plans to continue publishing the Georgia Dock report without change until an alternative methodology can be developed. In the meantime, AMS discontinued publishing the AMS Market News report based upon the Georgia Dock report on August 5, 2016.

Next Steps: AMS will continue working with GDA and offering technical assistance to develop new report procedures consistent with AMS Market News reporting methodologies and confidentiality guidelines. In addition, AMS is developing a new spot market poultry report in effort to meet industry needs.

Issue: U.S. District Court Decision on Resolute Forest Products, Inc.

On April 15, 2015, Resolute Forest Products filed a motion for summary judgment claiming that the Softwood Lumber Research and Promotion Order is unconstitutional. USDA has been involved in ongoing deliberation since the initial filing. On May 17, 2016, the U.S. District Court found that USDA's Softwood Lumber Order was unlawful as promulgated. At a June 1, 2016, hearing held to discuss remedies, the court ordered: (1) USDA and the Softwood Lumber Board are prohibited from collecting further assessments from Resolute under the current Order; (2) USDA and the Board must maintain a balance of funds of not less than \$1.1 million under the current Order; and, (3) USDA and Department of Justice (DOJ) shall file a brief supporting USDA's position that the \$1.1 million in assessments paid by Resolute should not be refunded in its entirety. A brief developed by AMS and DOJ for the court was filed on June 30, 2016. Resolute filed its response on July 20, 2016; USDA/DOJ's reply was due by August 10, 2016, however, an extension was requested and granted, and the reply is now due on August 24, 2016. On June 30, 2016, AMS posted external Q&As about the case per the industry's request. AMS published a notice on July 20, 2016, notifying industry that a continuance referendum originally scheduled for August 20 will not be held. On July 13, 2016, AMS met with the Office of the Chief Economist (OCE) to discuss analyses necessary for upcoming rulemaking on the de minimis provisions of the order.

Next Steps: AMS will continue to work with the OCE to determine the appropriate de minimis exemption threshold for softwood lumber. Upon Departmental clearance, AMS will publish an interim final rule suspending order language on the continuance referendum.

Issue: R-CALF USA v. USDA/Vilsack

On May 2, 2016, R-CALF USA filed suit in Federal District Court in Montana against Secretary Vilsack arguing that the Beef Checkoff Program should be promoting only U.S. beef. The complaint argues that the Checkoff Program denies R-CALF USA members in Montana their First Amendment rights since they are required to pay into the Montana chapter of the Checkoff program without a say in the marketing strategy. AMS will soon issue a rule regarding the redirection of beef Checkoff funds so producers have the option of directing their full assessment under the Beef Checkoff go entirely to the National Board. According to R-CALF's legal challenge, the activities of the National Board are considered constitutionally sound by the Supreme Court, while the activities of the State Beef Councils are not. Thus, by giving producers the option to direct their monies to the National Board, R-CALF's purported violations of First Amendment rights should be addressed. On June 7, AMS asked if the Montana Beef Council would comply if a producer requested that they redirect assessments to the Cattlemen's Beef Board. The Montana Beef Council responded that any redirection request, accompanied by appropriate and timely documentation, would be considered independently and that all state and Federal laws would be considered when making board decisions. The redirection rule was published on July 15, 2016, with a 60-day comment period that closes on September 13, 2016.

Next Steps: AMS is in discussions with OGC and DOJ regarding the lawsuit and DOJ filed a motion to dismiss the case on August 4, 2016.

Additional Pending Issues

- Notice Seeking Comments on U.S. Standards for Grades of Catfish and Catfish Products
 - On July 14, 2016, AMS published a Notice in the Federal Register seeking comments, data, research, and other information to help the Agency carry out the 2014 Farm Bill mandate to establish a voluntary fee-based grading program for catfish and catfish products. AMS is coordinating with the Department of Commerce's National Marine Fisheries Service (NMFS), which has a program for quality evaluation of product, grading, and certification of fish (including catfish), shellfish, and fish products. The comment period ends September 12, 2016. As of August 17, there has been one comment received on the Notice.
- (b) (6) Suspended from Export Verification Programs
 - On January 5 and 13, 2016, Chicago Meat Authority (CMA) sent non-conforming product supplied by (b) (6) to Korea, which was accepted by Korea and consumed. This was discovered during an AMS audit completed on April 26, 2016. It was found that CMA requested revised shipping documentation after product was delivered without the proper statements and that (b) (6) supplied amended paperwork to CMA applying the QSA statement without confirming the products were eligible for Korea. On April 26, AMS notified the company of the suspension, as well as FSIS and FAS, and notified Japan and Korea per protocol agreements. Corrective actions and an onsite audit were required for the plant to be re-approved and confirmation from the respective foreign governments must be received before we can relist the plant as approved for these programs. Because of the concerns raised at (b) (6), however, AMS required all remaining (b) (6) facilities to undergo a for-cause audit.
 - For-cause audits were completed during the week of May 23, and AMS held a meeting with (b) (6) officials on June 2, 2016, to review the results and provided notification that (b) (6) would be required to undergo quarterly audits for at least the next year, including at their corporate location. Initial corrective actions were received and reviewed. AMS requested additional corrective actions from (b) (6) facilities from July 5th –July 29th when (b) (6) finished completing corrective actions and training.
 - On July 29, 2016, AMS issued a summary finding of the for-cause audits to the respective foreign government officials and AMS is currently awaiting feedback from foreign officials. AMS will address the suspensions of CMA and (b) (6) in the very near future with the same foreign government officials.
 - On August 5, 2016, Japan responded to the summary findings of the for-cause audits with some specific questions on the report. AMS provided answers to those questions on August 8, 2016. AMS is currently awaiting a response from Japan.
 - On August 12, 2016, Japan responded with additional questions. AMS provided answers the same day and is currently awaiting a response.
 - AMS has scheduled a conference call with USMEF and the export industry for the purpose of continual improvement of the export verification programs. AMS will use the lessons learned from the issues at (b) (6) to communicate future expectations to industry. The call will also function as an opportunity for industry to ask questions on new programs such as the EV program for Saudi Arabia.
- Cornucopia Institute v. USDA/Secretary Vilsack

- On April 19, the Cornucopia Institute filed a complaint with the U.S. District Court for the Western District of Wisconsin on behalf of two organic producers. The complaint charges that USDA violated the Organic Foods Production Act (OFPA) in appointing members to the NOSB who did not meet OFPA qualifications. AMS continues to provide OGC and DOJ with information to support the case as requested.
- National Organic Program Freedom of Information Act (FOIA) Lawsuits.
 - The Cornucopia Institute filed eight lawsuits over AMS handling of FOIA requests related to National Organic Program records. AMS continues to coordinate with General Law on case-specific actions, and NOP has awarded a contract to support expanding FOIA needs.
- OIG Audit: “National Organic Program – International Trade Arrangements and Agreements”
 - On March 17, AMS and OIG conducted a meeting to initiate OIG’s audit of NOP’s processes for international agreements supporting organic trade. OIG is near completion of the compliance portion of the audit and is on schedule to finish fieldwork in September 2016. (b) (5)
- Petition to Revise U.S. Beef Standards to Allow Alternate Means of Age Determination in Carcass Beef
 - AMS received the petition on April 13. The Agency gathered grading information and data, conducted economic analyses to determine possible impacts on various stakeholders. AMS sent a decision memo to the Secretary that contains the results of the economic evaluation along with a recommendation to publish a Notice in the Federal Register seeking public comments on the changes proposed in the petition.
 - The Notice has been cleared by OGC and is in Departmental clearance. A communications plan has also been developed.
- PVP Program for Non-GE/GMO Marketing Claim on Yogurt
 - Chobani, LLC first submitted an application for an approved Process Verified Program (PVP) for a non-genetically engineered/genetically modified (non-GE/GMO) marketing claim in December 2015. In March, an AMS desk audit of their Quality Manual determined that their program met the requirements for a PVP; however, further evaluation of the company’s application was suspended due to the increasing likelihood that a Federal law would pass that would address the labeling of GE/GMO foods.
 - With the signing of the National Bioengineered Food Disclosure Law on July 29, Chobani contacted AMS and renewed their request for PVP approval. AMS is currently evaluating how to proceed with their proposed PVP, in light of the requirements of the new law.
- Sun-Maid Growers of California Filing Suit Against USDA
 - On April 6, 2015, Sun-Maid Growers of California filed a lawsuit in Federal District Court of Washington, DC, seeking to overturn the Secretary’s denial of the company’s November 17, 2014, petition for proposed amendments and hearings on terminating volume control authority from the raisin marketing order.
 - On August 28, 2015, DOJ filed a Motion to Dismiss Sun-Maid’s suit against USDA. The April 23, 2016, hearing on the motion to dismiss was cancelled because of the May 3-4 rulemaking hearing on removing raisin reserve authority from the Federal marketing

order for raisins. AMS will draft a Recommended Decision once the hearing record is certified and interested parties are provided the opportunity to file briefs.

- Raisin Compensation Lawsuits
 - USDA received three claims for compensation from Lion Farms, LLC, Bruce Ciapessoni et al., and Boyajian et al. in the U.S. Court of Federal Claims. DOJ filed responses for the first two cases, and OGC has placed a litigation hold on all documents related to the raisin marketing order. In early December 2015, USDA's motions to consolidate the Lion Farms and Ciapessoni cases were denied. Boyajian et al. filed suit on December 28, 2015. DOJ filed motions to dismiss the three cases, concluding with a February 26, 2016 motion to dismiss the Boyajian et al case.
 - On August 15, 2016, the Court indicated that oral arguments will be scheduled on our motions to dismiss and the opponent's opposition responses.
- Center for Food Safety, et al. v. Vilsack, et al/Sunset.
 - On October 30, 2015, the Center for Food Safety filed an Amended Complaint related to the Sunset Notice litigation. The amended complaint adds new allegations regarding the renewal of Aqueous Potassium Silicate, appends the declarations from prior briefing, and adds a new Exhibit B showing vote counts on 2017 sunset substance renewals. On December 10, 2015, DOJ filed a Motion to Dismiss the amended complaint. The hearing on the Motion to Dismiss scheduled for February 18, 2016 in San Francisco, California was cancelled by the judge, who is taking the motion under submission for decision.
 - Center for Food Safety, et al. v. Vilsack, et al/Green Waste: A second complaint, filed on April 14, 2015, relates to Guidance Document – NOP 5016 (Allowance of Green Waste in Organic Production Systems). On June 20, 2016, the U.S. District Court Judge for the Northern District of California ruled that NOP 5016 must be vacated by August 22, 2016. AMS developed a work plan for a proposed rule to replace the guidance with a regulatory rule change, with the opportunity for public comment. The work plan was submitted to OMB on August 1. AMS is currently working with OMB to respond to questions related to the significance of this rule. A Notice to Trade was sent on August 18 to update the organic community.
- ISO Technical Specification on Animal Welfare for Food Animals
 - AMS chairs U.S. representation to the International Organization for Standardization's (ISO) Technical Committee 34 (TC34)/Working Group 16 (WG), a group of experts in the field of animal welfare assembled to develop industry consensus on technical specification (TS) for food producing animals. On February 8, 2016, the TS was sent for a vote through a three month ballot process. The results of the vote were positive, and AMS notified the U.S. Technical Advisory Group to discuss the next steps in the process. AMS will attend the ISO TC34 plenary meeting in Paris, France, on July 7-8. AMS, as part of the smaller drafting group, is reviewing the comments provided during the vote. The WG will meet in Paris in September to finalize the TS, incorporating edits based on the comments. Once finalized, the intent is to have the TS published by December 1, in time for it to be announced at the next OIE Global Conference on Animal Welfare in December 2016.
- Burnette Foods Inc. v. USDA Case Related to the Federal Marketing Order for Tart Cherries
 - On August 11, 2016, the District Court Judge heard oral arguments on AMS' motion to dismiss the 15a case. The Judge indicated that he would likely rule on our motion by

August 31, 2016. USDA and DOJ will have 14 days to file a response to any claims not dismissed during this proceeding.

- On December 21, 2015, Judicial Officer (JO) William Jenson confirmed his ruling in USDA's favor on all of the issues raised in Burnette Foods, Inc.'s petition challenging the tart cherry marketing order, denying Burnette's administrative 15a filing. On January 11, 2016, Burnette appealed the 15a decision by filing suit in Federal District Court. In his complaint, Burnette seeks a declaratory judgment to overturn the JO's order recognizing that tart cherry canners are separately situated from other segments of the tart cherry industry as being arbitrary and capricious. Mr. Burnette contends the Cherry Industry Administrative Board is improperly structured and that the tart cherry marketing order is unconstitutional because it ignores imported cherries, does not apply to all states, and places a season-to-season reserve requirement on products with short shelf life.
- OGC issued a litigation hold on all Burnette related tart cherry documents and e-mails.
- PCRMLitigation - FOIA Request for Beef and Dairy Checkoff Documents
 - AMS is working with OGC and DOJ to respond to the allegations of improper processing of FOIA requests and appeals. The FOIA suit was filed against USDA by the Physician's Committee for Responsible Medicine on April 12, 2013.
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- Humane Society of the United States (HSUS) vs. Vilsack
 - In September 2012, HSUS filed suit in the Federal District Court of the District of Columbia against the Secretary under the Administrative Procedure Act (APA) challenging the approval of the National Pork Board's purchase of four trademarks including the "Pork. The Other White Meat" (PTOWM) slogan from the National Pork Producers Council (NPPC).
 - On December 23, 2015, DOJ and HSUS filed a joint stipulation agreeing to a partial settlement regarding the purchase of the PTOWM brand and trademarks, and a stay of the litigation until May 2, 2016.
 - As part of the settlement, USDA agreed to review the contract between the Board and NPPC for the purchase of PTOWM by May 1, 2016. On April 8, HSUS sent a letter to the Secretary expressing concerns about the Board's advisement urging the Secretary to defend the case. HSUS has requested that USDA investigate whether it constituted improper lobbying.
 - On June 6, 2016, AMS and OGC conducted remedial training on proper use of checkoff funds in Des Moines, IA..
 - On May 5, 2016, the U.S. District Court for the District of Columbia granted the NPPC's request to intervene in the lawsuit.
 - On July 27, 2016, AMS, OGC, and DOJ representatives met to review materials available to supplement the administrative record that have been exchanged with the parties.

- Defendants plan to file a supplement to the Administrative Record focused on AMS's 2006 approval of the TOWM purchase and AMS's 2011 approval of the Board's 2012 budget. DOJ plans to file this supplement by August 24.
- USDA Certified Transitional Program
 - AMS is reviewing the Organic Trade Association's Transitional Certification standard, which was submitted on May 20. The standard will allow AMS to approve Accredited Certifying Agents (ACAs) to verify processes and practices used by producers during the 3-year transition period required by the National Organic Program regulations when moving from conventional to organic production. On June 7, AMS teleconferenced with the Organic Trade Association to discuss some of the concerns the National Organic Program (NOP) has with the standard. AMS submitted an information paper to the OSEC on June 13. (b) (5)
- The Good Food Institute
 - On August 8, 2016, the Good Food Institute (GFI) filed a lawsuit against USDA for allegedly refusing to release American Egg Board (AEB) documents under Freedom of Information Act (FOIA) requests. In a complaint filed in the U.S. District Court for the District of Columbia, GFI, a food advocacy group, says USDA did not fulfill three FOIA requests in late 2015 and early 2016 regarding AEB and Hampton Creek's egg-free mayonnaise line. The group is asking that the court force the USDA to release the records and pay its legal and search fees.

From: [Stewart, Dana - AMS](#)
To: [Richmond, William - AMS](#)
Cc: [Taylor, Jameelah - AMS](#); [Walker, Natosha - AMS](#)
Subject: AMS Hot Issues Report
Date: Thursday, August 25, 2016 11:01:19 AM
Attachments: [2016-8-26 AMS Hot Issues.docx](#)

From: [Richmond, William - AMS](#)
To: [Howard, David- OSEC](#)
Cc: [Starmer, Elanor - AMS](#); [Morris, Erin - AMS](#); [Comfort, Karen - AMS](#); [Summers, Bruce - AMS](#); [Walker, Natosha - AMS](#); [Taylor, Jameelah - AMS](#); [Coale, Dana - AMS](#); [Bailey, Shayla - AMS](#); [Cordova, Elvis - OSEC](#); [Thomas, Ben - OSEC](#); [Allen, William - AMS](#); [Stewart, Dana - AMS](#); [Tucker, Jennifer - AMS](#); [Flores, Elizabeth R - AMS](#); [Unkenholz, Becky - AMS](#); [Mann, Renee - AMS](#)
Subject: AMS Hot Issues Report, Week Ending August 26, 2016
Date: Friday, August 26, 2016 2:14:02 PM
Attachments: [2016-8-26 AMS Hot Issues.docx](#)

The AMS Hot Issues Report for the week ending August 26, 2016, is attached. Please get in touch with questions.

Bill

Bill Richmond

USDA, Agricultural Marketing Service

Chief of Staff

202-260-8019

AMS Weekly Hot Issues
Week Ending August 26, 2016

Issue: Labeling of Bioengineered Food

On June 23, U.S. Senate agriculture leadership announced a Bill to require mandatory labeling of food products containing genetically modified ingredients. Food companies would have several options on ways to alert consumers of GMO ingredients. The Bill cleared the Senate on July 7, and the House on July 14, and was signed into law by the President on July 29, 2016. AMS is the USDA Agency responsible for implementation of the labeling requirements. AMS has published the new law on its website and provided an opportunity for the public to provide comments and ask questions on the new law via phone and email. FSIS published guidance on Friday, August 19, to implement the statutory requirement that USDA allow “non-GMO” claims in commerce.

Next Steps: AMS is working to understand the requirements of the new law, establish funding for staffing and study requirements, analyze potential interactions with existing AMS programs, and start the regulatory process to publish an advanced notice of public rulemaking in the *Federal Register*. AMS drafted an informational memorandum for the Secretary that includes a policy memorandum that the AMS Administrator will sign and deliver to all AMS Deputy Administrators (b) (5)

Issue: Surplus Removal Programs Announced

This week, the Department announced five surplus removal purchase programs: Highbush blueberry products, shell eggs and egg products, dark meat chicken products, raisins, and cheddar cheese. These purchases will provide support during market surpluses while providing high-quality, nutritious food to recipients of USDA’s food nutrition assistance programs.

Next Steps: Solicitations will be issued in the near future.

Issue: Georgia Department of Agriculture Poultry Market News Report (Georgia Dock)

On July 20, 2016, AMS discovered that a price report issued by the Georgia Department of Agriculture (GDA) for processed poultry prices (Georgia Dock) was not being properly verified. The price information in the report has been included in an AMS issued market news report since 1993. AMS has been working with GDA officials to seek options to change the methodology of the report so it reflects verifiable market prices, but GDA plans to continue publishing the Georgia Dock report without change until an alternative methodology can be developed. In the meantime, AMS discontinued publishing the AMS Market News report based upon the Georgia Dock report on August 5, 2016.

Next Steps: During the week of August 29, AMS will meet with GDA in Atlanta to discuss the new Federal report and updates concerning the GDA Georgia Dock report. AMS will continue working with GDA and offering technical assistance to develop new report procedures consistent with AMS Market News reporting methodologies and confidentiality guidelines. In addition, AMS is developing a new spot market poultry report in effort to meet industry needs.

Issue: U.S. District Court Decision on Resolute Forest Products, Inc.

On April 15, 2015, Resolute Forest Products filed a motion for summary judgment claiming that the Softwood Lumber Research and Promotion Order is unconstitutional. USDA has been involved in ongoing deliberation since the initial filing. On May 17, 2016, the U.S. District Court found that USDA's Softwood Lumber Order was unlawful as promulgated. At a June 1, 2016, hearing held to discuss remedies, the court ordered: (1) USDA and the Softwood Lumber Board are prohibited from collecting further assessments from Resolute under the current Order; (2) USDA and the Board must maintain a balance of funds of not less than \$1.1 million under the current Order; and, (3) USDA and Department of Justice (DOJ) shall file a brief supporting USDA's position that the \$1.1 million in assessments paid by Resolute should not be refunded in its entirety. A brief developed by AMS and DOJ for the court was filed on June 30, 2016. Resolute filed its response on July 20, 2016; USDA/DOJ's reply was filed by the extended due date of August 24, 2016. On June 30, 2016, AMS posted external Q&As about the case per the industry's request. AMS published a notice on July 20, 2016, notifying industry that a continuance referendum originally scheduled for August 20 will not be held. On July 13, 2016, AMS met with the Office of the Chief Economist (OCE) to discuss analyses necessary for upcoming rulemaking on the de minimis provisions of the order.

Next Steps: AMS will continue to work with the OCE to determine the appropriate de minimis exemption threshold for softwood lumber. Upon Departmental clearance, AMS will publish an interim final rule suspending order language on the continuance referendum.

Issue: R-CALF USA v. USDA/Vilsack

On May 2, 2016, R-CALF USA filed suit in Federal District Court in Montana against Secretary Vilsack arguing that the Beef Checkoff Program should be promoting only U.S. beef. The complaint argues that the Checkoff Program denies R-CALF USA members in Montana their First Amendment rights since they are required to pay into the Montana chapter of the Checkoff program without a say in the marketing strategy. AMS will soon issue a rule regarding the redirection of beef Checkoff funds so producers have the option of directing their full assessment under the Beef Checkoff go entirely to the National Board. According to R-CALF's legal challenge, the activities of the National Board are considered constitutionally sound by the Supreme Court, while the activities of the State Beef Councils are not. Thus, by giving producers the option to direct their monies to the National Board, R-CALF's purported violations of First Amendment rights should be addressed. On June 7, AMS asked if the Montana Beef Council would comply if a producer requested that they redirect assessments to the Cattlemen's Beef Board. The Montana Beef Council responded that any redirection request, accompanied by appropriate and timely documentation, would be considered independently and that all state and Federal laws would be considered when making board decisions. The redirection rule was published on July 15, 2016, with a 60-day comment period that closes on September 13, 2016.

Next Steps: AMS is in discussions with OGC and DOJ regarding the lawsuit and DOJ filed a motion to dismiss the case on August 4, 2016.

Issue: Petition to Revise U.S. Beef Standards to Allow Alternate Means of Age Determination in Carcass Beef

On April 13, 2016, AMS received a petition from several industry stakeholders asking the Agency to make changes to allow for dentition as a means of age determination and eligibility for carcass grading. The Agency gathered grading information and data, and conducted economic analyses to determine possible impacts on various stakeholders. AMS sent a decision memo to the Secretary with results of the economic evaluation, along with a recommendation to publish a Notice in the Federal Register seeking public comments on the changes proposed in the petition. The Notice seeking public comment was published to the Federal Register on August 24, 2016, with comments due by October 24, 2016.

Next Steps: Based on an analysis of the comments received, AMS will decide whether to proceed with specific changes to the standards.

Issue: (b) (6) Suspended from Export Verification Programs

In April 2016, AMS suspended and delisted (b) (6) from the Export Verification (EV) program because of issues related to the shipment of non-conforming beef products to Korea through Chicago Meat Authority, including the issuance of certificates with incorrect export statements. AMS notified Korea and Japan at that time, per protocol, and launched “for cause” audits at all (b) (6) facilities, which were completed by late May. Subsequent corrective actions and required company training were completed in July. Approval must be received by the foreign government of Japan before the company can be relisted for the EV program.

AMS provide a summary of the for-cause audit findings to Japan in late July, and continues to address questions received by Japan over the findings and corrective actions. On August 22, AMS provided info to Japan regarding mislabeled packages from (b) (6) which shipped to Japan but did not enter commerce.

Next Step: The FAS office in Japan anticipates that the Japanese government will issue a press release regarding the shipment of nonconforming product. FAS will keep AMS apprised of any developments.

Additional Pending Issues

- Idaho/Eastern Oregon Potato Committee Potential Theft of Funds
 - On April 5, the Idaho/Eastern Oregon Potato Committee manager informed AMS that a Committee employee allegedly forged checks and manipulated bank statements. The Committee hired an independent forensic accountant, whose final report confirmed the theft of funds. AMS provided a full report on the occurrence. AMS confirmed that the Committee maintained the required fidelity bond that insures the funds against loss and the Committee was informed that a benefactor of the employee will provide restitution for any loss the Committee endures. The Idaho Falls Police Department completed its investigation of the theft and informed the Committee that the employee will be arrested and formally charged this week.
- Notice Seeking Comments on U.S. Standards for Grades of Catfish and Catfish Products
 - On July 14, 2016, AMS published a Notice in the Federal Register seeking comments, data, research, and other information to help the Agency carry out the 2014 Farm Bill

mandate to establish a voluntary fee-based grading program for catfish and catfish products. AMS is coordinating with the Department of Commerce's National Marine Fisheries Service (NMFS), which has a program for quality evaluation of product, grading, and certification of fish (including catfish), shellfish, and fish products. The comment period ends September 12, 2016. As of August 23, two comments have been submitted on the Notice.

- Cornucopia Institute v. USDA/Secretary Vilsack
 - On April 19, the Cornucopia Institute filed a complaint with the U.S. District Court for the Western District of Wisconsin on behalf of two organic producers. The complaint charges that USDA violated the Organic Foods Production Act (OFPA) in appointing members to the NOSB who did not meet OFPA qualifications. AMS continues to provide OGC and DOJ with information to support the case as requested.
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 - On March 17, AMS and OIG conducted a meeting to initiate OIG's audit of NOP's processes for international agreements supporting organic trade. OIG is near completion of the compliance portion of the audit and is on schedule to finish fieldwork in September 2016. (b) (5)
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 - Chobani, LLC first submitted an application for an approved Process Verified Program (PVP) for a non-genetically engineered/genetically modified (non-GE/GMO) marketing claim in December 2015. In March, an AMS desk audit of their Quality Manual determined that their program met the requirements for a PVP; however, further evaluation of the company's application was suspended due to the increasing likelihood that a Federal law would pass that would address the labeling of GE/GMO foods.
 - With the signing of the National Bioengineered Food Disclosure Law on July 29, Chobani contacted AMS and renewed their request for PVP approval. AMS is currently evaluating how to proceed with their proposed PVP, in light of the requirements of the new law.
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 - On April 6, 2015, Sun-Maid Growers of California filed a lawsuit in Federal District Court of Washington, DC, seeking to overturn the Secretary's denial of the company's November 17, 2014, petition for proposed amendments and hearings on terminating volume control authority from the raisin marketing order.
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- ISO Technical Specification on Animal Welfare for Food Animals
 - AMS chairs U.S. representation to the International Organization for Standardization's (ISO) Technical Committee 34 (TC34)/Working Group 16 (WG), a group of experts in the field of animal welfare assembled to develop industry consensus on technical specification (TS) for food producing animals. On February 8, 2016, the TS was sent for a vote through a three month ballot process. The results of the vote were positive, and AMS notified the U.S. Technical Advisory Group to discuss the next steps in the process. AMS will attend the ISO TC34 plenary meeting in Paris, France, on July 7-8. AMS, as part of the smaller drafting group, is reviewing the comments provided during the vote. The WG will meet in Paris in September to finalize the TS, incorporating edits based on the comments. Once finalized, the intent is to have the TS published by December 1, in time for it to be announced at the next OIE Global Conference on Animal Welfare in December 2016.
- Burnette Foods Inc. v. USDA Case Related to the Federal Marketing Order for Tart Cherries
 - On August 11, 2016, the District Court Judge heard oral arguments on AMS' motion to dismiss the 15a case. The Judge indicated that he would likely rule on our motion by August 31, 2016. USDA and DOJ will have 14 days to file a response to any claims not dismissed during this proceeding.
 - On December 21, 2015, Judicial Officer (JO) William Jenson confirmed his ruling in USDA's favor on all of the issues raised in Burnette Foods, Inc.'s petition challenging the

- tart cherry marketing order, denying Burnette's administrative 15a filing. On January 11, 2016, Burnette appealed the 15a decision by filing suit in Federal District Court. In his complaint, Burnette seeks a declaratory judgment to overturn the JO's order recognizing that tart cherry canners are separately situated from other segments of the tart cherry industry as being arbitrary and capricious. Mr. Burnette contends the Cherry Industry Administrative Board is improperly structured and that the tart cherry marketing order is unconstitutional because it ignores imported cherries, does not apply to all states, and places a season-to-season reserve requirement on products with short shelf life.
- OGC issued a litigation hold on all Burnette related tart cherry documents and e-mails.
 - PCRM Litigation - FOIA Request for Beef and Dairy Checkoff Documents
 - AMS is working with OGC and DOJ to respond to the allegations of improper processing of FOIA requests and appeals. The FOIA suit was filed against USDA by the Physician's Committee for Responsible Medicine on April 12, 2013.
 - PCRM Litigation – PCRM v USDA and HHS On January 6, 2016, PCRM filed a lawsuit in Federal Court in the Northern District of California, against USDA and the Department of Health and Human Services alleging that the government had allowed the food industry and financial inducements to dictate the Dietary Guidelines Advisory Committee's (DGAC) new recommendations on cholesterol. PCRM is requesting injunctive relief in the suit preventing Defendants from relying on DGAC recommendations. AMS is helping OGC with preliminary litigation matters.
 - Humane Society of the United States (HSUS) vs. Vilsack
 - In September 2012, HSUS filed suit in the Federal District Court of the District of Columbia against the Secretary under the Administrative Procedure Act (APA) challenging the approval of the National Pork Board's purchase of four trademarks including the "Pork. The Other White Meat" (PTOWM) slogan from the National Pork Producers Council (NPPC).
 - On December 23, 2015, DOJ and HSUS filed a joint stipulation agreeing to a partial settlement regarding the purchase of the PTOWM brand and trademarks, and a stay of the litigation until May 2, 2016.
 - As part of the settlement, USDA agreed to review the contract between the Board and NPPC for the purchase of PTOWM by May 1, 2016.
 - On May 5, 2016, the U.S. District Court for the District of Columbia granted the NPPC's request to intervene in the lawsuit.
 - On July 27, 2016, AMS, OGC, and DOJ representatives met to review materials available to supplement the administrative record that have been exchanged with the parties.
 - Defendants plan to file a supplement to the Administrative Record focused on AMS's 2006 approval of the TOWM purchase and AMS's 2011 approval of the Board's 2012 budget. DOJ was scheduled to file this supplement on August 24.
 - USDA Certified Transitional Program
 - AMS is reviewing the Organic Trade Association's Transitional Certification standard, which was submitted on May 20. The standard will allow AMS to approve Accredited Certifying Agents (ACAs) to verify processes and practices used by producers during the 3-year transition period required by the National Organic Program regulations when moving from conventional to organic production. On August 22, AMS met with OGC to discuss the proposed standard and voluntary verification activities. (b) (5)

(b) (5)

- The Good Food Institute
 - On August 8, 2016, the Good Food Institute (GFI) filed a lawsuit against USDA for allegedly refusing to release American Egg Board (AEB) documents under Freedom of Information Act (FOIA) requests. In a complaint filed in the U.S. District Court for the District of Columbia, GFI, a food advocacy group, says USDA did not fulfill three FOIA requests in late 2015 and early 2016 regarding AEB and Hampton Creek's egg-free mayonnaise line. The group is asking that the court force the USDA to release the records and pay legal and search fees.

From: [Stewart, Dana - AMS](#)
To: [Allen, William - AMS](#); [Betts, Marlene - AMS](#); [Bowden, David - AMS](#); [Coale, Dana - AMS](#); [Dock, Yvonne - AMS](#); [Eckhouse, Sara - OSEC](#); [Flores, Elizabeth R - AMS](#); [Jones, Samuel - AMS](#); [Keeler, Douglas - AMS](#); [Ladd, Jessica - AMS](#); [McEvoy, Miles - AMS](#); [Morris, Craig - AMS](#); [Morris, Erin - AMS](#); [Neal, Arthur - AMS](#); [Nelson, Kristen - AMS](#); [Parrott, Charles - AMS](#); [Richmond, William - AMS](#); [Smith, Catherine - AMS](#); [Spriggs, Kimberly - AMS](#); [Stahl, Dana - AMS](#); [Stanziani, Pamela - AMS](#); [Stewart, Dana - AMS](#); [Summers, Bruce - AMS](#); [Trykowski, David - AMS](#); [Tucker, Jennifer - AMS](#); [Tuckwiller, David - AMS](#); [Turpin, Jennifer - AMS](#); [Ulibarri, Ronald - AMS](#); [Unkenholz, Becky - AMS](#); [Woods, Frank - AMS](#)
Subject: AMS Hot Issues Report
Date: Friday, August 26, 2016 2:15:19 PM
Attachments: [2016-8-26 AMS Hot Issues.docx](#)

Good afternoon. Here is this week's report. Your updates to me by noon, next Thursday please.
Thanks!

Dana

From: [Stewart, Dana - AMS](#)
To: [Allen, William - AMS](#); [Betts, Marlene - AMS](#); [Bowden, David - AMS](#); [Coale, Dana - AMS](#); [Dock, Yvonne - AMS](#); [Eckhouse, Sara - OSEC](#); [Flores, Elizabeth R - AMS](#); [Jones, Samuel - AMS](#); [Keeler, Douglas - AMS](#); [Ladd, Jessica - AMS](#); [McEvoy, Miles - AMS](#); [Morris, Craig - AMS](#); [Morris, Erin - AMS](#); [Neal, Arthur - AMS](#); [Nelson, Kristen - AMS](#); [Parrott, Charles - AMS](#); [Richmond, William - AMS](#); [Smith, Catherine - AMS](#); [Spriggs, Kimberly - AMS](#); [Stahl, Dana - AMS](#); [Stanziani, Pamela - AMS](#); [Stewart, Dana - AMS](#); [Summers, Bruce - AMS](#); [Trykowski, David - AMS](#); [Tucker, Jennifer - AMS](#); [Tuckwiller, David - AMS](#); [Turpin, Jennifer - AMS](#); [Ulibarri, Ronald - AMS](#); [Unkenholz, Becky - AMS](#); [Woods, Frank - AMS](#)
Subject: AMS Hot Issues Report
Date: Friday, September 02, 2016 12:07:49 PM
Attachments: [2016-09-02 AMS Hot Issues.docx](#)

Good afternoon. Here is this week's report. Your updates to me by noon, next Thursday please.
Thanks,


Dana

AMS Weekly Hot Issues
Week Ending September 2, 2016

Issue: Labeling of Bioengineered Food

On June 23, U.S. Senate agriculture leadership announced a Bill to require mandatory labeling of food products containing genetically modified ingredients. Food companies would have several options on ways to alert consumers of GMO ingredients. The Bill cleared the Senate on July 7, and the House on July 14, and was signed into law by the President on July 29, 2016. AMS is the USDA Agency responsible for implementation of the labeling requirements. AMS has published the new law on its website and provided an opportunity for the public to provide comments and ask questions on the new law via phone and email. FSIS published guidance on Friday, August 19, to implement the statutory requirement that USDA allow “non-GMO” claims in commerce. The new law requires AMS to conduct a study identifying technical challenges for consumers to access an electronic or digital disclosure. On September 1, AMS published a Request for Information seeking input from vendors and general stakeholders on the study design.

Next Steps: AMS is working to understand the requirements of the new law, establish funding for staffing and study requirements, analyze potential interactions with existing AMS programs, and start the regulatory process to publish an advanced notice of public rulemaking in the *Federal Register*. (b) (5)



Issue: Surplus Removal Programs Announced

This week, the Department announced five surplus removal purchase programs: Highbush blueberry products, shell eggs and egg products, dark meat chicken products, raisins, and cheddar cheese. These purchases will provide support during market surpluses while providing high-quality, nutritious food to recipients of USDA’s food nutrition assistance programs.

Next Steps: Solicitations will be issued in the near future.

Issue: Georgia Department of Agriculture Poultry Market News Report (Georgia Dock)

On July 20, 2016, AMS discovered that a price report issued by the Georgia Department of Agriculture (GDA) for processed poultry prices (Georgia Dock) was not being properly verified. The price information in the report has been included in an AMS issued market news report since 1993. AMS has been working with GDA officials to seek options to change the methodology of the report so it reflects verifiable market prices, but GDA plans to continue publishing the Georgia Dock report without change until an alternative methodology can be developed. In the meantime, AMS discontinued publishing the AMS Market News report based upon the Georgia Dock report on August 5, 2016. On September 1, AMS met with GDA in Atlanta to discuss the new Federal report and updates concerning the GDA Georgia Dock report.

Next Steps: AMS will continue working with GDA and offering technical assistance to develop new report procedures consistent with AMS Market News reporting methodologies and

confidentiality guidelines. In addition, AMS is developing a new spot market poultry report in effort to meet industry needs.

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Next Steps: AMS will continue to work with the OCE to determine the appropriate de minimis exemption threshold for softwood lumber. AMS will publish a final rule suspending order language on the continuance referendum, depending on comments.

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Next Step: On August 26, FAS notified AMS that Japan did not and will not issue a press release on the shipment of nonconforming product. Japan did, however, notify its importing companies that Japan is suspending imports of product from (b) (6). FAS will keep AMS apprised of any developments.

Additional Pending Issues

- Peoples Republic of China Government Officials to Visit U.S. Beef Production
 - AMS, FAS, APHIS, FSIS, and USMEF were notified that Chinese government officials will visit the U.S. for two weeks starting on September 19, 2016. The purpose of the visit is to start the process of opening the border for U.S. beef and beef products to be exported to China with the emphasis being on traceability of cattle from ranch of origin to boxed product for export. The various agencies are scheduling site visits of ranches,

slaughter facilities, and any other entity that demonstrates the traceability of animals and products for export.

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 - AMS chairs U.S. representation to the International Organization for Standardization's (ISO) Technical Committee 34 (TC34)/Working Group 16 (WG), a group of experts in the field of animal welfare assembled to develop industry consensus on technical specification (TS) for food producing animals. On February 8, 2016, the TS was sent for a vote through a three month ballot process. The results of the vote were positive, and AMS notified the U.S. Technical Advisory Group to discuss the next steps in the process. AMS will attend the ISO TC34 plenary meeting in Paris, France, on July 7-8. AMS, as part of the smaller drafting group, is reviewing the comments provided during the vote. The WG will meet in Paris in September to finalize the TS, incorporating edits based on the comments. Once finalized, the intent is to have the TS published by December 1, in time for it to be announced at the next OIE Global Conference on Animal Welfare in December 2016.
- Burnette Foods Inc. v. USDA Case Related to the Federal Marketing Order for Tart Cherries

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- OGC issued a litigation hold on all Burnette related tart cherry documents and e-mails.
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 - AMS is working with OGC and DOJ to respond to the allegations of improper processing of FOIA requests and appeals. The FOIA suit was filed against USDA by the Physician's Committee for Responsible Medicine on April 12, 2013.
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- Humane Society of the United States vs. Vilsack
 - In September 2012, the Humane Society of the United States (HSUS) filed suit in the Federal District Court of the District of Columbia against the Secretary of Agriculture under the Administrative Procedure Act (APA) challenging the approval of the National Pork Board's (Board) purchase of four trademarks including the "Pork. The Other White Meat" (PTOWM) slogan from the National Pork Producers Council (NPPC). On August 14, 2015, HSUS won its appeal for standing. The case is still pending with each party submitting records to the Court. The decision will be based upon the administrative records filed on June 29, 2016. On August 24, 2016, DOJ filed additional materials to supplement USDA's administrative record that was originally filed with the court on June 29, 2016.
- USDA Certified Transitional Program
 - AMS is reviewing the Organic Trade Association's Transitional Certification standard, which was submitted on May 20. The standard will allow AMS to approve Accredited Certifying Agents (ACAs) to verify processes and practices used by producers during the 3-year transition period required by the National Organic Program regulations when moving from conventional to organic production. (b) (5)

(b) (5)



- The Good Food Institute
 - On August 8, 2016, the Good Food Institute (GFI) filed a lawsuit against USDA for allegedly refusing to release American Egg Board (AEB) documents under Freedom of Information Act (FOIA) requests. In a complaint filed in the U.S. District Court for the District of Columbia, GFI, a food advocacy group, says USDA did not fulfill three FOIA requests in late 2015 and early 2016 regarding AEB and Hampton Creek's egg-free mayonnaise line. The group is asking that the court force the USDA to release the records and pay legal and search fees.

From: [Stewart, Dana - AMS](#)
To: [Richmond, William - AMS](#)
Cc: [Walker, Natosha - AMS](#); [Taylor, Jameelah - AMS](#)
Subject: Revised Hot Issues Report
Date: Thursday, September 08, 2016 2:15:14 PM
Attachments: [2016-09-09 AMS Hot Issues.docx](#)

With one late-arriving addition.

D


Dana Stewart
Assistant to the Director
Specialty Crops Inspection Division
USDA Agricultural Marketing Service

AMS Weekly Hot Issues
Week Ending September 9, 2016

Issue: Labeling of Bioengineered Food

On July 29, 2016, President Obama signed into a law a mandatory national bioengineered food disclosure standard. AMS is the USDA Agency responsible for implementing the labeling requirements. AMS has published the new law on its website and provided an opportunity for the public to provide comments and ask questions on the new law via phone and email. FSIS published guidance on Friday, August 19, to implement the statutory requirement that USDA allow “non-GMO” claims in commerce. The new law requires AMS to conduct a study identifying technical challenges for consumers to access an electronic or digital disclosure. On September 1, AMS published a Request for Information seeking input from vendors and general stakeholders on the study design.

Next Steps: AMS is working to understand the requirements of the new law, establish funding for staffing and study requirements, analyze potential interactions with existing AMS programs, and start the regulatory process to publish an advanced notice of public rulemaking in the *Federal Register*. (b) (5)



Issue: Surplus Removal Programs Announced

This week, the Department announced five surplus removal purchase programs: Highbush blueberry products, shell eggs and egg products, dark meat chicken products, raisins, and cheddar cheese. These purchases will provide support during market surpluses while providing high-quality, nutritious food to recipients of USDA’s food nutrition assistance programs.

Next Steps: Solicitations will be issued in the near future.

Issue: Georgia Department of Agriculture Poultry Market News Report (Georgia Dock)

On July 20, 2016, AMS discovered that a price report issued by the Georgia Department of Agriculture (GDA) for processed poultry prices (Georgia Dock) was not being properly verified. The price information in the report has been included in an AMS issued market news report since 1993. AMS has been working with GDA officials to seek options to change the methodology of the report so it reflects verifiable market prices, but GDA plans to continue publishing the Georgia Dock report without change until an alternative methodology can be developed. In the meantime, AMS discontinued publishing the AMS Market News report based upon the Georgia Dock report on August 5, 2016. On September 1, AMS met with GDA in Atlanta to discuss the new Federal report and GDA’s current work with the Georgia poultry industry related to a replacement for its GDA Georgia Dock report..

Next Steps: AMS will continue working with GDA and offering technical assistance to develop new report procedures consistent with AMS Market News reporting methodologies and confidentiality guidelines. In addition, AMS is developing a new spot market poultry report in effort to meet industry needs.

Issue: U.S. District Court Decision on Resolute Forest Products, Inc.

On April 15, 2015, Resolute Forest Products filed a motion for summary judgment claiming that the Softwood Lumber Research and Promotion Order is unconstitutional. USDA has been involved in ongoing deliberation since the initial filing. On May 17, 2016, the U.S. District Court found that USDA's Softwood Lumber Order was unlawful as promulgated. At a June 1, 2016, hearing held to discuss remedies, the court ordered: (1) USDA and the Softwood Lumber Board are prohibited from collecting further assessments from Resolute under the current Order; (2) USDA and the Board must maintain a balance of funds of not less than \$1.1 million under the current Order; and, (3) USDA and Department of Justice (DOJ) shall file a brief supporting USDA's position that the \$1.1 million in assessments paid by Resolute should not be refunded in its entirety. A brief developed by AMS and DOJ for the court was filed on June 30, 2016. Resolute filed its response on July 20, 2016; USDA/DOJ's reply was filed by the extended due date of August 24, 2016. On June 30, 2016, AMS posted external Q&As about the case per the industry's request. AMS published a notice on July 20, 2016, notifying industry that a continuance referendum originally scheduled for August 20 will not be held. On July 13, 2016, AMS met with the Office of the Chief Economist (OCE) to discuss analyses necessary for upcoming rulemaking on the de minimis provisions of the order. On August 30, 2016, an interim rule was published in the Federal Register revising the time frame for the continuance referendum under the Softwood Lumber Order. The rule revises the time frame from 5 years (2016) to no later than 7 years (2018). Comments are due by October 31, 2016. On September 1, 2016, Resolute filed a notice of supplemental authority to emphasize its previous arguments about the order in the context of USDA's August 2016 interim rule. DOJ is evaluating the need for a response.

Next Steps: AMS will continue to work with the OCE to determine the appropriate de minimis exemption threshold for softwood lumber. AMS will publish a final rule suspending order language on the continuance referendum, depending on comments.

Issue: R-CALF USA v. USDA/Vilsack

On May 2, 2016, R-CALF USA filed suit in Federal District Court in Montana against Secretary Vilsack arguing that the Beef Checkoff Program should be promoting only U.S. beef. The complaint argues that the Checkoff Program denies R-CALF USA members in Montana their First Amendment rights since they are required to pay into the Montana chapter of the Checkoff program without a say in the marketing strategy. AMS will soon issue a rule regarding the redirection of beef Checkoff funds so producers have the option of directing their full assessment under the Beef Checkoff go entirely to the National Board. According to R-CALF's legal challenge, the activities of the National Board are considered constitutionally sound by the Supreme Court, while the activities of the State Beef Councils are not. Thus, by giving producers the option to direct their monies to the National Board, R-CALF's purported violations of First Amendment rights should be addressed. On June 7, AMS asked if the Montana Beef Council would comply if a producer requested that they redirect assessments to the Cattlemen's Beef Board. The Montana Beef Council responded that any redirection request, accompanied by appropriate and timely documentation, would be considered independently and that all state and Federal laws would be considered when making board decisions. The redirection rule was published on July 15, 2016, with a 60-day comment period that closes on September 13, 2016.

DOJ filed a motion to dismiss the case on August 4, 2016. On August 24, 2016, R-CALF responded to the motion to dismiss.

Next Steps: AMS is working with DOJ to provide additional materials responsive to R-CALF's August 24, 2016, response.

Issue: Petition to Revise U.S. Beef Standards to Allow Alternate Means of Age Determination in Carcass Beef

On April 13, 2016, AMS received a petition from several industry stakeholders asking the Agency to make changes to allow for dentition as a means of age determination and eligibility for carcass grading. The Agency gathered grading information and data, and conducted economic analyses to determine possible impacts on various stakeholders. AMS sent a decision memo to the Secretary with results of the economic evaluation, along with a recommendation to publish a Notice in the Federal Register seeking public comments on the changes proposed in the petition. The Notice seeking public comment was published to the Federal Register on August 24, 2016, with comments due by October 24, 2016. As of September 7, AMS received 140 comments.

Next Steps: Based on an analysis of the comments received, AMS will decide whether to proceed with specific changes to the standards.

Issue: (b) (6) Suspended from Export Verification Programs

In April 2016, AMS suspended and delisted (b) (6) from the Export Verification (EV) program because of issues related to the shipment of non-conforming beef products to Korea through Chicago Meat Authority, including the issuance of certificates with incorrect export statements. AMS notified Korea and Japan at that time, per protocol, and launched "for cause" audits at all (b) (6) facilities, which were completed by late May. Subsequent corrective actions and required company training were completed in July. Approval must be received by the foreign government of Japan before the company can be relisted for the EV program.

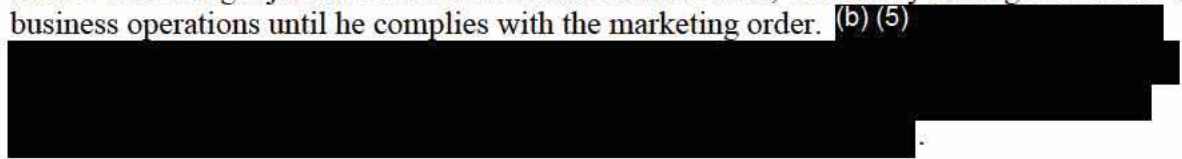
AMS provide a summary of the for-cause audit findings to Japan in late July, and continues to address questions received by Japan over the findings and corrective actions. On August 22, AMS provided info to Japan regarding mislabeled packages from (b) (6) which shipped to Japan but did not enter commerce. On August 26, FAS notified AMS that Japan did not and will not issue a press release on the shipment of nonconforming product. Japan did, however, notify its importing companies that Japan is suspending imports of product from (b) (6).

Next Step: FAS will keep AMS apprised of any developments.

Marvin Horne Compliance Actions

On September 2, 2016, AMS issued administrative subpoenas to obtain records from the Dried Fruit Association and the Pacific/Atlantic Crop Exchange, Inc. In July, AMS authorized an investigation of Marvin Horne's business transactions as he continues to operate outside the requirements under the Federal marketing order for raisins grown in California. On June 22, 2015, the U.S. Supreme Court ruled in favor of Horne, et al., determining the reserve component of the raisin marketing order was unconstitutional as it was considered a taking that would

require just compensation. Lower courts ruled in USDA's favor and held that Mr. Horne met the definition of a handler under the marketing order. Because Mr. Horne never subsequently challenged the ruling by the U.S. Court of Appeals for the Ninth Circuit that he met the definition of a handler, the ruling stands. AMS has eight additional administrative cases against Mr. Horne that were stayed pending the outcome of the Supreme Court's decision. On August 3, 2016, the Administrative Law Judge (ALJ) issued an Order to Show Cause questioning "why these cases should not be dismissed." The administrative cases filed against Mr. Horne for violations in subsequent crop years total approximately \$400,000 in assessments owed to the Raisin Administrative Committee, plus civil penalties that may be issued. If the evidence supports it, AMS will seek support from the Office of the General Counsel and Department of Justice in seeking injunctive relief in Federal District Court, effectively halting Mr. Horne's business operations until he complies with the marketing order. (b) (5)



Additional Pending Issues

- Peoples Republic of China Government Officials to Visit U.S. Beef Production
 - AMS, FAS, APHIS, FSIS, and USMEF were notified that Chinese government officials would visit the U.S. for 2 weeks starting on September 19, 2016, to start the process of opening the border for U.S. beef and beef products to be exported to China with the emphasis being on traceability of cattle from ranch of origin to boxed product for export. The various agencies were scheduling site visits of ranches, slaughter facilities, and any other entity that demonstrates the traceability of animals and products for export. At China's insistence, the visit will take place one week earlier, with the delegation arriving in the United States on September 11, 2016. They are also insisting on visiting the farm in Washington State where the first BSE case was detected in 2003. Agencies and industry are scrambling to try to make this happen.
- Notice Seeking Comments on U.S. Standards for Grades of Catfish and Catfish Products
 - On July 14, 2016, AMS published a Notice in the Federal Register seeking comments, data, research, and other information to help the Agency carry out the 2014 Farm Bill mandate to establish a voluntary fee-based grading program for catfish and catfish products. AMS is coordinating with the Department of Commerce's National Marine Fisheries Service (NMFS), which has a program for quality evaluation of product, grading, and certification of fish (including catfish), shellfish, and fish products. The comment period ends September 12, 2016. As of September 7, two comments have been submitted on the Notice.
- Cornucopia Institute v. USDA/Secretary Vilsack
 - On April 19, the Cornucopia Institute filed a complaint with the U.S. District Court for the Western District of Wisconsin on behalf of two organic producers. The complaint charges that USDA violated the Organic Foods Production Act (OFPA) in appointing members to the NOSB who did not meet OFPA qualifications. AMS continues to provide OGC and DOJ with information to support the case as requested.
- National Organic Program Freedom of Information Act (FOIA) Lawsuits.
 - The Cornucopia Institute filed eight lawsuits over AMS handling of FOIA requests related to National Organic Program records. AMS continues to coordinate with General

Law on case-specific actions, and NOP has awarded a contract to support expanding FOIA needs.

- **OIG Audit: “National Organic Program – International Trade Arrangements and Agreements”**
 - On March 17, AMS and OIG conducted a meeting to initiate OIG’s audit of NOP’s processes for international agreements supporting organic trade. OIG is near completion of the compliance portion of the audit and is on schedule to finish fieldwork in September 2016. OIG will schedule a meeting with NOP to discuss audit findings and possible recommendations in the fall.
- **PVP Program for Non-GE/GMO Marketing Claim on Yogurt**
 - Chobani, LLC first submitted an application for an approved Process Verified Program (PVP) for a non-genetically engineered/genetically modified (non-GE/GMO) marketing claim in December 2015. In March, an AMS desk audit of their Quality Manual determined that their program met the requirements for a PVP; however, further evaluation of the company’s application was suspended due to the increasing likelihood that a Federal law would pass that would address the labeling of GE/GMO foods.
 - With the signing of the National Bioengineered Food Disclosure Law on July 29, Chobani contacted AMS and renewed their request for PVP approval. AMS is currently evaluating how to proceed with their proposed PVP, in light of the requirements of the new law.
- **Sun-Maid Growers of California Filing Suit Against USDA**
 - On April 6, 2015, Sun-Maid Growers of California filed a lawsuit in Federal District Court of Washington, DC, seeking to overturn the Secretary’s denial of the company’s November 17, 2014, petition for proposed amendments and hearings on terminating volume control authority from the raisin marketing order.
 - On August 28, 2015, DOJ filed a Motion to Dismiss Sun-Maid’s suit against USDA. The April 23, 2016, hearing on the motion to dismiss was cancelled because of the May 3-4 rulemaking hearing on removing raisin reserve authority from the Federal marketing order for raisins. AMS will draft a Recommended Decision once the hearing record is certified and interested parties are provided the opportunity to file briefs.
- **Raisin Compensation Lawsuits**
 - USDA received three claims for compensation from Lion Farms, LLC, Bruce Ciapessoni et al., and Boyajian et al. in the U.S. Court of Federal Claims. DOJ filed responses for the first two cases, and OGC has placed a litigation hold on all documents related to the raisin marketing order. In early December 2015, USDA’s motions to consolidate the Lion Farms and Ciapessoni cases were denied. Boyajian et al. filed suit on December 28, 2015. DOJ filed motions to dismiss the three cases, concluding with a February 26, 2016 motion to dismiss the Boyajian et al case.
 - On August 15, 2016, the Court indicated that oral arguments will be scheduled on USDA’s motions to dismiss and the opponent’s opposition responses.
- **Center for Food Safety, et al. v. Vilsack, et al/Sunset.**
 - On October 30, 2015, the Center for Food Safety filed an Amended Complaint related to the Sunset Notice litigation. The amended complaint adds new allegations regarding the renewal of Aqueous Potassium Silicate, appends the declarations from prior briefing, and adds a new Exhibit B showing vote counts on 2017 sunset substance renewals. On December 10, 2015, DOJ filed a Motion to Dismiss the amended complaint. The hearing

- on the Motion to Dismiss scheduled for February 18, 2016 in San Francisco, California was cancelled by the judge, who is taking the motion under submission for decision.
- Center for Food Safety, et al. v. Vilsack, et al/Green Waste: A second complaint, filed on April 14, 2015, relates to Guidance Document – NOP 5016 (Allowance of Green Waste in Organic Production Systems). On June 20, 2016, the U.S. District Court Judge for the Northern District of California ruled that NOP 5016 must be vacated by August 22, 2016. AMS did so, withdrawing NOP 5016 on August 22 as directed. A Notice to Trade was sent on August 18 to update the organic community. AMS is currently drafting a proposed rule to replace the guidance with a regulatory rule change, with the opportunity for public comment. The work plan was designated as significant by OMB on August 31.
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 - In September 2012, the Humane Society of the United States (HSUS) filed suit in the Federal District Court of the District of Columbia against the Secretary of Agriculture under the Administrative Procedure Act (APA) challenging the approval of the National Pork Board's (Board) purchase of four trademarks including the "Pork. The Other White Meat" (PTOWM) slogan from the National Pork Producers Council (NPPC). On August 14, 2015, HSUS won its appeal for standing. The case is still pending with each party submitting records to the Court. The decision will be based upon the administrative records filed on June 29, 2016. On August 24, 2016, DOJ filed additional materials to supplement USDA's administrative record that was originally filed with the court on June 29, 2016.
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From: [Richmond, William - AMS](#)
To: [Howard, David- OSEC](#)
Cc: [Starmer, Elanor - AMS](#); [Morris, Erin - AMS](#); [Comfort, Karen - AMS](#); [Summers, Bruce - AMS](#); [Walker, Natosha - AMS](#); [Taylor, Jameelah - AMS](#); [Coale, Dana - AMS](#); [Bailey, Shayla - AMS](#); [Cordova, Elvis - OSEC](#); [Thomas, Ben - OSEC](#); [Allen, William - AMS](#); [Stewart, Dana - AMS](#); [Tucker, Jennifer - AMS](#); [Flores, Elizabeth R - AMS](#); [Unkenholz, Becky - AMS](#); [Mann, Renee - AMS](#)
Subject: AMS Hot Issues Report
Date: Thursday, September 08, 2016 3:38:42 PM
Attachments: [2016-09-09 AMS Hot Issues.docx](#)

David,

The AMS Hot Issue Report for this week is attached.

Thanks, Bill

From: [Stewart, Dana - AMS](#)
To: [Allen, William - AMS](#); [Betts, Marlene - AMS](#); [Bowden, David - AMS](#); [Coale, Dana - AMS](#); [Dock, Yvonne - AMS](#); [Eckhouse, Sara - OSEC](#); [Flores, Elizabeth R - AMS](#); [Jones, Samuel - AMS](#); [Keeler, Douglas - AMS](#); [Ladd, Jessica - AMS](#); [McEvoy, Miles - AMS](#); [Morris, Craig - AMS](#); [Morris, Erin - AMS](#); [Neal, Arthur - AMS](#); [Nelson, Kristen - AMS](#); [Parrott, Charles - AMS](#); [Richmond, William - AMS](#); [Smith, Catherine - AMS](#); [Spriggs, Kimberly - AMS](#); [Stahl, Dana - AMS](#); [Stanziani, Pamela - AMS](#); [Stewart, Dana - AMS](#); [Summers, Bruce - AMS](#); [Trykowski, David - AMS](#); [Tucker, Jennifer - AMS](#); [Tuckwiller, David - AMS](#); [Turpin, Jennifer - AMS](#); [Ulibarri, Ronald - AMS](#); [Unkenholz, Becky - AMS](#); [Woods, Frank - AMS](#)
Subject: AMS Hot Issues Report
Date: Thursday, September 08, 2016 3:40:28 PM
Attachments: [2016-09-09 AMS Hot Issues.docx](#)

Good afternoon. Here is this week's hot issues report. Your updates to me by noon, next Thursday please. Thanks,

Dana

From: [Morris, Erin - AMS](#)
To: [Jimenez, Sonia - AMS](#)
Subject: AMS Hot Issues Report
Date: Monday, September 12, 2016 1:42:36 PM
Attachments: [2016-09-09 AMS Hot Issues.docx](#)

Per our conversation, please see the attached.

From: [Stewart, Dana - AMS](#)
To: [Morris, Erin - AMS](#)
Cc: [Taylor, Jameelah - AMS](#); [Walker, Natosha - AMS](#); [Richmond, William - AMS](#)
Subject: AMS Hot Issues Report
Date: Thursday, September 15, 2016 11:47:48 AM
Attachments: [2016-09-16 AMS Hot Issues.docx](#)

Here ya go.

From: [Allen, William - AMS](#)
To: [Jimenez, Sonia - AMS](#)
Subject: RE: new version
Date: Thursday, September 15, 2016 12:35:21 PM
Attachments: [AMS Hot Issues BA Edits 9.15.16.docx](#)

I had 1 edit to the GMO labeling entry. I'm assuming the other info is up to date since it came out of a recent Hot Issues report.

From: Allen, William - AMS
Sent: Thursday, September 15, 2016 12:27 PM
To: Jimenez, Sonia - AMS
Subject: RE: new version

I have a few edits to the attached. I'm sure we will need to update this later this Fall, but this a good start. I'm looking at the Hot Issues doc now. Thanks.

-Bill

From: Jimenez, Sonia - AMS
Sent: Tuesday, September 13, 2016 5:40 PM
To: Allen, William - AMS
Subject: new version

Bill:

Please discard the previous email with transition materials. I added a bunch of organic material to the attached version. Please use this one.

Thanks

Sonia

From: [Morris, Erin - AMS](#)
To: [Richmond, William - AMS](#); [Howard, David - OSEC](#)
Cc: [Starmer, Elanor - AMS](#); [Comfort, Karen - AMS](#); [Summers, Bruce - AMS](#); [Walker, Natosha - AMS](#); [Taylor, Jameelah - AMS](#); [Coale, Dana - AMS](#); [Bailey, Shayla - AMS](#); [Cordova, Elvis - OSEC](#); [Thomas, Ben - OSEC](#); [Allen, William - AMS](#); [Stewart, Dana - AMS](#); [Tucker, Jennifer - AMS](#); [Flores, Elizabeth R - AMS](#); [Unkenholz, Becky - AMS](#); [Gebault King, ReneeA - AMS](#); [Jimenez, Sonia - AMS](#)
Subject: AMS Hot Issues Report
Date: Thursday, September 15, 2016 1:40:30 PM
Attachments: [2016-09-16 AMS Hot Issues.docx](#)

David,

The AMS Hot Issues Report for this week is attached. Please let us know if you have any questions.

Thanks,

Erin

From: [Stewart, Dana - AMS](#)
To: [Allen, William - AMS](#); [Betts, Marlene - AMS](#); [Bowden, David - AMS](#); [Coale, Dana - AMS](#); [Flores, Elizabeth R - AMS](#); [Jones, Samuel - AMS](#); [Keeler, Douglas - AMS](#); [Ladd, Jessica - AMS](#); [McEvoy, Miles - AMS](#); [Morris, Craig - AMS](#); [Morris, Erin - AMS](#); [Neal, Arthur - AMS](#); [Parrott, Charles - AMS](#); [Richmond, William - AMS](#); [Smith, Catherine - AMS](#); [Spriggs, Kimberly - AMS](#); [Stahl, Dana - AMS](#); [Stanziani, Pamela - AMS](#); [Stewart, Dana - AMS](#); [Summers, Bruce - AMS](#); [Trykowski, David - AMS](#); [Tucker, Jennifer - AMS](#); [Tuckwiller, David - AMS](#); [Turpin, Jennifer - AMS](#); [Ulibarri, Ronald - AMS](#); [Unkenholz, Becky - AMS](#); [Woods, Frank - AMS](#)
Subject: AMS Hot Issues Report
Date: Thursday, September 15, 2016 1:41:26 PM
Attachments: [2016-09-16 AMS Hot Issues.docx](#)

Folks,

Here is this week's report. Your updates to me by noon, next Thursday please. Thanks,

Dana

AMS Weekly Hot Issues
Week Ending September 16, 2016

Issue: Labeling of Bioengineered Food

On July 29, 2016, President Obama signed into a law a mandatory national bioengineered food disclosure standard. AMS is the USDA Agency responsible for implementing the labeling requirements. AMS has published the new law on its website and provided an opportunity for the public to provide comments and ask questions on the new law via phone and email. FSIS published guidance on Friday, August 19, to implement the statutory requirement that USDA allow “non-GMO” claims in commerce. The new law requires AMS to conduct a study identifying technical challenges for consumers to access an electronic or digital disclosure. On September 1, AMS published a Request for Information seeking input from vendors and general stakeholders on the study design, which closed on September 15. On September 14, AMS Administrator Starmer delivered to all AMS Deputy Administrators a policy memorandum affirming the new law’s consistency with the National Organic Program (NOP) and ensuring that rulemaking on the new law will not impact the NOP.

Next Steps: AMS is working to understand the requirements of the new law, establish funding for staffing and study requirements, analyze potential interactions with existing AMS programs, and start the regulatory process to publish an advanced notice of public rulemaking in the *Federal Register*.

Issue: Georgia Department of Agriculture Poultry Market News Report (Georgia Dock)

On July 20, 2016, AMS discovered that a price report issued by the Georgia Department of Agriculture (GDA) for processed poultry prices (Georgia Dock) was not being properly verified. The price information in the report has been included in an AMS issued market news report since 1993. AMS has been working with GDA officials to seek options to change the methodology of the report so it reflects verifiable market prices, but GDA plans to continue publishing the Georgia Dock report without change until an alternative methodology can be developed. In the meantime, AMS discontinued publishing the AMS Market News report based upon the Georgia Dock report on August 5, 2016. On September 1, AMS met with GDA in Atlanta to discuss the new Federal report and GDA’s current work with the Georgia poultry industry related to a replacement for its GDA Georgia Dock report.

Next Steps: AMS will continue working with GDA and offering technical assistance to develop new report procedures consistent with AMS Market News reporting methodologies and confidentiality guidelines. In addition, AMS is developing a new spot market poultry report in effort to meet industry needs.

Issue: U.S. District Court Decision on Resolute Forest Products, Inc.

On April 15, 2015, Resolute Forest Products filed a motion for summary judgment claiming that the Softwood Lumber Research and Promotion Order is unconstitutional. USDA has been involved in ongoing deliberation since the initial filing. On May 17, 2016, the U.S. District Court found that USDA’s Softwood Lumber Order was unlawful as promulgated. At a June 1, 2016, hearing held to discuss remedies, the court ordered: (1) USDA and the Softwood Lumber Board are prohibited from collecting further assessments from Resolute under the current Order;

(2) USDA and the Board must maintain a balance of funds of not less than \$1.1 million under the current Order; and, (3) USDA and Department of Justice (DOJ) shall file a brief supporting USDA's position that the \$1.1 million in assessments paid by Resolute should not be refunded in its entirety. A brief developed by AMS and DOJ for the court was filed on June 30, 2016. Resolute filed its response on July 20, 2016; USDA/DOJ's reply was filed by the extended due date of August 24, 2016. On June 30, 2016, AMS posted external Q&As about the case per the industry's request. AMS published a notice on July 20, 2016, notifying industry that a continuance referendum originally scheduled for August 20 will not be held. On July 13, 2016, AMS met with the Office of the Chief Economist (OCE) to discuss analyses necessary for upcoming rulemaking on the de minimis provisions of the order. On August 30, 2016, an interim rule was published in the Federal Register revising the time frame for the continuance referendum under the Softwood Lumber Order. The rule revises the time frame from 5 years (2016) to no later than 7 years (2018). Comments are due by October 31, 2016. On September 1, 2016, Resolute filed a notice of supplemental authority to emphasize its previous arguments about the order in the context of USDA's August 2016 interim rule. On September 14, 2016, AMS and DOJ decided to file a response to Resolute's notice of supplemental authority. Our response will clarify the status of the rulemaking and any subsequent referenda on the order.

Next Steps: AMS will continue to work with the OCE to determine the appropriate de minimis exemption threshold for softwood lumber. AMS will publish a final rule suspending order language on the continuance referendum, depending on comments.

Issue: R-CALF USA v. USDA/Vilsack

On May 2, 2016, R-CALF USA filed suit in Federal District Court in Montana against Secretary Vilsack arguing that the Beef Checkoff Program should be promoting only U.S. beef. The complaint argues that the Checkoff Program denies R-CALF USA members in Montana their First Amendment rights since they are required to pay into the Montana chapter of the Checkoff program without a say in the marketing strategy. AMS will soon issue a rule regarding the redirection of beef Checkoff funds so producers have the option of directing their full assessment under the Beef Checkoff go entirely to the National Board. According to R-CALF's legal challenge, the activities of the National Board are considered constitutionally sound by the Supreme Court, while the activities of the State Beef Councils are not. Thus, by giving producers the option to direct their monies to the National Board, R-CALF's purported violations of First Amendment rights should be addressed. On June 7, AMS asked if the Montana Beef Council would comply if a producer requested that they redirect assessments to the Cattlemen's Beef Board. The Montana Beef Council responded that any redirection request, accompanied by appropriate and timely documentation, would be considered independently and that all state and Federal laws would be considered when making board decisions. The redirection rule was published on July 15, 2016, with a 60-day comment period that closed on September 13, 2016. DOJ filed a motion to dismiss the case on August 4, 2016. On August 24, 2016, R-CALF responded to the motion to dismiss.

Next Steps: AMS is working with DOJ to provide additional materials and comments responsive to R-CALF's August 24, 2016, response related to the motion to dismiss. On September 12, 2016, R-Calf filed a Temporary Restraining Order (TRO) and DOJ filed on September 13, 2016, a motion for opportunity to respond to the TRO.

Marvin Horne Compliance Actions

On September 2, 2016, AMS issued administrative subpoenas to obtain records from the Dried Fruit Association and the Pacific/Atlantic Crop Exchange, Inc. (PACE). In July, AMS authorized an investigation of Marvin Horne's business transactions as he continues to operate outside the requirements under the Federal marketing order for raisins grown in California. On September 8, 2016, AMS received a letter from PACE's counsel requesting additional time to comply with the subpoena. On June 22, 2015, the U.S. Supreme Court ruled in favor of Horne, et al., determining the reserve component of the raisin marketing order was unconstitutional as it was considered a taking that would require just compensation. Lower courts ruled in USDA's favor and held that Mr. Horne met the definition of a handler under the marketing order. Because Mr. Horne never subsequently challenged the ruling by the U.S. Court of Appeals for the Ninth Circuit that he met the definition of a handler, the ruling stands. AMS has eight additional administrative cases against Mr. Horne that were stayed pending the outcome of the Supreme Court's decision. On August 3, 2016, the Administrative Law Judge (ALJ) issued an Order to Show Cause questioning "why these cases should not be dismissed." The administrative cases filed against Mr. Horne for violations in subsequent crop years total approximately \$400,000 in assessments owed to the Raisin Administrative Committee, plus civil penalties that may be issued. AMS has drafted a response to PACE's request for additional time to comply with subpoena; the Office of the General Counsel (OGC) currently is reviewing the letter.

Next Steps: If the evidence supports it, AMS will seek support from the Office of the General Counsel and Department of Justice in seeking injunctive relief in Federal District Court, effectively halting Mr. Horne's business operations until he complies with the marketing order.

(b) (5)



Additional Pending Issues

- Peoples Republic of China Government Officials to Visit U.S. Beef Production
 - AMS, FAS, APHIS, FSIS, and USMEF held an opening meeting with Chinese government officials on September 12, 2016, in Denver, CO, to start the process of opening the border for U.S. beef and beef products to be exported to China with the emphasis being on traceability of cattle from ranch of origin to boxed product for export. The various agencies have scheduled site visits of ranches, slaughter facilities, and other entities that demonstrate the traceability of animals and products for export in Nebraska this week. The closing meeting will be held on September 19, in Seattle, WA. Indications from the opening meeting are that Chinese officials are very receptive to opening their borders once again for U.S. beef.
- Notice Seeking Comments on U.S. Standards for Grades of Catfish and Catfish Products
 - On July 14, 2016, AMS published a Notice in the Federal Register seeking comments, data, research, and other information to help the Agency carry out the 2014 Farm Bill mandate to establish a voluntary fee-based grading program for catfish and catfish products. AMS is coordinating with the Department of Commerce's National Marine

Fisheries Service (NMFS), which has a program for quality evaluation of product, grading, and certification of fish (including catfish), shellfish, and fish products. We received four comments during the comment period, which ended on September 12, 2016. AMS will conduct two workshops to share information with stakeholders and gain more input to assist in developing grade standards and establishing a USDA grading program for catfish.

- Petition to Revise U.S. Beef Standards to Allow Alternate Means of Age Determination in Carcass Beef
 - On April 13, 2016, AMS received a petition from several industry stakeholders asking the Agency to make changes to allow for dentition as a means of age determination and eligibility for carcass grading. AMS published a Notice in the Federal Register on August 24, 2016, seeking public comments on the changes proposed in the petition. Comments are due by October 24, 2016; as of September 14, we've received 154 comments. Based on an analysis of the comments received, AMS will decide whether to proceed with specific changes to the standards.
- (b) (6) Suspended from Export Verification Programs
 - In April 2016, AMS suspended and delisted JBS Souderton from the Export Verification (EV) program because of issues related to the shipment of non-conforming beef products to Korea through Chicago Meat Authority. AMS completed "for cause" audits at all (b) (6) facilities in late May, and subsequent corrective actions and required training in July. AMS provided a summary of the audit findings to Japan in late July and continues to address Japan's questions about the findings and corrective actions. On August 22, AMS provided info to Japan regarding mislabeled packages from (b) (6), which shipped to Japan but did not enter commerce. Japan notified importing companies that it suspended imports of product from (b) (6). FAS will keep AMS apprised of any developments.
- Cornucopia Institute v. USDA/Secretary Vilsack
 - On April 19, the Cornucopia Institute filed a complaint with the U.S. District Court for the Western District of Wisconsin on behalf of two organic producers. The complaint charges that USDA violated the Organic Foods Production Act (OFPA) in appointing members to the NOSB who did not meet OFPA qualifications. AMS continues to provide OGC and DOJ with information to support the case as requested.
- National Organic Program Freedom of Information Act (FOIA) Lawsuits.
 - The Cornucopia Institute filed eight lawsuits over AMS handling of FOIA requests related to National Organic Program records. AMS continues to coordinate with General Law on case-specific actions, and NOP has awarded a contract to support expanding FOIA needs.
- OIG Audit: "National Organic Program – International Trade Arrangements and Agreements"
 - On March 17, AMS and OIG conducted a meeting to initiate OIG's audit of NOP's processes for international agreements supporting organic trade. OIG is near completion of the compliance portion of the audit and is on schedule to finish fieldwork in September 2016. OIG will schedule a meeting with NOP to discuss audit findings and possible recommendations in the fall.
- PVP Program for Non-GE/GMO Marketing Claim on Yogurt

- Chobani, LLC first submitted an application for an approved Process Verified Program (PVP) for a non-genetically engineered/genetically modified (non-GE/GMO) marketing claim in December 2015. In March, an AMS desk audit of their Quality Manual determined that their program met the requirements for a PVP; however, further evaluation of the company's application was suspended due to the increasing likelihood that a Federal law would pass that would address the labeling of GE/GMO foods.
- With the signing of the National Bioengineered Food Disclosure Law on July 29, Chobani contacted AMS and renewed their request for PVP approval. AMS is currently evaluating how to proceed with their proposed PVP, in light of the requirements of the new law.
- Sun-Maid Growers of California Filing Suit Against USDA
 - On April 6, 2015, Sun-Maid Growers of California filed a lawsuit in Federal District Court of Washington, DC, seeking to overturn the Secretary's denial of the company's November 17, 2014, petition for proposed amendments and hearings on terminating volume control authority from the raisin marketing order.
 - On August 28, 2015, DOJ filed a Motion to Dismiss Sun-Maid's suit against USDA. The April 23, 2016, hearing on the motion to dismiss was cancelled because of the May 3-4 rulemaking hearing on removing raisin reserve authority from the Federal marketing order for raisins. AMS will draft a Recommended Decision once the hearing record is certified and interested parties are provided the opportunity to file briefs.
- Raisin Compensation Lawsuits
 - USDA received three claims for compensation from Lion Farms, LLC, Bruce Ciapessoni et al., and Boyajian et al. in the U.S. Court of Federal Claims. DOJ filed responses for the first two cases, and OGC has placed a litigation hold on all documents related to the raisin marketing order. In early December 2015, USDA's motions to consolidate the Lion Farms and Ciapessoni cases were denied. Boyojian et al. filed suit on December 28, 2015. DOJ filed motions to dismiss the three cases, concluding with a February 26, 2016 motion to dismiss the Boyajian et al case.
 - On August 15, 2016, the Court indicated that oral arguments will be scheduled on USDA's motions to dismiss and the opponent's opposition responses.
- Center for Food Safety, et al. v. Vilsack, et al/Sunset.
 - On October 30, 2015, the Center for Food Safety filed an Amended Complaint related to the Sunset Notice litigation. . On December 10, 2015, DOJ filed a Motion to Dismiss the amended complaint. On September 8, 2016, the Court denied USDA's Motion to Dismiss the Amended Complaint, finding that the Plaintiffs had alleged sufficient facts to support its standing. The next step is a case management conference scheduled for September 20, to discuss future scheduling and deadlines. DOJ and USDA are required to file an Answer within 14 days of the court's action.
 - Center for Food Safety, et al. v. Vilsack, et al/Green Waste: A second complaint, filed on April 14, 2015, relates to Guidance Document – NOP 5016 (Allowance of Green Waste in Organic Production Systems). On June 20, 2016, the U.S. District Court Judge for the Northern District of California ruled that NOP 5016 must be vacated by August 22, 2016. AMS did so, withdrawing NOP 5016 on August 22 as directed. A Notice to Trade was sent on August 18 to update the organic community. AMS is currently drafting a proposed rule to replace the guidance with a regulatory rule change, with the opportunity for public comment. The work plan was designated as significant by OMB on August 31.

- ISO Technical Specification on Animal Welfare for Food Animals
 - AMS chairs U.S. representation to the International Organization for Standardization's (ISO) Technical Committee 34 (TC34)/Working Group 16 (WG), a group of experts in the field of animal welfare assembled to develop industry consensus on technical specification (TS) for food producing animals. On February 8, 2016, the TS was sent for a vote through a three month ballot process. The results of the vote were positive, and AMS notified the U.S. Technical Advisory Group to discuss the next steps in the process. AMS will attend the ISO TC34 plenary meeting in Paris, France, on July 7-8. AMS, as part of the smaller drafting group, is reviewing the comments provided during the vote. The WG is meeting in Paris on September 15-16 to finalize the TS, incorporating edits based on the comments. Once finalized, the intent is to have the TS published by December 1, in time for it to be announced at the next OIE Global Conference on Animal Welfare in December 2016.
- Burnette Foods Inc. v. USDA Case Related to the Federal Marketing Order for Tart Cherries
 - On September 9, 2016, the District Court Judge, ruling on USDA's motion to dismiss the 15a case, dismissed 4 of 5 claims fully, and one claim partially. The Judge partially dismissed Burnette's complaint that the Cherry Industry Administrative Board was improperly structured; he requires the entire administrative record to analyze the claim. USDA and DOJ have 14 days to file a response to this claim by September 23, 2016. DOJ will provide the full administrative record shortly thereafter. On December 21, 2015, Judicial Officer (JO) William Jenson confirmed his ruling in USDA's favor on all of the issues raised in Burnette Foods, Inc.'s petition challenging the tart cherry marketing order, denying Burnette's administrative 15a filing. On January 11, 2016, Burnette appealed the 15a decision by filing suit in Federal District Court. In his complaint, Burnette seeks a declaratory judgment to overturn the JO's order recognizing that tart cherry canners are separately situated from other segments of the tart cherry industry as being arbitrary and capricious. Mr. Burnette contends the Board is improperly structured and that the tart cherry marketing order is unconstitutional because it ignores imported cherries, does not apply to all states, and places a season-to-season reserve requirement on products with short shelf life.
 - OGC issued a litigation hold on all Burnette related tart cherry documents and e-mails.
- PCRM Litigation - FOIA Request for Beef and Dairy Checkoff Documents
 - AMS is working with OGC and DOJ to respond to the allegations of improper processing of FOIA requests and appeals. The FOIA suit was filed against USDA by the Physician's Committee for Responsible Medicine on April 12, 2013.
 - PCRM Litigation – PCRM v USDA and HHS On January 6, 2016, PCRM filed a lawsuit in Federal Court in the Northern District of California, against USDA and the Department of Health and Human Services alleging that the government had allowed the food industry and financial inducements to dictate the Dietary Guidelines Advisory Committee's (DGAC) new recommendations on cholesterol. PCRM is requesting injunctive relief in the suit preventing Defendants from relying on DGAC recommendations. On August 25, 2016, the Court requested additional briefings on the matter. AMS will continue to help OGC and DOJ as requested.
- Humane Society of the United States vs. Vilsack

- In September 2012, the Humane Society of the United States (HSUS) filed suit in the Federal District Court of the District of Columbia against the Secretary of Agriculture under the Administrative Procedure Act (APA) challenging the approval of the National Pork Board's (Board) purchase of four trademarks including the "Pork. The Other White Meat" (PTOWM) slogan from the National Pork Producers Council (NPPC). On August 14, 2015, HSUS won its appeal for standing. The case is still pending with each party submitting records to the Court. The decision will be based upon the administrative records filed on June 29, 2016. On August 24, 2016, DOJ filed additional materials to supplement USDA's administrative record that was originally filed with the court on June 29, 2016.
- USDA Certified Transitional Program
 - AMS is reviewing the Organic Trade Association's Transitional Certification standard, which was submitted on May 20. The standard will allow AMS to approve Accredited Certifying Agents to verify processes and practices used by producers during the 3-year transition period required by the National Organic Program regulations when moving from conventional to organic production. On August 22, AMS met with OGC to discuss the proposed standard and voluntary verification activities. (b) (5)
- The Good Food Institute
 - On August 8, 2016, the Good Food Institute (GFI) filed a lawsuit against USDA for allegedly refusing to release American Egg Board (AEB) documents under Freedom of Information Act (FOIA) requests. In a complaint filed in the U.S. District Court for the District of Columbia, GFI, a food advocacy group, says USDA did not fulfill three FOIA requests in late 2015 and early 2016 regarding AEB and Hampton Creek's egg-free mayonnaise line. The group is asking that the court force the USDA to release the records and pay legal and search fees.

From: [Stewart, Dana - AMS](#)
To: [Richmond, William - AMS](#)
Cc: [Taylor, Jameelah - AMS](#); [Walker, Natosha - AMS](#)
Subject: AMS Hot Issues Report
Date: Thursday, September 22, 2016 1:46:32 PM
Attachments: [2016-09-23 AMS Hot Issues.docx](#)

Welcome back!

Dana Stewart
Assistant to the Director
Specialty Crops Inspection Division
USDA Agricultural Marketing Service

From: [Richmond, William - AMS](#)
To: [Howard, David- OSEC](#); [Singh, Harjaap - OSEC, Washington, DC](#)
Cc: [Starmer, Elanor - AMS](#); [Morris, Erin - AMS](#); [Comfort, Karen - AMS](#); [Summers, Bruce - AMS](#); [Walker, Natosha - AMS](#); [Taylor, Jameelah - AMS](#); [Coale, Dana - AMS](#); [Bailey, Shayla - AMS](#); [Cordova, Elvis - OSEC](#); [Thomas, Ben - OSEC](#); [Allen, William - AMS](#); [Stewart, Dana - AMS](#); [Tucker, Jennifer - AMS](#); [Flores, Elizabeth R - AMS](#); [Unkenholz, Becky - AMS](#); [Gebault King, ReneeA - AMS](#)
Subject: AMS Hot Issues Report
Date: Friday, September 23, 2016 11:25:08 AM
Attachments: [2016-09-23 AMS Hot Issues.docx](#)

David and Harjaap,

The AMS Hot Issues report for the week ending September 23, 2016, is attached. Please get in touch with questions.

Thanks, Bill

Bill Richmond

USDA, Agricultural Marketing Service
Chief of Staff
202-260-8019

From: [Stewart, Dana - AMS](#)
To: [Allen, William - AMS](#); [Betts, Marlene - AMS](#); [Bowden, David - AMS](#); [Coale, Dana - AMS](#); [Flores, Elizabeth R - AMS](#); [Jones, Samuel - AMS](#); [Keeler, Douglas - AMS](#); [Ladd, Jessica - AMS](#); [McEvoy, Miles - AMS](#); [Morris, Craig - AMS](#); [Morris, Erin - AMS](#); [Neal, Arthur - AMS](#); [Parrott, Charles - AMS](#); [Richmond, William - AMS](#); [Smith, Catherine - AMS](#); [Spriggs, Kimberly - AMS](#); [Stahl, Dana - AMS](#); [Stanziani, Pamela - AMS](#); [Stewart, Dana - AMS](#); [Summers, Bruce - AMS](#); [Trykowski, David - AMS](#); [Tucker, Jennifer - AMS](#); [Tuckwiller, David - AMS](#); [Turpin, Jennifer - AMS](#); [Ulibarri, Ronald - AMS](#); [Unkenholz, Becky - AMS](#); [Woods, Frank - AMS](#)
Subject: AMS Hot Issues Report
Date: Friday, September 23, 2016 11:40:49 AM
Attachments: [2016-09-23 AMS Hot Issues.docx](#)

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Dana

From: [Morris, Erin - AMS](#)
To: [Jimenez, Sonia - AMS](#)
Subject: FW: AMS Hot Issues Report
Date: Friday, September 23, 2016 12:09:26 PM
Attachments: [2016-09-23 AMS Hot Issues.docx](#)

You might have to follow up with him again to add you to the list.

From: Richmond, William - AMS
Sent: Friday, September 23, 2016 11:25 AM
To: Howard, David- OSEC; Singh, Harjaap - OSEC, Washington, DC
Cc: Starmer, Elanor - AMS; Morris, Erin - AMS; Comfort, Karen - AMS; Summers, Bruce - AMS; Walker, Natosha - AMS; Taylor, Jameelah - AMS; Coale, Dana - AMS; Bailey, Shayla - AMS; Cordova, Elvis - OSEC; Thomas, Ben - OSEC; Allen, William - AMS; Stewart, Dana - AMS; Tucker, Jennifer - AMS; Flores, Elizabeth R - AMS; Unkenholz, Becky - AMS; Gebault King, ReneeA - AMS
Subject: AMS Hot Issues Report

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Bill Richmond
USDA, Agricultural Marketing Service
Chief of Staff
202-260-8019

AMS Weekly Hot Issues
Week Ending September 23, 2016

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Next Steps: AMS is using the comments received on the RFI to develop the solicitation for vendor proposals for the study on the electronic or digital disclosure. However, posting of the solicitation is contingent on funding. AMS is continuing to analyze the requirements of the new law, establish funding for staffing and study requirements, determine potential interactions with existing AMS programs, and work within the regulatory process to publish an advanced notice of public rulemaking in the *Federal Register*.

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Board are prohibited from collecting further assessments from Resolute under the current Order; (2) USDA and the Board must maintain a balance of funds of not less than \$1.1 million under the current Order; and, (3) USDA and Department of Justice (DOJ) shall file a brief supporting USDA's position that the \$1.1 million in assessments paid by Resolute should not be refunded in its entirety. A brief developed by AMS and DOJ for the court was filed on June 30, 2016. Resolute filed its response on July 20, 2016; USDA/DOJ's reply was filed by the extended due date of August 24, 2016. On June 30, 2016, AMS posted external Q&As about the case per the industry's request. AMS published a notice on July 20, 2016, notifying industry that a continuance referendum originally scheduled for August 20 will not be held. On July 13, 2016, AMS met with the Office of the Chief Economist (OCE) to discuss analyses necessary for upcoming rulemaking on the de minimis provisions of the order. On August 30, 2016, an interim rule was published in the Federal Register revising the time frame for the continuance referendum under the Softwood Lumber Order. The rule revises the time frame from 5 years (2016) to no later than 7 years (2018). Comments are due by October 31, 2016. On September 1, 2016, Resolute filed a notice of supplemental authority to emphasize its previous arguments about the order in the context of USDA's August 2016 interim rule. On September 14, 2016, AMS and DOJ decided to file a response to Resolute's notice of supplemental authority. Our response will clarify the status of the rulemaking and any subsequent referendum on the order.

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Next Steps: AMS continues to work with DOJ and OGC by developing declarations, statements of facts, and other materials, as needed.

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Next Steps: If the evidence supports it, AMS will seek support from the Office of the General Counsel and Department of Justice in seeking injunctive relief in Federal District Court, effectively halting Mr. Horne's business operations until he complies with the marketing order.

(b) (5)



Issue: Government Accountability Office (GAO) Initiates Two Audits at AMS

On September 9, the GAO announced they were initiating the two subject audits on a Congressional request: "USDA Oversight of National Research & Promotion Programs" and "FOIA Requests Related to R&P Programs." The objectives of the (first) audit are to determine: 1) the extent to which USDA's oversight activities ensure program funds are used in a manner consistent with authorizing legislation, and 2) the extent to which USDA has performance measures that enable the agency to assess the effectiveness of the checkoff programs. The objective of the second audit pertains to how FOIAs related to R&P programs are received, processed, and how any exceptions are handled.

Next Steps: An entrance conference is scheduled for Monday, September 19 with AMS, FAS, OIG and GAO officials.

Additional Pending Issues

- Peoples Republic of China Government Officials to Visit U.S. Beef Production
 - China Ministry of Agriculture officials conducted an assessment of the U.S. beef industry from September 11-19, 2016, to determine whether boxed beef products can be traceable to the ranch of origin. FAS, AMS, FSIS, and APHIS accompanied the delegation during the assessment. The opening meeting in Denver, CO, included the USDA agencies and various members of industry. The group continued to Nebraska to review two cow/calf ranch operations, one feedlot, and two slaughter facilities. Industry demonstrated its ability to trace the boxed beef to cattle arriving from slaughter, and the cattle to ranch of origin, through AMS' program for source and age verification, which would eventually be a part of an Export Verification developed for China. The delegation then traveled to the State of Washington, where APHIS briefed the delegation on how the single incidence of BSE in December 2003 was handled to ensure that BSE is still a negligible risk in the United States according to OIE standards. A closing meeting was held in Seattle, WA, at which China gave the U.S. officials a summary of their assessment and additional suggestions for the traceability system proposed by AMS.
- Notice Seeking Comments on U.S. Standards for Grades of Catfish and Catfish Products
 - On July 14, 2016, AMS published a Notice in the Federal Register seeking comments, data, research, and other information to help the Agency carry out the 2014 Farm Bill mandate to establish a voluntary fee-based grading program for catfish and catfish products. AMS is coordinating with the Department of Commerce's National Marine Fisheries Service (NMFS), which has a program for quality evaluation of product, grading, and certification of fish (including catfish), shellfish, and fish products. We received four comments during the comment period, which ended on September 12, 2016. AMS will conduct two workshops to share information with stakeholders and gain more input to assist in developing grade standards and establishing a USDA grading program for catfish.
- Petition to Revise U.S. Beef Standards to Allow Alternate Means of Age Determination in Carcass Beef
 - On April 13, 2016, AMS received a petition from several industry stakeholders asking the Agency to make changes to allow for dentition as a means of age determination and eligibility for carcass grading. AMS published a Notice in the Federal Register on August 24, 2016, seeking public comments on the changes proposed in the petition. Comments are due by October 24, 2016. To date, we've received 156 comments. Based on an analysis of the comments received, AMS will decide whether to proceed with specific changes to the standards.
- (b) (6) Suspended from Export Verification Programs
 - In April 2016, AMS suspended and delisted (b) (6) from the Export Verification (EV) program because of issues related to the shipment of non-conforming beef products to Korea through Chicago Meat Authority. AMS completed "for cause" audits at all (b) (6) facilities in late May, and subsequent corrective actions and required training in July. AMS provided a summary of the audit findings to Japan in late July and continues to address Japan's questions about the findings and corrective actions. On August 22, AMS

provided info to Japan regarding mislabeled packages from (b) (6), which shipped to Japan but did not enter commerce. Japan notified importing companies that it suspended imports of product from (b) (6). FAS will keep AMS apprised of any developments.

- Cornucopia Institute v. USDA/Secretary Vilsack
 - On April 19, the Cornucopia Institute filed a complaint with the U.S. District Court for the Western District of Wisconsin on behalf of two organic producers. The complaint charges that USDA violated the Organic Foods Production Act (OFPA) in appointing members to the NOSB who did not meet OFPA qualifications. AMS continues to provide OGC and DOJ with information to support the case as requested.
- National Organic Program Freedom of Information Act (FOIA) Lawsuits.
 - The Cornucopia Institute filed eight lawsuits over AMS handling of FOIA requests related to National Organic Program records. AMS continues to coordinate with General Law on case-specific actions, and NOP has awarded a contract to support expanding FOIA needs.
- OIG Audit: “National Organic Program – International Trade Arrangements and Agreements”
 - On March 17, AMS and OIG conducted a meeting to initiate OIG’s audit of NOP’s processes for international agreements supporting organic trade. OIG is near completion of the compliance portion of the audit and is on schedule to finish fieldwork in September 2016. OIG will schedule a meeting with NOP to discuss audit findings and possible recommendations in the fall.
- PVP Program for Non-GE/GMO Marketing Claim on Yogurt
 - Chobani, LLC first submitted an application for an approved Process Verified Program (PVP) for a non-genetically engineered/genetically modified (non-GE/GMO) marketing claim in December 2015. In March, an AMS desk audit of their Quality Manual determined that their program met the requirements for a PVP; however, further evaluation of the company’s application was suspended due to the increasing likelihood that a Federal law would pass that would address the labeling of GE/GMO foods.
 - With the signing of the National Bioengineered Food Disclosure Law on July 29, Chobani contacted AMS and renewed their request for PVP approval. AMS is currently evaluating how to proceed with their proposed PVP, in light of the requirements of the new law.
- Sun-Maid Growers of California Filing Suit Against USDA
 - On April 6, 2015, Sun-Maid Growers of California filed a lawsuit in Federal District Court of Washington, DC, seeking to overturn the Secretary’s denial of the company’s November 17, 2014, petition for proposed amendments and hearings on terminating volume control authority from the raisin marketing order.
 - On August 28, 2015, DOJ filed a Motion to Dismiss Sun-Maid’s suit against USDA. The April 23, 2016, hearing on the motion to dismiss was cancelled because of the May 3-4 rulemaking hearing on removing raisin reserve authority from the Federal marketing order for raisins. AMS will draft a Recommended Decision once the hearing record is certified and interested parties are provided the opportunity to file briefs.
- Raisin Compensation Lawsuits
 - USDA received three claims for compensation from Lion Farms, LLC, Bruce Ciapessoni et al., and Boyajian et al. in the U.S. Court of Federal Claims. DOJ filed responses for

the first two cases, and OGC has placed a litigation hold on all documents related to the raisin marketing order. In early December 2015, USDA's motions to consolidate the Lion Farms and Ciapessoni cases were denied. Boyojian et al. filed suit on December 28, 2015. DOJ filed motions to dismiss the three cases, concluding with a February 26, 2016 motion to dismiss the Boyajian et al case.

- On August 15, 2016, the Court indicated that oral arguments will be scheduled on USDA's motions to dismiss and the opponent's opposition responses.
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 - On October 30, 2015, the Center for Food Safety filed an Amended Complaint related to the Sunset Notice litigation. . On December 10, 2015, DOJ filed a Motion to Dismiss the amended complaint. On September 8, 2016, the Court denied USDA's Motion to Dismiss the Amended Complaint, finding that the Plaintiffs had alleged sufficient facts to support its standing. The next step is a case management conference scheduled for September 20, to discuss future scheduling and deadlines. DOJ and USDA are required to file an Answer within 14 days of the court's action.
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- (b) (5)
- ISO Technical Specification on Animal Welfare for Food Animals
 - AMS chairs U.S. representation to the International Organization for Standardization's (ISO) Technical Committee 34 (TC34)/Working Group 16 (WG), a group of experts in the field of animal welfare assembled to develop industry consensus on technical specification (TS) for food producing animals. On February 8, 2016, the TS was sent for a vote through a three month ballot process. The results of the vote were positive, and AMS notified the U.S. Technical Advisory Group to discuss the next steps in the process. AMS will attend the ISO TC34 plenary meeting in Paris, France, on July 7-8. AMS, as part of the smaller drafting group, is reviewing the comments provided during the vote. The WG is meeting in Paris on September 15-16 to finalize the TS, incorporating edits based on the comments. Once finalized, the intent is to have the TS published by December 1, in time for it to be announced at the next OIE Global Conference on Animal Welfare in December 2016.
- Burnette Foods Inc. v. USDA Case Related to the Federal Marketing Order for Tart Cherries
 - On September 9, 2016, the District Court Judge, ruling on USDA's motion to dismiss the 15a case, dismissed 4 of 5 claims fully, and one claim partially. The Judge partially dismissed Burnette's complaint that the Cherry Industry Administrative Board was improperly structured; he requires the entire administrative record to analyze the claim. USDA and DOJ have 14 days to file a response to this claim by September 23, 2016. DOJ will provide the full administrative record shortly thereafter. On December 21, 2015, Judicial Officer (JO) William Jenson confirmed his ruling in USDA's favor on all of the

issues raised in Burnette Foods, Inc.'s petition challenging the tart cherry marketing order, denying Burnette's administrative 15a filing. On January 11, 2016, Burnette appealed the 15a decision by filing suit in Federal District Court. In his complaint, Burnette seeks a declaratory judgment to overturn the JO's order recognizing that tart cherry canners are separately situated from other segments of the tart cherry industry as being arbitrary and capricious. Mr. Burnette contends the Board is improperly structured and that the tart cherry marketing order is unconstitutional because it ignores imported cherries, does not apply to all states, and places a season-to-season reserve requirement on products with short shelf life.

- OGC issued a litigation hold on all Burnette related tart cherry documents and e-mails.
- PCRM Litigation - FOIA Request for Beef and Dairy Checkoff Documents
 - AMS is working with OGC and DOJ to respond to the allegations of improper processing of FOIA requests and appeals. The FOIA suit was filed against USDA by the Physician's Committee for Responsible Medicine on April 12, 2013.
 - PCRM Litigation – PCRM v USDA and HHS On January 6, 2016, PCRM filed a lawsuit in Federal Court in the Northern District of California, against USDA and the Department of Health and Human Services alleging that the government had allowed the food industry and financial inducements to dictate the Dietary Guidelines Advisory Committee's (DGAC) new recommendations on cholesterol. PCRM is requesting injunctive relief in the suit preventing Defendants from relying on DGAC recommendations. On August 25, 2016, the Court requested additional briefings on the matter. AMS will continue to help OGC and DOJ as requested.
- Humane Society of the United States vs. Vilsack
 - In September 2012, the Humane Society of the United States (HSUS) filed suit in the Federal District Court of the District of Columbia against the Secretary of Agriculture under the Administrative Procedure Act (APA) challenging the approval of the National Pork Board's (Board) purchase of four trademarks including the "Pork. The Other White Meat" (PTOWM) slogan from the National Pork Producers Council (NPPC). On August 14, 2015, HSUS won its appeal for standing. The case is still pending with each party submitting records to the Court. The decision will be based upon the administrative records filed on June 29, 2016. On August 24, 2016, DOJ filed additional materials to supplement USDA's administrative record that was originally filed with the court on June 29, 2016.
- USDA Certified Transitional Program
 - AMS is reviewing the Organic Trade Association's Transitional Certification standard, which was submitted on May 20. The standard will allow AMS to approve Accredited Certifying Agents to verify processes and practices used by producers during the 3-year transition period required by the National Organic Program regulations when moving from conventional to organic production. On August 22, AMS met with OGC to discuss the proposed standard and voluntary verification activities. (b) (5)
- The Good Food Institute
 - On August 8, 2016, the Good Food Institute (GFI) filed a lawsuit against USDA for allegedly refusing to release American Egg Board (AEB) documents under Freedom of

Information Act (FOIA) requests. In a complaint filed in the U.S. District Court for the District of Columbia, GFI, a food advocacy group, says USDA did not fulfill three FOIA requests in late 2015 and early 2016 regarding AEB and Hampton Creek's egg-free mayonnaise line. The group is asking that the court force the USDA to release the records and pay legal and search fees.

From: [Stewart, Dana - AMS](#)
To: [Richmond, William - AMS](#)
Cc: [Walker, Natosha - AMS](#); [Taylor, Jameelah - AMS](#)
Subject: AMS Hot Issues Report
Date: Thursday, September 29, 2016 11:05:42 AM
Attachments: [2016-09-30 AMS Hot Issues.docx](#)

From: [Richmond, William - AMS](#)
To: [Singh, Harjaap - OSEC, Washington, DC](#); [Howard, David- OSEC](#)
Cc: [Starmer, Elanor - AMS](#); [Morris, Erin - AMS](#); [Comfort, Karen - AMS](#); [Summers, Bruce - AMS](#); [Walker, Natosha - AMS](#); [Taylor, Jameelah - AMS](#); [Coale, Dana - AMS](#); [Bailey, Shayla - AMS](#); [Cordova, Elvis - OSEC](#); [Thomas, Ben - OSEC](#); [Allen, William - AMS](#); [Stewart, Dana - AMS](#); [Tucker, Jennifer - AMS](#); [Flores, Elizabeth R - AMS](#); [Unkenholz, Becky - AMS](#); [Gebault King, ReneeA - AMS](#); [Jimenez, Sonia - AMS](#)
Subject: AMS Weekly Hot Issues
Date: Friday, September 30, 2016 3:15:15 PM
Attachments: [2016-09-30 AMS Hot Issues.docx](#)

The AMS weekly hot issues report is attached. Thanks, Bill

Bill Richmond

USDA, Agricultural Marketing Service
Chief of Staff
202-260-8019

From: [Stewart, Dana - AMS](#)
To: [Allen, William - AMS](#); [Betts, Marlene - AMS](#); [Bowden, David - AMS](#); [Coale, Dana - AMS](#); [Flores, Elizabeth R - AMS](#); [Jones, Samuel - AMS](#); [Keeler, Douglas - AMS](#); [Ladd, Jessica - AMS](#); [McEvoy, Miles - AMS](#); [Morris, Craig - AMS](#); [Morris, Erin - AMS](#); [Neal, Arthur - AMS](#); [Parrott, Charles - AMS](#); [Richmond, William - AMS](#); [Smith, Catherine - AMS](#); [Spriggs, Kimberly - AMS](#); [Stahl, Dana - AMS](#); [Stanziani, Pamela - AMS](#); [Stewart, Dana - AMS](#); [Summers, Bruce - AMS](#); [Trykowski, David - AMS](#); [Tucker, Jennifer - AMS](#); [Tuckwiller, David - AMS](#); [Turpin, Jennifer - AMS](#); [Ulibarri, Ronald - AMS](#); [Unkenholz, Becky - AMS](#); [Woods, Frank - AMS](#)
Subject: AMS Weekly Hot Issues
Date: Friday, September 30, 2016 3:24:34 PM
Attachments: [2016-09-30 AMS Hot Issues.docx](#)

Good afternoon. Here is this week's hot issues report. Your updates to this report to me by noon next Thursday please. Thanks,

Dana

AMS Weekly Hot Issues
Week Ending September 30, 2016

Issue: Bioengineered Food Disclosure

On July 29, 2016, President Obama signed into a law a mandatory national bioengineered food disclosure standard. AMS is the USDA Agency responsible for implementing the labeling requirements. AMS has published the law on its website and provided an opportunity for the public to provide comments and ask questions on the new law via email. The new law requires AMS to conduct a study identifying technical challenges for consumers to access an electronic or digital disclosure. On September 1, AMS published a Request for Information (RFI) seeking input from vendors and general stakeholders on the study design, which closed on September 15. AMS received 8 comments, including 1 vendor proposal. On September 14, AMS Administrator Starmer delivered to all AMS Deputy Administrators a policy memorandum affirming the new law's consistency with the National Organic Program (NOP) and ensuring that rulemaking on the new law will not impact the NOP.

Next Steps: AMS is using the comments received on the RFI to develop the solicitation for vendor proposals for the study on the electronic or digital disclosure. However, posting of the solicitation is contingent on funding. AMS is continuing to analyze the requirements of the law, establish funding for staffing and study requirements, determine potential interactions with existing AMS programs, and work within the regulatory process to publish an advanced notice of public rulemaking in the *Federal Register*.

Issue: Georgia Department of Agriculture Poultry Market News Report (Georgia Dock)

On July 20, 2016, AMS discovered that a price report issued by the Georgia Department of Agriculture (GDA) for processed poultry prices (Georgia Dock) was not being properly verified. The price information in the report has been included in an AMS issued market news report since 1993. AMS has been working with GDA officials to seek options to change the methodology of the report so it reflects verifiable market prices, but GDA plans to continue publishing the Georgia Dock report without change until an alternative methodology can be developed. In the meantime, AMS discontinued publishing the AMS Market News report based upon the Georgia Dock report on August 5, 2016. On September 1, AMS met with GDA in Atlanta to discuss the new Federal report and GDA's current work with the Georgia poultry industry related to a replacement for its GDA Georgia Dock report.

Next Steps: AMS will continue working with GDA and offering technical assistance to develop new report procedures consistent with AMS Market News reporting methodologies and confidentiality guidelines. In addition, in an effort to meet industry needs, AMS is developing an enhancement to the Weekly National Whole Broiler/Fryer Report that will show more detailed market price information for light, medium, and heavy weight birds. The new addition to the report will be launched on October 7, 2016.

Issue: U.S. District Court Decision on Resolute Forest Products, Inc.

On April 15, 2015, Resolute Forest Products filed a motion for summary judgment claiming that the Softwood Lumber Research and Promotion Order is unconstitutional. USDA has been involved in ongoing deliberation since the initial filing. On May 17, 2016, the U.S. District

Court found that USDA's Softwood Lumber Order was unlawful as promulgated. At a June 1, 2016, hearing held to discuss remedies, the court ordered: (1) USDA and the Softwood Lumber Board are prohibited from collecting further assessments from Resolute under the current Order; (2) USDA and the Board must maintain a balance of funds of not less than \$1.1 million under the current Order; and, (3) USDA and Department of Justice (DOJ) shall file a brief supporting USDA's position that the \$1.1 million in assessments paid by Resolute should not be refunded in its entirety. A brief developed by AMS and DOJ for the court was filed on June 30, 2016. Resolute filed its response on July 20, 2016; USDA/DOJ's reply was filed by the extended due date of August 24, 2016. On June 30, 2016, AMS posted external Q&As about the case per the industry's request. AMS published a notice on July 20, 2016, notifying industry that a continuance referendum originally scheduled for August 20 will not be held. On July 13, 2016, AMS met with the Office of the Chief Economist (OCE) to discuss analyses necessary for upcoming rulemaking on the de minimis provisions of the order. On August 30, 2016, an interim rule was published in the Federal Register revising the time frame for the continuance referendum under the Softwood Lumber Order. The rule revises the time frame from 5 years (2016) to no later than 7 years (2018). Comments are due by October 31, 2016. On September 1, 2016, Resolute filed a notice of supplemental authority to emphasize its previous arguments about the order in the context of USDA's August 2016 interim rule. On September 14, 2016, AMS and DOJ decided to file a response to Resolute's notice of supplemental authority. Our response will clarify the status of the rulemaking and any subsequent referenda on the order.

Next Steps: AMS will continue to work with the OCE to determine the appropriate de minimis exemption threshold for softwood lumber. AMS will publish a final rule suspending order language on the continuance referendum, depending on comments.

Issue: R-CALF USA v. USDA/Vilsack

On May 2, 2016, R-CALF USA filed suit in Federal District Court in Montana against Secretary Vilsack arguing that the Beef Checkoff Program should be promoting only U.S. beef. The complaint argues that the Checkoff Program denies R-CALF USA members in Montana their First Amendment rights since they are required to pay into the Montana chapter of the Checkoff program without a say in the marketing strategy. AMS will soon issue a rule regarding the redirection of beef Checkoff funds so producers have the option of directing their full assessment under the Beef Checkoff go entirely to the National Board. According to R-CALF's legal challenge, the activities of the National Board are considered constitutionally sound by the Supreme Court, while the activities of the State Beef Councils are not. Thus, by giving producers the option to direct their monies to the National Board, R-CALF's purported violations of First Amendment rights should be addressed. On June 7, AMS asked if the Montana Beef Council would comply if a producer requested that they redirect assessments to the Cattlemen's Beef Board. The Montana Beef Council responded that any redirection request, accompanied by appropriate and timely documentation, would be considered independently and that all state and Federal laws would be considered when making board decisions. The redirection rule was published on July 15, 2016, with a 60-day comment period that closed on September 13, 2016. DOJ filed a motion to dismiss the case on August 4, 2016. On August 24, 2016, R-CALF responded to the motion to dismiss. On September 20, 2016, the Court issued an Order for a hearing to take place on October 25, 2016, at 2 p.m. regarding DOJ's Motion to Dismiss and Plaintiffs Motions for Summary Judgement and their Motion for a Temporary Restraining Order.

(TRO). AMS worked with DOJ and OGC by developing declarations, statements of facts, and other materials that were filed on September 28, 2016.

Next Steps: AMS will continue to work with DOJ and OGC, as needed.

Marvin Horne Compliance Actions

On June 22, 2015, the U.S. Supreme Court ruled in favor of Horne, et al., determining the reserve component of the raisin marketing order was unconstitutional as it was considered a taking that would require just compensation. Lower courts ruled in USDA's favor and held that Mr. Horne met the definition of a handler under the marketing order. Because Mr. Horne never subsequently challenged the ruling by the U.S. Court of Appeals for the Ninth Circuit that he met the definition of a handler, the ruling stands. AMS has eight additional administrative cases against Mr. Horne that were stayed pending the outcome of the Supreme Court's decision. The administrative cases filed against Mr. Horne for violations in subsequent crop years total approximately \$400,000 in assessments owed to the Raisin Administrative Committee, plus civil penalties that may be issued. On August 3, 2016, the Administrative Law Judge (ALJ) issued an Order to Show Cause questioning "why these cases should not be dismissed." AMS and DOJ resolved the ALJ's concerns so the cases remain open.

In July, AMS authorized an investigation of Marvin Horne's business transactions as he continues to operate outside the requirements under the Federal marketing order for raisins grown in California. On September 2, 2016, AMS issued administrative subpoenas to obtain records from the Dried Fruit Association (DFA) and the Pacific/Atlantic Crop Exchange, Inc. (PACE). On September 8, 2016, AMS received a letter from PACE's counsel requesting additional time to comply with the subpoena. The Office of the Administrator is reviewing a letter AMS drafted in response to PACE's request for additional time to comply with subpoena. On September 13, 2016, the DFA responded to the AMS-issued subpoena. Since 2012, DFA inspectors started leaving inspection records with Horne/Lassen Vineyards so that DFA no longer maintains a copy for its records.

Next Steps: If the evidence supports it, AMS will seek support from the Office of the General Counsel and Department of Justice in seeking injunctive relief in Federal District Court, effectively halting Mr. Horne's business operations until he complies with the marketing order.

(b) (5)



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 - On September 22, China officially lifted its 13-year ban on US beef. The next step is to negotiate specific export requirements with the Chinese government. This will commence once the Chinese delegation issues its trip report.
 - AMS, FAS, APHIS, and FSIS will hold a planning meeting on September 29 to prepare for negotiations.
- Notice Seeking Comments on U.S. Standards for Grades of Catfish and Catfish Products
 - On July 14, 2016, AMS published a Notice in the Federal Register seeking comments, data, research, and other information to help the Agency carry out the 2014 Farm Bill mandate to establish a voluntary fee-based grading program for catfish and catfish products. AMS is coordinating with the Department of Commerce's National Marine Fisheries Service (NMFS), which has a program for quality evaluation of product, grading, and certification of fish (including catfish), shellfish, and fish products. We received four comments during the comment period, which ended on September 12, 2016. AMS is conducting two workshops to share information with stakeholders and gain more input to assist in developing grade standards and establishing a USDA grading program for catfish.
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- Japan to Audit U.S. Beef Production
 - Japan government officials have set a tentative date of November 7-18, 2016, to visit the United States to audit U.S. beef producers exporting to Japan. Japan is awaiting additional questionnaires from beef producers, and evaluating responses from AMS on the (b) (6) issue before audit sites are selected and the trip is finalized.

- Development of Industry Standard Definition for “Cage-Free” Eggs
 - On September 21, Secretary Vilsack hosted a meeting with key representatives of the grocery and food retail sectors and the U.S. shell egg industry to discuss strategies for meeting the 2026 deadline established by volume food buyers for transitioning to cage-free supplies. All parties agreed that the starting point was for industry to develop a standard definition of the term “cage-free.” The United Egg Producers (UEP) is leading the effort; AMS offered to play a support role and facilitate discussions.
 - A meeting is tentatively planned for October 27, 2016, in Washington, DC, at which interested egg producers and members of the food retailing sectors will begin developing an agreed-upon definition. Once that definition is developed, UEP and the group will then engage consumer and animal rights organizations.
- Cornucopia Institute v. USDA/Secretary Vilsack
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- The Good Food Institute
 - On August 8, 2016, the Good Food Institute (GFI) filed a lawsuit against USDA for allegedly refusing to release American Egg Board (AEB) documents under Freedom of Information Act (FOIA) requests. In a complaint filed in the U.S. District Court for the District of Columbia, GFI, a food advocacy group, says USDA did not fulfill three FOIA requests in late 2015 and early 2016 regarding AEB and Hampton Creek's egg-free mayonnaise line. The group is asking that the court force the USDA to release the records and pay legal and search fees.

From: [Stewart, Dana - AMS](#)
To: [Richmond, William - AMS](#)
Cc: [Walker, Natosha - AMS](#); [Taylor, Jameelah - AMS](#)
Subject: AMS Hot Issues Report
Date: Thursday, October 06, 2016 1:57:17 PM
Attachments: [2016-10-07 AMS Hot Issues.docx](#)

From: [Richmond, William - AMS](#)
To: [Howard, David- OSEC](#); [Singh, Harjaap - OSEC, Washington, DC](#)
Cc: [Starmer, Elanor - AMS](#); [Morris, Erin - AMS](#); [Comfort, Karen - AMS](#); [Summers, Bruce - AMS](#); [Walker, Natosha - AMS](#); [Taylor, Jameelah - AMS](#); [Coale, Dana - AMS](#); [Bailey, Shayla - AMS](#); [Cordova, Elvis - OSEC](#); [Thomas, Ben - OSEC](#); [Allen, William - AMS](#); [Stewart, Dana - AMS](#); [Tucker, Jennifer - AMS](#); [Flores, Elizabeth R - AMS](#); [Unkenholz, Becky - AMS](#); [Gebault King, ReneeA - AMS](#); [Jimenez, Sonia - AMS](#)
Subject: AMS Hot Issues Report
Date: Tuesday, October 11, 2016 6:58:40 AM
Attachments: [2016-10-07 AMS Hot Issues.docx](#)

The AMS Hot Issues Report for the week ending October 7, 2016, is attached.

Thank You,

Bill

Bill Richmond

USDA, Agricultural Marketing Service

Chief of Staff

202-260-8019

From: [Stewart, Dana - AMS](#)
To: [Allen, William - AMS](#); [Betts, Marlene - AMS](#); [Bowden, David - AMS](#); [Coale, Dana - AMS](#); [Flores, Elizabeth R - AMS](#); [Jones, Samuel - AMS](#); [Keeler, Douglas - AMS](#); [Ladd, Jessica - AMS](#); [McEvoy, Miles - AMS](#); [Morris, Craig - AMS](#); [Morris, Erin - AMS](#); [Neal, Arthur - AMS](#); [Parrott, Charles - AMS](#); [Richmond, William - AMS](#); [Smith, Catherine - AMS](#); [Spriggs, Kimberly - AMS](#); [Stahl, Dana - AMS](#); [Stanziani, Pamela - AMS](#); [Stewart, Dana - AMS](#); [Summers, Bruce - AMS](#); [Trykowski, David - AMS](#); [Tucker, Jennifer - AMS](#); [Tuckwiller, David - AMS](#); [Turpin, Jennifer - AMS](#); [Ulibarri, Ronald - AMS](#); [Unkenholz, Becky - AMS](#); [Woods, Frank - AMS](#)
Subject: AMS Hot Issues Report
Date: Tuesday, October 11, 2016 6:59:47 AM
Attachments: [2016-10-07 AMS Hot Issues.docx](#)

Good morning. Here is last week's Hot Issues Report. Your updates to me by noon, Thursday, please.

Thanks,

Dana

AMS Weekly Hot Issues
Week Ending October 7, 2016

Issue: Bioengineered Food Disclosure

On July 29, 2016, President Obama signed into a law a mandatory national bioengineered food disclosure standard. AMS is the USDA Agency responsible for implementing the labeling requirements. AMS has published the law on its website and provided an opportunity for the public to provide comments and ask questions on the new law via email. The new law requires AMS to conduct a study identifying technical challenges for consumers to access an electronic or digital disclosure. On September 1, AMS published a Request for Information (RFI) seeking input from vendors and general stakeholders on the study design, which closed on September 15. AMS received 8 comments, including 1 vendor proposal.

Next Steps: AMS is clearing the official solicitation for vendor proposals for the study, and is on track to publish the solicitation in two weeks. AMS anticipates awarding a contract by early December, contingent on funding. AMS is continuing its work on drafting the advanced notice of proposed rulemaking, including working with FDA on food disclosure issues raised by FDA. To support the public comment period for advanced notice of proposed rulemaking, AMS is continuing to identify potential locations across the country for public listening session. AMS anticipates publishing the advanced notice of proposed rulemaking by the end of 2016, with the public listening sessions being held in early 2017.

Issue: Georgia Department of Agriculture Poultry Market News Report (Georgia Dock)

On July 20, 2016, AMS discovered that a price report issued by the Georgia Department of Agriculture (GDA) for processed poultry prices (Georgia Dock) was not being properly verified. The price information in the report has been included in an AMS issued market news report since 1993. AMS has been working with GDA officials to seek options to change the methodology of the report so it reflects verifiable market prices, but GDA plans to continue publishing the Georgia Dock report without change until an alternative methodology can be developed. In the meantime, AMS discontinued publishing the AMS Market News report based upon the Georgia Dock report on August 5, 2016. On September 1, AMS met with GDA in Atlanta to discuss the new Federal report and GDA's current work with the Georgia poultry industry related to a replacement for its GDA Georgia Dock report.

Next Steps: AMS will continue working with GDA and offering technical assistance to develop new report procedures consistent with AMS Market News reporting methodologies and confidentiality guidelines. In addition, in an effort to meet industry needs, AMS is developing an enhancement to the Weekly National Whole Broiler/Fryer Report that will show more detailed market price information for light, medium, and heavy weight birds. The new addition to the report will be launched on October 7, 2016.

Issue: U.S. District Court Decision on Resolute Forest Products, Inc.

On April 15, 2015, Resolute Forest Products filed a motion for summary judgment claiming that the Softwood Lumber Research and Promotion Order is unconstitutional. USDA has been involved in ongoing deliberation since the initial filing. On May 17, 2016, the U.S. District Court found that USDA's Softwood Lumber Order was unlawful as promulgated. At a June 1,

2016, hearing held to discuss remedies, the court ordered: (1) USDA and the Softwood Lumber Board are prohibited from collecting further assessments from Resolute under the current Order; (2) USDA and the Board must maintain a balance of funds of not less than \$1.1 million under the current Order; and, (3) USDA and Department of Justice (DOJ) shall file a brief supporting USDA's position that the \$1.1 million in assessments paid by Resolute should not be refunded in its entirety. A brief developed by AMS and DOJ for the court was filed on June 30, 2016. Resolute filed its response on July 20, 2016; USDA/DOJ's reply was filed by the extended due date of August 24, 2016. On June 30, 2016, AMS posted external Q&As about the case per the industry's request. AMS published a notice on July 20, 2016, notifying industry that a continuance referendum originally scheduled for August 20 will not be held. On July 13, 2016, AMS met with the Office of the Chief Economist (OCE) to discuss analyses necessary for upcoming rulemaking on the de minimis provisions of the order. On August 30, 2016, an interim rule was published in the Federal Register revising the time frame for the continuance referendum under the Softwood Lumber Order. The rule revises the time frame from 5 years (2016) to no later than 7 years (2018). Comments are due by October 31, 2016. On September 1, 2016, Resolute filed a notice of supplemental authority to emphasize its previous arguments about the order in the context of USDA's August 2016 interim rule. On September 14, 2016, AMS and DOJ decided to file a response to Resolute's notice of supplemental authority. Our response will clarify the status of the rulemaking and any subsequent referendum on the order.

Next Steps: AMS will continue to work with the OCE to determine the appropriate de minimis exemption threshold for softwood lumber. AMS will publish a final rule suspending order language on the continuance referendum, depending on comments.

Issue: R-CALF USA v. USDA/Vilsack

On May 2, 2016, R-CALF USA filed suit in Federal District Court in Montana against Secretary Vilsack arguing that the Beef Checkoff Program should be promoting only U.S. beef. The complaint argues that the Checkoff Program denies R-CALF USA members in Montana their First Amendment rights since they are required to pay into the Montana chapter of the Checkoff program without a say in the marketing strategy. AMS will soon issue a rule regarding the redirection of beef Checkoff funds so producers have the option of directing their full assessment under the Beef Checkoff go entirely to the National Board. According to R-CALF's legal challenge, the activities of the National Board are considered constitutionally sound by the Supreme Court, while the activities of the State Beef Councils are not. Thus, by giving producers the option to direct their monies to the National Board, R-CALF's purported violations of First Amendment rights should be addressed. On June 7, AMS asked if the Montana Beef Council would comply if a producer requested that they redirect assessments to the Cattlemen's Beef Board. The Montana Beef Council responded that any redirection request, accompanied by appropriate and timely documentation, would be considered independently and that all state and Federal laws would be considered when making board decisions. The redirection rule was published on July 15, 2016, with a 60-day comment period that closed on September 13, 2016. DOJ filed a motion to dismiss the case on August 4, 2016. On August 24, 2016, R-CALF responded to the motion to dismiss. On September 20, 2016, the Court issued an Order for a hearing to take place on October 25, 2016, at 2 p.m. regarding DOJ's Motion to Dismiss and Plaintiffs Motions for Summary Judgement and their Motion for a Temporary Restraining Order.

(TRO). AMS worked with DOJ and OGC by developing declarations, statements of facts, and other materials that were filed on September 28, 2016.

Next Steps: AMS will continue to work with DOJ and OGC, as needed.

Marvin Horne Compliance Actions

On June 22, 2015, the U.S. Supreme Court ruled in favor of Horne, et al., determining the reserve component of the raisin marketing order was unconstitutional as it was considered a taking that would require just compensation. Lower courts ruled in USDA's favor and held that Mr. Horne met the definition of a handler under the marketing order. Because Mr. Horne never subsequently challenged the ruling by the U.S. Court of Appeals for the Ninth Circuit that he met the definition of a handler, the ruling stands. AMS has eight additional administrative cases against Mr. Horne that were stayed pending the outcome of the Supreme Court's decision. The administrative cases filed against Mr. Horne for violations in subsequent crop years total approximately \$400,000 in assessments owed to the Raisin Administrative Committee, plus civil penalties that may be issued. On August 3, 2016, the Administrative Law Judge (ALJ) issued an Order to Show Cause questioning "why these cases should not be dismissed." AMS and DOJ resolved the ALJ's concerns so the cases remain open.

In July, AMS authorized an investigation of Marvin Horne's business transactions as he continues to operate outside the requirements under the Federal marketing order for raisins grown in California. On September 2, 2016, AMS issued administrative subpoenas to obtain records from the Dried Fruit Association (DFA) and the Pacific/Atlantic Crop Exchange, Inc. (PACE). On September 8, 2016, AMS received a letter from PACE's counsel requesting additional time to comply with the subpoena. AMS responded to PACE's request for additional time to comply with subpoena, extending the deadline to October 27, 2016. On September 13, 2016, the DFA responded to the AMS-issued subpoena. Since 2012, DFA inspectors started leaving inspection records with Horne/Lassen Vineyards so that DFA no longer maintains a copy for its records.

Next Steps: If the evidence supports it, AMS will seek support from the Office of the General Counsel and Department of Justice in seeking injunctive relief in Federal District Court, effectively halting Mr. Horne's business operations until he complies with the marketing order.

(b) (5)



Issue: Government Accountability Office (GAO) Initiates Two Audits at AMS

On September 9, the GAO announced they were initiating the two subject audits on a Congressional request: "USDA Oversight of National Research & Promotion Programs" and "FOIA Requests Related to R&P Programs." The objectives of the (first) audit are to determine: 1) the extent to which USDA's oversight activities ensure program funds are used in a manner consistent with authorizing legislation, and 2) the extent to which USDA has performance measures that enable the agency to assess the effectiveness of the checkoff programs. The objective of the second audit pertains to how FOIAs related to R&P programs are received, processed, and how any exceptions are handled.

Additional Pending Issues

- Peoples Republic of China Government Officials to Visit U.S. Beef Production
 - China Ministry of Agriculture officials conducted an assessment of the U.S. beef industry from September 11-19, 2016, to determine whether boxed beef products can be traceable to the ranch of origin. FAS, AMS, FSIS, and APHIS accompanied the delegation during the assessment, which included review of two cow/calf ranch operations, one feedlot, and two slaughter facilities. Industry demonstrated its ability to trace the boxed beef to cattle arriving from slaughter, and the cattle to ranch of origin, through AMS' program for source and age verification, which would eventually be a part of an Export Verification developed for China. The delegation also was briefed by APHIS on how the single incidence of BSE in December 2003 was handled to ensure that BSE is still a negligible risk in the United States according to OIE standards.
 - On September 22, China officially lifted its 13-year ban on US beef. The next step is to negotiate specific export requirements with the Chinese government. This will commence once the Chinese delegation issues its trip report.
- Notice Seeking Comments on U.S. Standards for Grades of Catfish and Catfish Products
 - On July 14, 2016, AMS published a Notice in the Federal Register seeking comments, data, research, and other information to help the Agency carry out the 2014 Farm Bill mandate to establish a voluntary fee-based grading program for catfish and catfish products. AMS is coordinating with the Department of Commerce's National Marine Fisheries Service (NMFS), which has a program for quality evaluation of product, grading, and certification of fish (including catfish), shellfish, and fish products. We received four comments during the comment period, which ended on September 12, 2016. AMS conducted a workshop in Starkville, MS, on September 28, with catfish processors and producers, academia, and government officials to obtain additional input about the need for a USDA catfish grading program. Another workshop is scheduled for October 19 in Hernando, MS..
- Petition to Revise U.S. Beef Standards to Allow Alternate Means of Age Determination in Carcass Beef
 - On April 13, 2016, AMS received a petition from several industry stakeholders asking the Agency to make changes to allow for dentition as a means of age determination and eligibility for carcass grading. AMS published a Notice in the Federal Register on August 24, 2016, seeking public comments on the changes proposed in the petition. Comments are due by October 24, 2016. To date, we've received 173 comments. Based on an analysis of the comments received, AMS will decide whether to proceed with specific changes to the standards.
- Japan to Audit U.S. Beef Production
 - Japan government officials have set a tentative timeframe of November 7-18, 2016, to visit the United States to audit U.S. beef producers exporting to Japan. Japan is awaiting additional questionnaires from beef producers, and evaluating responses from AMS on the (b) (6) issue before audit sites are selected and the trip is finalized.
- Development of Industry Standard Definition for "Cage-Free" Eggs
 - On September 21, Secretary Vilsack hosted a meeting with key representatives of the grocery and food retail sectors and the U.S. shell egg industry to discuss strategies for

- meeting the 2026 deadline established by volume food buyers for transitioning to cage-free supplies. All parties agreed that the starting point was for industry to develop a standard definition of the term “cage-free.” The United Egg Producers (UEP) is leading the effort; AMS offered to play a support role and facilitate discussions.
- A meeting is tentatively planned for October 27, 2016, in Washington, DC, at which interested egg producers and members of the food retailing sectors will begin developing an agreed-upon definition. Once that definition is developed, UEP and the group will then engage consumer and animal rights organizations.
 - Cornucopia Institute v. USDA/Secretary Vilsack
 - On April 19, the Cornucopia Institute filed a complaint with the U.S. District Court for the Western District of Wisconsin on behalf of two organic producers. The complaint charges that USDA violated the Organic Foods Production Act (OFPA) in appointing members to the NOSB who did not meet OFPA qualifications. AMS continues to provide OGC and DOJ with information to support the case as requested.
 - National Organic Program Freedom of Information Act (FOIA) Lawsuits.
 - The Cornucopia Institute filed eight lawsuits over AMS handling of FOIA requests related to National Organic Program records. AMS continues to coordinate with General Law on case-specific actions, and NOP has awarded a contract to support expanding FOIA needs.
 - OIG Audit: “National Organic Program – International Trade Arrangements and Agreements”
 - On March 17, AMS and OIG conducted a meeting to initiate OIG’s audit of NOP’s processes for international agreements supporting organic trade. OIG is near completion of the compliance portion of the audit and is on schedule to finish fieldwork in September 2016. OIG will schedule a meeting with NOP to discuss audit findings and possible recommendations in the fall.
 - Sun-Maid Growers of California Filing Suit Against USDA
 - On April 6, 2015, Sun-Maid Growers of California filed a lawsuit in Federal District Court of Washington, DC, seeking to overturn the Secretary’s denial of the company’s November 17, 2014, petition for proposed amendments and hearings on terminating volume control authority from the raisin marketing order.
 - On August 28, 2015, DOJ filed a Motion to Dismiss Sun-Maid’s suit against USDA. The April 23, 2016, hearing on the motion to dismiss was cancelled because of the May 3-4 rulemaking hearing on removing raisin reserve authority from the Federal marketing order for raisins. AMS will draft a Recommended Decision once the hearing record is certified and interested parties are provided the opportunity to file briefs.
 - Raisin Compensation Lawsuits
 - USDA received three claims for compensation from Lion Farms, LLC, Bruce Ciapessoni et al., and Boyajian et al. in the U.S. Court of Federal Claims. DOJ filed responses for the first two cases, and OGC has placed a litigation hold on all documents related to the raisin marketing order. In early December 2015, USDA’s motions to consolidate the Lion Farms and Ciapessoni cases were denied. Boyojian et al. filed suit on December 28, 2015. DOJ filed motions to dismiss the three cases, concluding with a February 26, 2016 motion to dismiss the Boyajian et al case.
 - On August 15, 2016, the Court indicated that oral arguments will be scheduled on USDA’s motions to dismiss and the opponent’s opposition responses.

- Center for Food Safety, et al. v. Vilsack, et al/Sunset.
 - On October 30, 2015, the Center for Food Safety filed an Amended Complaint related to the Sunset Notice litigation. On December 10, 2015, DOJ filed a Motion to Dismiss the amended complaint. On September 8, 2016, the Court denied USDA's Motion to Dismiss the Amended Complaint, finding that the Plaintiffs had alleged sufficient facts to support its standing. (b) (5)
 - DOJ and USDA are required to file an Answer within 14 days of the court's action.
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From: [Starmer, Elanor - OSEC](#)
To: (b) (6)
Subject: Fwd: 1/15/16 AMS Hot Issues Report
Date: Thursday, January 14, 2016 8:58:25 PM
Attachments: [2016-01-15 AMS hot issues report.docx](#)
[ATT00001.htm](#)

Sent from my iPhone

Begin forwarded message:

From: "Eckhouse, Sara - AMS" <Sara.Eckhouse@ams.usda.gov>
Date: January 14, 2016 at 4:52:00 PM EST
To: "Starmer, Elanor - OSEC" <Elanor.Starmer@osec.usda.gov>
Subject: FW: 1/15/16 AMS Hot Issues Report

FYI

-----Original Message-----

From: Eckhouse, Sara - AMS
Sent: Thursday, January 14, 2016 4:50 PM
To: Howard, David- OSEC <David.Howard@osec.usda.gov>; Johnson, Anjeanette - OSEC <Anjeanette.Johnson@osec.usda.gov>
Cc: Woodward, Gary - OSEC <Gary.Woodward@osec.usda.gov>; Cordova, Elvis - OSEC <Elvis.Cordova@osec.usda.gov>; Allen, William - AMS <William.Allen@ams.usda.gov>; Summers, Bruce - AMS <Bruce.Summers@ams.usda.gov>; Morris, Erin - AMS <erin.morris@ams.usda.gov>; Alonzo, Anne - AMS <Anne.Alonzo@ams.usda.gov>; Comfort, Karen - AMS <Karen.Comfort@ams.usda.gov>; Taylor, Jameelah - AMS <Jameelah.Taylor@ams.usda.gov>; Walker, Natosha - AMS <NatoshaL.Walker@ams.usda.gov>; Stewart, Dana - AMS <Dana.Stewart@ams.usda.gov>; Eckhouse, Sara - AMS <Sara.Eckhouse@ams.usda.gov>
Subject: 1/15/16 AMS Hot Issues Report

David and Anjeanette,

Here is this week's AMS hot issues report. Please let us know if you have any questions.

Sara

AMS Weekly Hot Issues for MRP
Week Ending January 15, 2016

Issue: Withdrawal of U.S. Standards for Livestock and Meat Marketing Claims

Current Status: On January 12, 2016, the Notice of withdrawal was published in the Federal Register withdrawing two marketing claim standards: (1) the Grass (Forage) Fed Claim for Ruminant Livestock and the Meat Products Derived from Such Livestock, which is referred to as the USDA Grass Fed Marketing Claim Standard; and (2) the Naturally Raised Claim for Livestock and the Meat and Meat Products Derived From such Livestock, which is referred to as the Naturally Raised Marketing Claim Standard. To date, there has been some confusion on AMS' decision to withdraw the standards, most of which surrounds the labeling of grass-fed beef. AMS' withdrawal of these two marketing claims standards has no impact on an individual's ability to request a grass-fed or related label claim from FSIS. To address various concerns and questions, AMS and FSIS co-hosted a stakeholder call on January 14, 2016. Participants' questions mostly centered on FSIS labeling requirements and the USDA Grass Fed Program for Small and Very Small Producers, which remain unchanged.

Next Steps: Notes from the meeting will be posted soon on the AMS website.

Issue: Delay in Vetting of Specialty Crops Research and Promotion Board Nominees

Current Status: As part of the clearance process for research and promotion (R&P) board appointments made by the Secretary, nominees must be vetted through a background check to ensure that each individual is in good standing. Currently, there are two R&P board appointment packages with foreign nominees that are awaiting clearance from DHS. These packages were submitted for clearance between July and September 2015. The Hass Avocado Board selection package already missed the appointment deadline of October 31, and is still awaiting clearance and appointments before their February 2016 board meeting. The National Honey Board is also awaiting clearance and appointments before their board meeting in April 2016; these appointments were due by December 31. In addition, AMS is still awaiting clearance of nominees for the Potato Board and the National Pork Producers Delegate Body.

Next Steps: AMS is working with MRP/WHLO/OSEC to help move the process forward.

Issue: Fees Charged by State Cooperators for 8e Inspections

Current Status: An AMS review of cooperative agreements with the States that provide specialty crop inspection services on our behalf found that two states, Texas and New Mexico, are charging inappropriate fees for inspections of imported products.

Next Steps: AMS will prepare a letter to all states reminding them of the correct fees that should be charged in accordance with the terms of their cooperative agreements.

Additional Pending Issues (to be updated as needed)

- ISO Technical Specification on Animal Welfare
 - On December 5, 2015, the International Organization for Standardization's (ISO) Technical Committee (TC) 34/Working Group (WG) 16 voted to approve the draft animal welfare technical specification (TS) for food producing animals. The TS will move to the ISO Secretariat for formatting and final editing. Once finalized, the TS will go to the TC 34 for a vote through a 3-month ballot process. The vote is expected to take place from February to April, with the expectation that a presentation on the TS will be

provided at the biannual meeting of the TC 34 in July. AMS also began a discussion of how the Agency can help implement the TS by offering its services to certify domestic welfare programs as ISO compliant.

- **Re-Imported Peanuts**
 - FDA requested that AMS include more detailed information regarding AMS testing and reconditioning requirements under the Peanut standards. AMS will update the industry on the procedures necessary to import peanuts that fail aflatoxin testing once FDA provides clear guidance on its procedures.
 - The Peanut Standards Board has since proposed changes to the Peanut standards, which have been drafted into a proposed rule that was sent to the Federal Register on January 13. AMS and FDA will continue to work to finalize the MOUs, and AMS agreed to keep FDA informed of the proposal changes.
- **Beef Access to Saudi Arabia**
 - A draft of the Export Verification Program for Saudi Arabia is close to being finalized.
- **Cooperative Agreement with Georgia Department of Agriculture (GDA) for Poultry Grading**
 - AMS has requested a face-to-face meeting with GDA officials during the week of January 25, 2016, to discuss revising or terminating the cooperative agreement.
- **European Union T-TIP Negotiations and Olive Inspections**
 - The EU asked AMS to determine if the current rate of sampling of canned olives could be reduced to save money on inspection fees. AMS has initiated a statistical review of current sampling methods to determine whether the current rate of sampling is statistically valid.
- **Sun-Maid Growers of California Filing Suit Against USDA**
 - On April 6, 2015, Sun-Maid Growers of California filed a lawsuit in Federal District Court of Washington, DC, seeking to overturn the Secretary's denial of the company's November 17, 2014, petition for proposed amendments and hearings on terminating volume control authority from the raisin marketing order.
 - USDA sent Sun-Maid a letter on July 10, indicating that we will not authorize the reserve portion of the raisin marketing order. Instead, USDA and the Raisin Administrative Committee, will enter into proceedings to amend the order through formal rulemaking.
 - On August 28, DOJ filed a Motion to Dismiss Sun-Maid's suit against USDA. Oral arguments for the motion to dismiss are scheduled for April 23, 2016.
 - On February 4, 2016, AMS will meet with Sun-Maid representatives to discuss matters unrelated to the lawsuit. A representative from OGC will also attend the meeting.
- **Horne Files for Legal Fees in Horne v. USDA**
 - On August 17, Marvin Horne's attorneys filed a motion for roughly \$500,000 in attorney's fees and expenses for work beginning with the original rehearing en banc petition that raised the jurisdictional issue and ending with work on the second Supreme Court decision holding that the reserve is a per se taking. On December 2, the 9th Circuit denied Mr. Horne's motion for attorney's fees. Mr. Horne has until March 1, 2016 to appeal this decision.
 - (b) (5)
- **Raisin Compensation Lawsuits**
 - USDA received three claims for compensation from Lion Farms, LLC, Bruce Ciapessoni et al., and Boyajian et al. in the U.S. Court of Federal Claims. DOJ filed responses for the

first two cases, and OGC has placed a litigation hold on all documents related to the raisin marketing order. In early December 2015, USDA's motions to consolidate the Lion Farms and Ciapessoni cases were denied. Boyojian et al. filed suit on December 28, 2015. On January 12, 2016, DOJ filed motions to consolidate all three suits. DOJ estimates USDA's overall exposure at \$175 million, in a worst case scenario.

- Center for Food Safety, et al. v. Vilsack, et al.
 - On October 30, 2015, the Center for Food Safety filed an Amended Complaint related to the Sunset Notice litigation. The amended complaint adds new allegations regarding the renewal of Aqueous Potassium Silicate, appends the declarations from their prior briefing, and adds a new Exhibit B showing vote counts on 2017 sunset substance renewals. On December 10, 2015, DOJ filed a Motion to Dismiss the amended complaint. The hearing on the Motion to Dismiss is scheduled for February 18, 2016, in San Francisco, California.
 - A second complaint, filed on April 14, 2015, relates to Guidance Document – NOP 5016 (Allowance of Green Waste in Organic Production Systems). At the September 10 hearing for this case, the motion to dismiss was denied. AMS' administrative record for the case was submitted to the court on December 9, 2015, and the hearing date for summary judgement is May 12, 2016.
- Highly Pathogenic Avian Influenza (HPAI)
 - AMS is working with APHIS and FDA on importing shell eggs for breaking and pasteurizing from European and Central/South American countries. From June 23, 2015, through January 12, 2016, AMS issued 2,645 import permits for 75,164,302 dozen eggs.
- Livestock Mandatory Reporting Reauthorization and Revisions
 - The Agricultural Reauthorizations Act of 2015 to reauthorize the Livestock Mandatory Reporting (LMR) program was signed into law on September 30, 2015. AMS is finalizing regulation drafts for a direct final rule to amend lamb reporting requirements not later than 180 days of enactment and a proposed rule to reauthorize the LMR program, and amend swine and lamb reporting requirements. In February 2016, AMS will hold stakeholder meetings for key industry personnel to review LMR regulation changes specific to each industry.
- OIG Audit: "AMS Procurement and Inspection of Fruits and Vegetables"
 - OIG's draft audit on procurement, inspection, and grading activities for fruit and vegetable products revealed five findings – one was related to contract closeout activities under commodity procurement services, and the other four dealt with inspection and grading activities. AMS and OIG met on November 17 to discuss the draft OIG audit findings. AMS is preparing a response.
- OIG Audit: "Evaluation of USDA's Process Verified Programs"
 - On January 5, 2016, AMS released a second blog that highlights the value of the School Food FOCUS Certified Responsible Antibiotic Use standard to school districts as verified through the PVP. This week, all responsive documents were gathered and submitted to the LPS Deputy Administrator for review.
- 2014 Pilot Project for Procurement of Unprocessed Fruits and Vegetables
 - On December 8, 2014, FNS announced the selection of eight States (California, Connecticut, Michigan, New York, Oregon, Virginia, Washington, and Wisconsin). AMS continues outreach to provide information about vendor eligibility requirements and support companies of all sizes who are pursuing vendor eligibility. There is no deadline

for AMS applications – they will be received and evaluated on an ongoing basis. To date, AMS has approved 66 suppliers and has 43 applications pending. Approximately \$600,000 has been paid for pilot products during the current school year.

- Country of Origin Labeling (COOL)
 - On December 18, 2015, the omnibus bill repealed the country of origin labeling (COOL) requirements for muscle cuts of beef and pork, and ground beef and pork. The Secretary made a statement that “Effective immediately, USDA is not enforcing the COOL requirements for muscle cut and ground beef and pork outlined in the January 2009 and May 2013 final rules.” AMS is amending the COOL regulations as expeditiously as possible to reflect the repeal of the beef and pork provisions.
- Case Pertaining to the Federal Marketing Order for Tart Cherries
 - On June 19, 2015, Judicial Officer (JO) William Jenson issued a Decision and Order that refused Burnette’s request for oral argument stating that Burnette and the Administrator had already thoroughly briefed the issues, and ruled in favor of AMS on all counts. The JO’s decision denied all relief requested by Burnette, dismissed Burnette’s petition with prejudice, and found the issue of the scope of the Administrative Law Judge’s exemption from volume restrictions moot.
 - Burnette Foods filed a Petition for Reconsideration on July 6, and a second petition in support of the first one on August 20, 2015. The Administrator’s Response Brief was filed on October 5, 2015. The JO denied both of Burnette’s petitions. On January 11, 2016, Burnette filed an appeal in Federal District Court from the JO’s decision. AMS will coordinate with OGC to determine next steps.
- Resolute Forest Products, Inc. Litigation on the Softwood Lumber R&P Program
 - On April 15, 2015, Resolute filed a cross-motion for summary judgment on the administrative record, claiming that the Softwood Order is unconstitutional. USDA received the judge’s decision to defer a ruling on its constitutional claims. The Administrative Procedures Act claims were ruled in favor of USDA across the board, except for the “de minimis” 15 million board feet per year exemption threshold. The de minimis exemption was remanded back to USDA for a coherent treatment of the decision to select a 15 million board feet per year exemption.
 - On December 4, Resolute filed a response to the memorandum filed by DOJ on November 6, explaining the exemption threshold under the Order. DOJ filed a response on December 18, 2015. AMS is awaiting the judge’s decision.
- PCRM Litigation - FOIA Request for Beef and Dairy Checkoff Documents
 - AMS is working with OGC and DOJ to respond to the allegations of improper processing of FOIA requests and appeals. The FOIA suit was filed against USDA by the Physician’s Committee for Responsible Medicine on April 12, 2013. AMS is awaiting responses from involved companies.
- Cornucopia Complaint re: National Organic Standards Board Member
 - AMS is working with the White House Liaison’s Office and OGC.
- Humane Society of the United States (HSUS) vs. Vilsack
 - In September 2012, HSUS filed suit in the Federal District Court of the District of Columbia against the Secretary under the Administrative Procedure Act (APA) challenging the approval of the National Pork Board’s purchase of the “Pork. The Other White Meat” (PTOWM) slogan from the National Pork Producers Council (NPPC). On August 14, 2015, HSUS won its appeal for standing. Stating that HSUS had standing and

- that the Board's payments to the NPPC for the slogan were somewhat excessive, the opinion remanded the case to the Federal District Court for the District of Columbia.
- On December 23, 2015, DOJ and HSUS filed a joint stipulation agreeing to a partial settlement regarding the purchase of the brand and trademarks associated with PTOWM and a stay of the litigation until May 2, 2016. USDA agreed to review the contract between the Board and NPPC for the purchase of PTWOM by May 1, 2016. That review will include a valuation of PTOWM by February 15, 2016. On December 24, 2015, NPPC filed a "Notice of Objection to the Joint Stipulation and Request for Stay of Proceedings" filed on December 23. DOJ agreed to reach out to NPPC to let them know that USDA will not oppose their intervention in the case and will allow them, HSUS, and other interested parties until February 15, 2016, to submit any information for consideration as part of the review.
 - On December 24, AMS approved the Board's 2016 budget. However, AMS is holding in abeyance the \$3 million payment to NPPC until June 30, 2016. As part of the settlement offer, USDA will conduct a valuation of the trademark. On January 4, 2016, the Board issued a Request for Proposals from trademark valuation firms to provide independent current valuations of the trademark "The Other White Meat." DOJ provided a list of firms to be contacted. Proposals are due to the Board on January 22, 2016. On January 6, 2016, District Court Judge Amy Berman Jackson granted the motion for a stay and denied the NPPC's motion to intervene without prejudice.
 - New Imported Veal Codes and Updating Existing Veal Codes
 - The Cattlemen's Beef Board is working with the veal industry to identify new categories for veal cuts. AMS will then contact Customs and Border Patrol (CBP) to establish the new Harmonized Tariff Schedule (HTS) codes and issue rulemaking to update the codes in the Beef Order. On July 28, AMS sent a request to the U.S. International Trade Commission (ITC) for additional HTS Codes for imported veal cuts. A committee at the ITC reviewed the request and approved three of the four requested annotations, which will go into effect in January 2016.
 - AMS is advancing a proposed rule that amends the Beef Order to update HTS codes and establish proper veal carcass weights, so that assessments are accurately applied to imported veal and veal cuts.

From: [Starmer, Elanor - AMS](#)
To: [Richmond, William - AMS](#)
Cc: [Taylor, Jameelah - AMS](#)
Subject: Re: Chicken Pricing Indexes in AMS Market News
Date: Tuesday, July 05, 2016 5:25:02 PM

(b) (5)



As long as Mark can come here we can do in person; otherwise let's do phone. We can do these topics back to back so Angie/Mike don't need to sit through the R&P issue.

Bruce, Dana and I should be there for the whole time (and Bill if available).

Could you ask him to send a copy of the legislation so we can share with staff ahead of the meeting?

Thanks!

Sent from my iPhone

On Jul 5, 2016, at 4:40 PM, Richmond, William - AMS <William.Richmond@ams.usda.gov> wrote:

(b) (5)



Thanks

From: Taylor, Jameelah - AMS
Sent: Tuesday, July 05, 2016 4:33 PM
To: Starmer, Elanor - AMS <Elanor.Starmer@ams.usda.gov>
Cc: Richmond, William - AMS <William.Richmond@ams.usda.gov>
Subject: FW: Chicken Pricing Indexes in AMS Market News

Hi Elanor,

Please let me know how you would like to meet with Mark. Also, is there anyone you would like to invite to the meeting(s)?

Thank you,

Jameelah

From: Tobey, Mark [<mailto:Mark.Tobey@usdoj.gov>]
Sent: Tuesday, July 05, 2016 4:04 PM

To: Starmer, Elanor - AMS
Cc: Taylor, Jameelah - AMS; Richmond, William - AMS
Subject: RE: Chicken Pricing Indexes in AMS Market News

Thanks for getting back so quickly. It would be ideal if we could meet or talk tomorrow or Thursday. I would prefer to meet you in person but a phone call may need to suffice due to tight timing.

(b) (5)




article: <<http://www.theguardian.com/us-news/2015/sep/02/usda-american-egg-board-hampton-creek-just-mayo>>. I am happy to send a working draft of the legislation if you have not seen it.

I realize that these two meetings may involve different personnel on my end and yours – and for that I apologize - but I wanted to try to deal with both as soon as we can. The legislation has a shorter deadline if that helps. Thanks again. mt

Mark Tobey
Special Counsel for State Relations and Agriculture
U. S. Department of Justice
Anti trust Division
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450 5th Street, N.W.
Washington, D.C. 20530
(202)532-4763

From: Starmer, Elanor - AMS [<mailto:Elanor.Starmer@ams.usda.gov>]
Sent: Tuesday, July 05, 2016 2:37 PM
To: Tobey, Mark
Cc: Taylor, Jameelah - AMS; Richmond, William - AMS
Subject: RE: Chicken Pricing Indexes in AMS Market News

Mark, I'd be happy to talk, and apologies that we weren't able to connect last week – I was out of the office on work travel. My assistant Jameelah, cc'd here, can help us find a time. Bill Richmond, also cc'd, has taken over the AMS Chief of Staff role as Sara transitioned to the Secretary's office. (b) (6)



(b) (6)

Thanks,
Elanor

Elanor Starmer
Administrator
Agricultural Marketing Service
U.S. Department of Agriculture
202-720-5115
elanor.starmer@ams.usda.gov

From: Tobey, Mark [<mailto:Mark.Tobey@usdoj.gov>]
Sent: Tuesday, July 05, 2016 2:26 PM
To: Starmer, Elanor - AMS
Subject: Chicken Pricing Indexes in AMS Market News

Ms. Starmer,

Larry Mitchell and Susan Keith from GIPSA suggested that we contact you about the Georgia Dock chicken pricing index which USDA republishes weekly as part of the AMS Market News. Larry and Susan may have mentioned (b)(5)

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Would you have time for a brief meeting or call? Please let us know. (b) (6)

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message in error, please notify the sender and delete the email immediately.

From: [Taylor, Jameelah - AMS](#)
To: Mark.Tobey@usdoj.gov
Subject: RE: Chicken Pricing Indexes in AMS Market News
Date: Wednesday, July 06, 2016 12:48:15 PM
Attachments: [image001.png](#)

Good Afternoon Mark,

Thank you for your call this morning. As discussed, this meeting is set for 12:30 – 1:00 p.m. tomorrow.

Administrator Starmer's office is in the USDA South Building, which is on the south side of Independence between 12th and 14th (1400 Independence Ave. SW). It's easily accessed by metro train, if you emerge from the Smithsonian Metro Stop using the South exit on Independence and 12th (not the National Mall exit). The building has 7 wings (entrances) that face Independence Ave. The visitor entrance is located at the 3rd wing. Please arrive at least 10 minutes early to allow for security screening. Upon arrival, call 202-720-5115 and someone from the Administrator's Office will come to escort you to the meeting.

Also, as a friendly reminder, please be sure to send the litigation and attendee information.

Feel free to contact me if you have any questions.

Thank you,

Jameelah

From: Taylor, Jameelah - AMS
Sent: Wednesday, July 06, 2016 11:27 AM
To: 'Mark.Tobey@usdoj.gov'
Subject: RE: Chicken Pricing Indexes in AMS Market News

Also, could you please forward a copy of the legislation this afternoon so that I can share with the staff? Thank you!

From: Taylor, Jameelah - AMS
Sent: Wednesday, July 06, 2016 11:24 AM
To: 'Tobey, Mark'
Subject: RE: Chicken Pricing Indexes in AMS Market News

Good Morning Mark,

Will you be able to meet tomorrow at 12:30 – 1:00 p.m. or 2:30 – 3:00 p.m.? Please let me know if either of these times will work with your schedule. If so, will you be calling in or coming into the office?

Thank you,

Jameelah Taylor
Executive Assistant to the Administrator
Agricultural Marketing Service
1400 Independence Avenue, SW
Room 3071-S, STOP 0201
Washington, DC 20250
Office: 202-720-5115
Email: Jameelah.Taylor@ams.usda.gov
<http://www.ams.usda.gov/>



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Sent: Tuesday, July 05, 2016 4:04 PM
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Cc: Taylor, Jameelah - AMS; Richmond, William - AMS
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described in this article: <http://www.theguardian.com/us-news/2015/sep/02/usda-american-egg-board-hampton-creek-just-mayo>>. I am happy to send a working draft of the legislation if you have not seen it.

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[REDACTED]

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From: [Tobey, Mark](#)
To: [Taylor, Jameelah - AMS](#)
Cc: [Klovers, Amanda](#); [Rathbun, Douglas](#)
Subject: RE: Chicken Pricing Indexes in AMS Market News
Date: Wednesday, July 06, 2016 12:52:14 PM
Attachments: [image001.png](#)
[DRAFT Check Off Reform Bill clean 7 5 16.docx](#)

Ms. Taylor - Draft legislation is attached. Also, we would like to come over there tomorrow to meet in person. The time of 12:30 – 1:00 works best for us. Please tell us where to come. Right now attending the meeting will be Amanda Klovers, Douglas Rathbun and myself. Amanda is in our section that does agricultural enforcement and Douglas works on policy and legislative matters. Thank you for seeing us on such short notice. Copying Amanda and Douglas. mt

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[REDACTED]

[REDACTED]

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(202)532-4763

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From: [Taylor, Jameelah - AMS](#) on behalf of [Starmer, Elanor - AMS](#)
To: [Coale, Dana - AMS](#); [Summers, Bruce - AMS](#); [Richmond, William - AMS](#); [Allen, William - AMS](#); [Snyder, Angie - AMS](#); [Lynch, Michael - AMS](#)
Subject: Chicken Pricing Indexes - Georgia Dock

The following are attending this meeting with Mark Tobey:

Amanda Klovers
Douglas Rathbun

Mark Tobey's message:

Ms. Starmer,

Larry Mitchell and Susan Keith from GIPSA suggested that we contact you about the Georgia Dock chicken pricing index which USDA republishes weekly as part of the AMS Market News. Larry and Susan may have mentioned (b)(5)

(b)(5)

(b)(5) Would you have time for a brief meeting or call? Please let us know. (b) (6)

Mark Tobey
Special Counsel for State Relations and Agriculture
U.S. Department of Justice
Antitrust Division
Rm 11022 - LSB
450 5th Street, N.W.
Washington, D.C. 20530
(202)532-4763

From: [Taylor, Jameelah - AMS](#) on behalf of [Starmer, Elanor - AMS](#)
To: [Harrison, Carolyn - AMS](#); [Wright, Erica - AMS](#); [Rick, Whitney - AMS](#); [Pritchett, Nichole - AMS](#); [Jamison, David - AMS](#)
Subject: Chicken Pricing Indexes - Georgia Dock

The following are attending this meeting with Mark Tobey:

Amanda Klovers
Douglas Rathbun

Mark Tobey's message:

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(b)(5)
(b)(5)

Would you have time for a brief meeting or call? Please let us know. (b) (6)

Mark Tobey
Special Counsel for State Relations and Agriculture
U.S. Department of Justice
Antitrust Division
Rm 11022 - LSB
450 5th Street, N.W.
Washington, D.C. 20530
(202)532-4763

From: [Taylor, Jameelah - AMS](#) on behalf of [Starmer, Elanor - AMS](#)
To: [Pratt, Maria - AMS](#); [Foy, Cherry - AMS](#)
Subject: Chicken Pricing Indexes - Georgia Dock

The following are attending this meeting with Mark Tobey:

Amanda Klovers
Douglas Rathbun

Mark Tobey's message:

Ms. Starmer,

Larry Mitchell and Susan Keith from GIPSA suggested that we contact you about the Georgia Dock chicken pricing index which USDA republishes weekly as part of the AMS Market News. Larry and Susan may have mentioned (b)(5)

(b)(5)

Would you have time for a brief meeting or call? Please let us know. (b) (6)

Mark Tobey
Special Counsel for State Relations and Agriculture
U.S. Department of Justice
Antitrust Division
Rm 11022 - LSB
450 5th Street, N.W.
Washington, D.C. 20530
(202)532-4763

From: [Starmer, Flanor - AMS](#)
To: [Quick, Ada - OGC](#); [McFadden, Joyce - OGC](#); [Coale, Dana - AMS](#); [Summers, Bruce - AMS](#); [Richmond, William - AMS](#); [Allen, William - AMS](#); [Snyder, Angie - AMS](#); [Lynch, Michael - AMS](#)
Subject: Chicken Pricing Indexes - Georgia Dock
Start: Thursday, July 07, 2016 1:00:00 PM
End: Thursday, July 07, 2016 1:30:00 PM
Location: 3074-S; (b) (6) Access Code (b) (6)

The following are attending this meeting with Mark Tobey:

Amanda Klovers
Douglas Rathbun

Mark Tobey's message:

Ms. Starmer,

Larry Mitchell and Susan Keith from GIPSA suggested that we contact you about the Georgia Dock chicken pricing index which USDA republishes weekly as part of the AMS Market News. Larry and Susan may have mentioned (b)(5)

(b)(5)

(b)(5) Would you have time for a brief meeting or call? Please let us know. (b) (6)

Mark Tobey
Special Counsel for State Relations and Agriculture
U.S. Department of Justice
Antitrust Division
Rm 11022 - LSB
450 5th Street, N.W.
Washington, D.C. 20530
(202)532-4763

From: [Starmer, Elanor - AMS](#)
To: [Tobey, Mark](#)
Cc: [Taylor, Jameelah - AMS](#); [Richmond, William - AMS](#); [Rathbun, Douglas](#); [Klovers, Amanda](#); [Snyder, Angie - AMS](#); [Coale, Dana - AMS](#)
Subject: RE: Chicken Pricing Indexes in AMS Market News
Date: Friday, July 08, 2016 10:47:44 AM

Mark, our pleasure – thank you for making the trip over. We will be in touch if we have any further questions. We appreciate all of the information you shared yesterday.

Elanor

Elanor Starmer
Administrator
Agricultural Marketing Service
U.S. Department of Agriculture
202-720-5115
elanor.starmer@ams.usda.gov

From: Tobey, Mark [mailto:Mark.Tobey@usdoj.gov]
Sent: Friday, July 08, 2016 10:34 AM
To: Starmer, Elanor - AMS
Cc: Taylor, Jameelah - AMS; Richmond, William - AMS; Rathbun, Douglas; Klovers, Amanda
Subject: RE: Chicken Pricing Indexes in AMS Market News

Thanks again to you and your colleagues for meeting with us on such short notice yesterday about

(b)(5) Please let us know if you (b)(5)
(b)(5) mt

Mark Tobey
Special Counsel for State Relations and Agriculture
U.S. Department of Justice
Antitrust Division
Rm 11022 - LSB
450 5th Street, N.W.
Washington, D.C. 20530
(202)532-4763

From: Starmer, Elanor - AMS [mailto:Elanor.Starmer@ams.usda.gov]
Sent: Tuesday, July 05, 2016 2:37 PM
To: Tobey, Mark
Cc: Taylor, Jameelah - AMS; Richmond, William - AMS
Subject: RE: Chicken Pricing Indexes in AMS Market News

Mark, I'd be happy to talk, and apologies that we weren't able to connect last week – I was out of

the office on work travel. My assistant Jameelah, cc'd here, can help us find a time. Bill Richmond, also cc'd, has taken over the AMS Chief of Staff role as Sara transitioned to the Secretary's office. (b) (6)

[REDACTED]

Thanks,
Elanor

Elanor Starmer
Administrator
Agricultural Marketing Service
U.S. Department of Agriculture
202-720-5115
elanor.starmer@ams.usda.gov

From: Tobey, Mark [<mailto:Mark.Tobey@usdoj.gov>]
Sent: Tuesday, July 05, 2016 2:26 PM
To: Starmer, Elanor - AMS
Subject: Chicken Pricing Indexes in AMS Market News

Ms. Starmer,

Larry Mitchell and Susan Keith from GIPSA suggested that we contact you about the Georgia Dock chicken pricing index which USDA republishes weekly as part of the AMS Market News. Larry and Susan may have mentioned (b) (5)

[REDACTED]

(b) (5)

(b) (5)

(b) (5) Would you have time for a brief meeting or call? Please let us know. (b) (6)

[REDACTED]

[REDACTED]

[REDACTED]

Mark Tobey
Special Counsel for State Relations and Agriculture
U.S. Department of Justice
Antitrust Division
Rm 11022 - LSB
450 5th Street, N.W.
Washington, D.C. 20530
(202)532-4763

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information it contains may violate the law and subject the violator to civil or criminal penalties. If you believe you have received this message in error, please notify the sender and delete the email immediately.

From: [Starmer, Elanor - AMS](#)
To: [Taylor, Jameelah - AMS](#)
Cc: [Morris, Craig - AMS](#)
Subject: RE: Georgia Dock Follow-up
Date: Wednesday, July 13, 2016 2:39:03 PM

Jameelah, please see below.

-----Original Message-----

From: Morris, Craig - AMS
Sent: Wednesday, July 13, 2016 1:05 PM
To: Starmer, Elanor - AMS
Subject: Re: Georgia Dock Follow-up

That's fine.

Sent from my iPhone

>
> Hi Craig,
>
> There is now a conflict with this meeting at 4:00 p m. I am sending an updated invite to move this meeting to 4:30 p m. today. Please let me know if this will not work with your schedule.
>
> Thank you,
>
> Jameelah
>
> <meeting.ics>

Little, Jewell (CTR) - AMS

Subject: GA Dock Discussion

Location: 3069-S; (b) (6) Access Code (b) (6)

Start: Wed 7/27/2016 2:00 PM

End: Wed 7/27/2016 2:30 PM

Show Time As: Tentative

Recurrence: (none)

Meeting Status: Not yet responded

Organizer: Starmer, Elanor - AMS

Required Attendees: Morris, Craig - AMS; Snyder, Angie - AMS; Cox, Taylor - AMS; Richmond, William - AMS; Summers, Bruce - AMS; Allen, William - AMS; Jones, Samuel - AMS; Bernau, Jim - AMS

From: [Starmer, Elanor - AMS](#)
To: [Morris, Craig - AMS](#)
Cc: [Richmond, William - AMS](#); [Summers, Bruce - AMS](#)
Subject: Re: Attached is AMS-LPS-2016-28 Information Memorandum for Secretary Georgia Dock 07-29-16.
Date: Friday, July 29, 2016 10:48:59 AM

Thank you. Bill, could you let Jameelah know this is a rush? Need to get it in his book this afternoon.

Sent from my iPhone

On Jul 29, 2016, at 10:47 AM, Morris, Craig - AMS <Craig.Morris@ams.usda.gov> wrote:

FYI only

From: Snyder, Angie - AMS
Sent: Friday, July 29, 2016 10:46 AM
To: Morris, Craig - AMS <Craig.Morris@ams.usda.gov>
Cc: Flores, Elizabeth R - AMS <ElizabethR.Flores@ams.usda.gov>
Subject: FW: Attached is AMS-LPS-2016-28 Information Memorandum for Secretary Georgia Dock 07-29-16.

Done.

From: McDonald, DonnaR - AMS
Sent: Friday, July 29, 2016 10:41 AM
To: Taylor, Jameelah - AMS <Jameelah.Taylor@ams.usda.gov>
Cc: Bernau, Jim - AMS <Jim.Bernau@ams.usda.gov>; Snyder, Angie - AMS <Angie.Snyder@ams.usda.gov>; Templin, Elizabeth - AMS <Elizabeth.Templin@ams.usda.gov>
Subject: Attached is AMS-LPS-2016-28 Information Memorandum for Secretary Georgia Dock 07-29-16.

Good Morning Jameelah,

Attached is AMS-LPS-2016-28 Information Memorandum for Secretary Georgia Dock 07-29-16.

Thank you,

Donna R. McDonald
Secretary
USDA, AMS, Livestock, Poultry & Seed Program
Office of The Deputy Administrator, STOP 0249
1400 Independence Avenue S.W. Room 2092-S
Washington, DC 20250-0249
Office Phone Number: (202) 720-3215
Office Fax Number: (202) 720-3499
Donnar.McDonald@ams.usda.gov

<AMS-LPS-2016-28 Information Memorandum for Secretary Georgia Dock 07-29-16 no Legend.docx>

From: [Starmer, Elanor - AMS](#)
To: [Morris, Craig - AMS](#)
Cc: [Coale, Dana - AMS](#); [Richmond, William - AMS](#); [Morris, Erin - AMS](#); [Summers, Bruce - AMS](#); [Allen, William - AMS](#); [Bailey, Shayla - AMS](#)
Subject: Re: GA Dock Follow-up
Date: Tuesday, July 26, 2016 6:39:58 PM

Thanks. I just checked in with Jameelah - I know she is working on scheduling it.

Sent from my iPhone

On Jul 26, 2016, at 6:36 PM, Morris, Craig - AMS <Craig.Morris@ams.usda.gov> wrote:

Elanor:

This is for ahead of our meeting on this. I still haven't seen it scheduled.

Craig

Sent from my iPhone

Begin forwarded message:

From: "Bernau, Jim - AMS" <Jim.Bernau@ams.usda.gov>
Date: July 26, 2016 at 6:08:17 PM EDT
To: "Morris, Craig - AMS" <Craig.Morris@ams.usda.gov>
Cc: "Lynch, Michael - AMS" <Michael.Lynch@ams.usda.gov>, "Snyder, Angie - AMS" <Angie.Snyder@ams.usda.gov>
Subject: GA Dock Follow-up

Craig,

This morning, I spoke with Dr. Cobb about the GA Dock report and he expressed an appreciation for the LPGMN visit and assistance last week. As a reminder, the GA Dock report is created from data gathered by the Georgia Department of Agriculture (GDA) and then disseminated by LPGMN on the AMS website.

During our conversation today, Dr. Cobb spoke in length about the significance of the GA Dock report to stakeholders, the report's 50-year history, and the need for the report to continue as is unless stakeholders request a change to the report. As Dr. Cobb stressed, (b) (5)

[REDACTED]

[REDACTED]

GDA and Dr. Cobb were told by stakeholders that an in-person or conference call meeting would likely be held early next week [week of

August 1]. When speaking with Dr. Cobb today, LPGMN requested an opportunity to participate in the meeting, but Dr. Cobb stated stakeholders would need to invite us to the meeting.

When asked about possible resistance to the changes agreed upon during last week's meetings, Dr. Cobb could not give any specific examples of resistance or names of those unwilling to assist or accept any changes to the report.

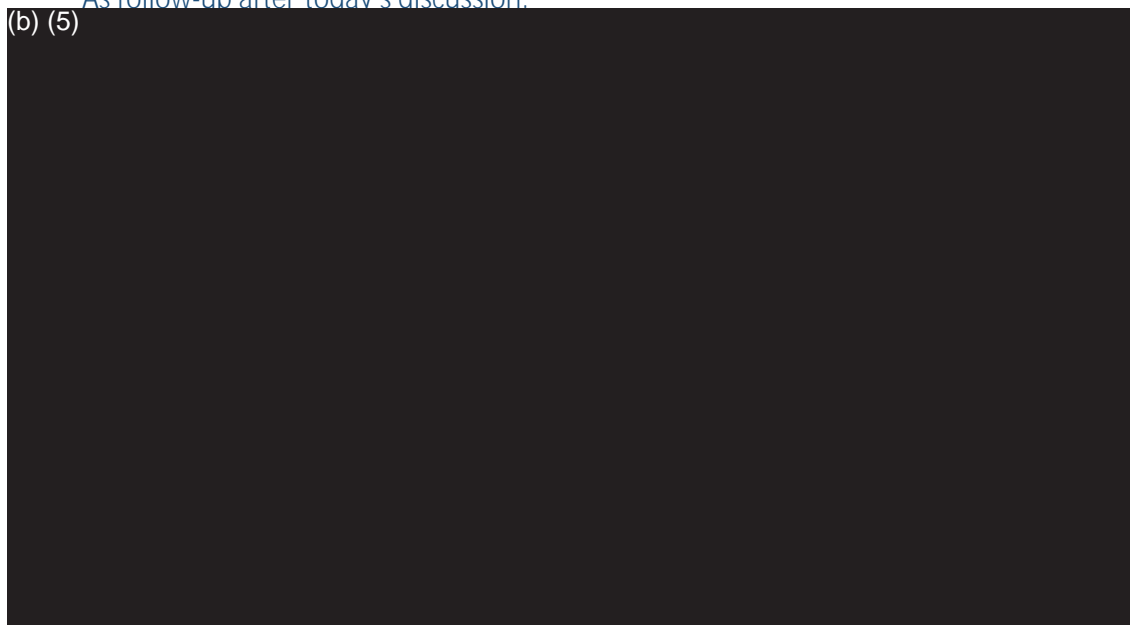
As stated in Mike's email last week, LPGMN believes the following to be the next steps:

(b) (5)



As follow-up after today's discussion:

(b) (5)



Please let me know if you have additional questions.

Thanks
Jim

James Bernau
Deputy Director
Livestock, Poultry and Grain Market News Division
USDA Agricultural Marketing Service
1400 Independence Ave, SW
Room 2619
Washington, DC 20250
jim.bernaul@ams.usda.gov
Office: 202-720-1749
Cell: (b) (6)

From: [Starmer, Elanor - AMS](#)
To: [Taylor, Jameelah - AMS](#)
Subject: Re: GA Dock
Date: Tuesday, July 26, 2016 6:39:17 PM

Yes, thank you! Sorry that wasn't clear. I thought there was an earlier message where I asked about this, but maybe not. Thanks.

Sent from my iPhone

On Jul 26, 2016, at 4:47 PM, Taylor, Jameelah - AMS <Jameelah.Taylor@ams.usda.gov> wrote:

Hi Elanor,

Did you want me to setup the meeting that is referenced below and should I include everyone that is listed in Craig's email response?

Thank you,

Jameelah

From: Starmer, Elanor - AMS
Sent: Monday, July 25, 2016 7:20 PM
To: Bernau, Jim - AMS
Cc: Morris, Craig - AMS; Snyder, Angie - AMS; Lynch, Michael - AMS; Cox, Taylor - AMS; Richmond, William - AMS; Summers, Bruce - AMS; Allen, William - AMS; Jones, Samuel - AMS; Taylor, Jameelah - AMS
Subject: Re: GA Dock

Looping Jameelah.

Sent from my iPhone

On Jul 25, 2016, at 6:09 PM, Bernau, Jim - AMS <Jim.Bernau@ams.usda.gov> wrote:

Can we try for earlier in the day? (b) (6)

trying to leave around 2:30 pm.

Sent from my iPhone

On Jul 25, 2016, at 5:15 PM, Morris, Craig - AMS
<Craig.Morris@ams.usda.gov> wrote:

Thanks Jim. Looping in others. Elanor is trying to set up a meeting for Wednesday that you will be a part of if that

works with your schedule.

Sent from my iPhone

On Jul 25, 2016, at 4:57 PM, Bernau, Jim - AMS

<Jim.Bernau@ams.usda.gov> wrote:

Craig,

Taylor Cox received a call from Dr. Cobb with the Georgia Department of Agriculture (GDA) this afternoon. Dr. Cobb said, (b) (5)

[REDACTED]

[REDACTED]

[REDACTED] Once the notice appeared on the USDA-AMS-LPGMN report last Friday, some processors began giving feedback and did not like the change. GDA would like to try and hold a stakeholder meeting soon, but have not yet decided on a date.

Last week, two LPGMN reporters and a Field Chief traveled to the GDA Atlanta office to review GDA procedures for the GA Dock report information collection. Our goal for this review was to determine if a new spot market report, entirely different to what is currently collected, was warranted. One of the main issues with the current report is that no one at GDA Market News can identify the information collected for the report nor is the information verified through buyer confirmation, i.e., the prices reported by processors are for items neither produced or sold and therefore buyers do not exist. (b) (5)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Today, we encouraged Dr. Cobb to have the state reporter continue to collect the spot market information, as was done last week. Dr. Cobb said, "At this time, the GA Department of Agriculture will not be collecting any spot

market prices." (b) (5), (b) (6)

GA has requested time to review their options and will not collect any new information at this time.

(b) (5)

Thanks
Jim

James Bernau
Deputy Director
Livestock, Poultry and Grain Market News
Division
USDA Agricultural Marketing Service
1400 Independence Ave, SW
Room 2619
Washington, DC 20250
jim.bernau@ams.usda.gov
Office: 202-720-1749
Cell: (b) (6)

From: [Starmer, Elanor - AMS](#)
To: [Morris, Craig - AMS](#)
Cc: [Richmond, William - AMS](#); [Coale, Dana - AMS](#); [Summers, Bruce - AMS](#); [Bernau, Jim - AMS](#); [Lynch, Michael - AMS](#); [Snyder, Angie - AMS](#); [Flores, Elizabeth R - AMS](#); [Jones, Samuel - AMS](#); [Allen, William - AMS](#)
Subject: RE: Georgia Dock Report (b) (5)
Date: Monday, July 25, 2016 4:09:37 PM

My goodness. Ok – why don't we set up a meeting for Wednesday (I'm in NY all day tomorrow) to do a status check and discuss next steps. I will hold off on reaching out to Mark Tobey for now.

Jameelah, could you get time on my calendar Wednesday for a half hour meeting with Craig, Sam Jones, Bill Allen, Bill R. and whomever Craig would like in the room from LPS?

Thanks for keeping me posted.
Elanor

Elanor Starmer
Administrator
Agricultural Marketing Service
U.S. Department of Agriculture
202-720-5115
elanor.starmer@ams.usda.gov

From: Morris, Craig - AMS
Sent: Monday, July 25, 2016 3:28 PM
To: Starmer, Elanor - AMS
Cc: Richmond, William - AMS; Coale, Dana - AMS; Summers, Bruce - AMS; Bernau, Jim - AMS; Lynch, Michael - AMS; Snyder, Angie - AMS; Flores, Elizabeth R - AMS; Jones, Samuel - AMS; Allen, William - AMS
Subject: RE: Georgia Dock Report (b) (5)

I was just notified that this has turned 180 degrees around from where we were an hour ago. Apparently the State of GA did get a couple of complaints about changes being made to the report in response to the disclaimer that appeared on Friday's report. Now, the State does not want to change the report. We asked them to slow down to see if we could talk this through but they said no. (b) (5)

More to follow (b) (5)

I'm also looping in Bill Allen. Craig

From: Starmer, Elanor - AMS
Sent: Monday, July 25, 2016 3:02 PM
To: Morris, Craig - AMS <Craig.Morris@ams.usda.gov>
Cc: Richmond, William - AMS <William.Richmond@ams.usda.gov>; Coale, Dana - AMS <Dana.Coale@ams.usda.gov>; Summers, Bruce - AMS <Bruce.Summers@ams.usda.gov>
Subject: RE: Georgia Dock Report (b) (5)

Great, thank you. Bill, let's flag this up the chain in case anyone gets a call on it.

Elanor Starmer
Administrator
Agricultural Marketing Service
U.S. Department of Agriculture
202-720-5115
elanor.starmer@ams.usda.gov

From: Morris, Craig - AMS
Sent: Monday, July 25, 2016 2:58 PM
To: Starmer, Elanor - AMS
Cc: Richmond, William - AMS; Coale, Dana - AMS; Summers, Bruce - AMS
Subject: Georgia Dock Report (b) (5)

Elanor:

(b) (5)

Beginning August 5, 2016, the Georgia Department of Agriculture will be issuing a new weekly market report for negotiated Georgia broiler/fryer whole birds and bird parts, which will replace the current Georgia F.O.B. Dock Broiler/Fryers-Parts report.

This link shows the statement at the top of the report:

https://www.ams.usda.gov/mnreports/aj_py018.txt.

I'm still awaiting confirmation that Mike has finished all of his notifications to DOJ (Mark Tobey, Amanda Klovers, and Douglas Rathbun) and will let you know when that has occurred.

Thanks,
Craig

From the desk of:
Craig A. Morris, Ph.D.
Deputy Administrator, Livestock, Poultry and Seed Program
U.S. Department of Agriculture
Agricultural Marketing Service
<http://www.ams.usda.gov/LPS>

From: [Starmer, Elanor - AMS](#)
To: [Morris, Craig - AMS](#)
Cc: [Richmond, William - AMS](#); [Coale, Dana - AMS](#); [Summers, Bruce - AMS](#); [Morris, Erin - AMS](#); [Allen, William - AMS](#); [Jones, Samuel - AMS](#); [Bailey, Shayla - AMS](#); [Snyder, Angie - AMS](#); [Flores, Elizabeth R - AMS](#)
Subject: Re: Informational Memo For Secretary - Georgia Dock
Date: Thursday, July 28, 2016 9:10:51 PM

(b) (5)



Thanks for your and Jim's work on this. If your office could finalize asap tomorrow, we can route through MRP and get it in Scuse's book by tomorrow afternoon.

Elanor

Sent from my iPad

On Jul 28, 2016, at 7:33 PM, Morris, Craig - AMS <Craig.Morris@ams.usda.gov> wrote:

Elanor:

As discussed, please find attached a draft informational memorandum that would be from you to the Secretary outlining the Georgia Dock situation and our plan of action.

Please let me know if you have any edits. Once this is completed we can final for you in our office.

Thank you,
Craig

From the desk of:

Craig A. Morris, Ph.D.
Deputy Administrator, Livestock, Poultry and Seed Program
U.S. Department of Agriculture
Agricultural Marketing Service
<http://www.ams.usda.gov/LPS>

<Informational Memo For Secretary - Georgia Dock.docx>

From: [Starmer, Elanor - AMS](#)
To: [Morris, Craig - AMS](#)
Cc: [Richmond, William - AMS](#); [Coale, Dana - AMS](#); [Summers, Bruce - AMS](#); [Morris, Erin - AMS](#); [Allen, William - AMS](#); [Jones, Samuel - AMS](#); [Bailey, Shayla - AMS](#); [Snyder, Angie - AMS](#); [Flores, Elizabeth R - AMS](#)
Subject: Re: Informational Memo For Secretary - Georgia Dock
Date: Thursday, July 28, 2016 8:52:48 PM

Thanks, Craig. I will review tonight and let you know if there are any suggested edits.

Elanor

On Jul 28, 2016, at 7:33 PM, Morris, Craig - AMS <Craig.Morris@ams.usda.gov> wrote:

Elanor:

As discussed, please find attached a draft informational memorandum that would be from you to the Secretary outlining the Georgia Dock situation and our plan of action.

Please let me know if you have any edits. Once this is completed we can final for you in our office.

Thank you,
Craig

From the desk of:
Craig A. Morris, Ph.D.
Deputy Administrator, Livestock, Poultry and Seed Program
U.S. Department of Agriculture
Agricultural Marketing Service
<http://www.ams.usda.gov/LPS>

<Informational Memo For Secretary - Georgia Dock.docx>

From: [Starmer, Elanor - AMS](#)
To: [Morris, Craig - AMS](#)
Cc: [Richmond, William - AMS](#); [Bernau, Jim - AMS](#); [Allen, William - AMS](#); [Bailey, Shayla - AMS](#); [Jones, Samuel - AMS](#); [Summers, Bruce - AMS](#)
Subject: RE: Update - Georgia Dock
Date: Wednesday, July 27, 2016 3:59:43 PM

Great, thank you.

Elanor Starmer
Administrator
Agricultural Marketing Service
U.S. Department of Agriculture
202-720-5115
elanor.starmer@ams.usda.gov

From: Morris, Craig - AMS
Sent: Wednesday, July 27, 2016 3:56 PM
To: Starmer, Elanor - AMS
Cc: Richmond, William - AMS; Bernau, Jim - AMS; Allen, William - AMS; Bailey, Shayla - AMS; Jones, Samuel - AMS; Summers, Bruce - AMS
Subject: RE: Update - Georgia Dock

That totally works and I can make 10 a.m.

Craig

From: Starmer, Elanor - AMS
Sent: Wednesday, July 27, 2016 3:55 PM
To: Morris, Craig - AMS <Craig.Morris@ams.usda.gov>
Cc: Richmond, William - AMS <William.Richmond@ams.usda.gov>; Bernau, Jim - AMS <Jim.Bernau@ams.usda.gov>; Allen, William - AMS <William.Allen@ams.usda.gov>; Bailey, Shayla - AMS <Shayla.Bailey@ams.usda.gov>; Jones, Samuel - AMS <Samuel.Jones@ams.usda.gov>; Summers, Bruce - AMS <Bruce.Summers@ams.usda.gov>
Subject: Update - Georgia Dock

Craig,

ADS Scuse is out on annual leave this week, so we have a meeting scheduled for Monday.

In the interim, MRP has just rescheduled issues and dockets for tomorrow (Thursday) at 10am. Could we brief Ed on the issue at that time? It's ok if we don't have the info memo for him yet. We can walk him through it verbally. Please let Bill know if you and/or Jim are available to attend.

If possible I would like to provide ADS Scuse with the background memo on Friday so that he can read it over the weekend in preparation for the meeting.

So this extends the period of uncertainty, but I don't see any way around it. That work for you?

Thanks,
Elanor

Elanor Starmer
Administrator
Agricultural Marketing Service
U.S. Department of Agriculture
202-720-5115
elanor.starmer@ams.usda.gov

From: [Starmer, Elanor - AMS](#)
To: [Johnson, Ashlee - OSEC](#)
Subject: Re: Attached is AMS-LPS-2016-28 Information Memorandum for Secretary Georgia Dock 07-29-16.
Date: Monday, August 01, 2016 11:45:25 AM

That's frustrating. I'm sorry. And yes, please do sit in. There are potential implications to this change that we didn't spell out in the memo but will share verbally when we meet.

Thanks!
Elanor

Sent from my iPhone

On Aug 1, 2016, at 11:42 AM, Johnson, Ashlee - OSEC <Ashlee.Johnson@osec.usda.gov> wrote:

This did not make it to us. Thank you for sending. Can I sit in on the meeting?

Ashlee Nicole Johnson

Chief of Staff to the Deputy Secretary
U.S. Department of Agriculture
Direct: 202-720-4032 Cell: (b) (6)
ashlee.johnson@osec.usda.gov

From: Starmer, Elanor - AMS
Sent: Monday, August 01, 2016 11:11 AM
To: Johnson, Ashlee - OSEC
Subject: FW: Attached is AMS-LPS-2016-28 Information Memorandum for Secretary Georgia Dock 07-29-16.

Here's what we sent up on Friday. Thanks!

Elanor Starmer
Administrator
Agricultural Marketing Service
U.S. Department of Agriculture
202-720-5115
elanor.starmer@ams.usda.gov

From: Morris, Craig - AMS
Sent: Friday, July 29, 2016 10:47 AM
To: Starmer, Elanor - AMS
Cc: Richmond, William - AMS; Summers, Bruce - AMS
Subject: FW: Attached is AMS-LPS-2016-28 Information Memorandum for Secretary Georgia Dock 07-29-16.

FYI only

From: Snyder, Angie - AMS
Sent: Friday, July 29, 2016 10:46 AM
To: Morris, Craig - AMS <Craig.Morris@ams.usda.gov>
Cc: Flores, Elizabeth R - AMS <ElizabethR.Flores@ams.usda.gov>
Subject: FW: Attached is AMS-LPS-2016-28 Information Memorandum for Secretary Georgia Dock 07-29-16.

Done.

From: McDonald, DonnaR - AMS
Sent: Friday, July 29, 2016 10:41 AM
To: Taylor, Jameelah - AMS <Jameelah.Taylor@ams.usda.gov>
Cc: Bernau, Jim - AMS <Jim.Bernau@ams.usda.gov>; Snyder, Angie - AMS <Angie.Snyder@ams.usda.gov>; Templin, Elizabeth - AMS <Elizabeth.Templin@ams.usda.gov>
Subject: Attached is AMS-LPS-2016-28 Information Memorandum for Secretary Georgia Dock 07-29-16.

Good Morning Jameelah,

Attached is AMS-LPS-2016-28 Information Memorandum for Secretary Georgia Dock 07-29-16.

Thank you,

Donna R. McDonald
Secretary
USDA, AMS, Livestock, Poultry & Seed Program
Office of The Deputy Administrator, STOP 0249
1400 Independence Avenue S.W. Room 2092-S
Washington, DC 20250-0249
Office Phone Number: (202)720-3215
Office Fax Number: (202) 720-3499
Donnar.McDonald@ams.usda.gov

From: [Morris, Craig - AMS](#)
To: [Starmer, Elanor - AMS](#)
Cc: [Snyder, Angie - AMS](#); [Richmond, William - AMS](#); [Allen, William - AMS](#); [Coale, Dana - AMS](#); [Summers, Bruce - AMS](#)
Subject: RE: Georgia Dock resolution plan
Date: Tuesday, August 02, 2016 5:41:37 PM

We do extrapolate prices in certain situations for our reports. (b) (5)

Here is an example of how we provide that standard calculation to packers:
<https://www.ams.usda.gov/sites/default/files/media/Wholesale%20Pork%20FOB%20Omaha%20Calculuations.pdf>.

(b) (5)

From: Starmer, Elanor - AMS
Sent: Tuesday, August 02, 2016 5:29 PM
To: Morris, Craig - AMS <Craig.Morris@ams.usda.gov>
Cc: Snyder, Angie - AMS <Angie.Snyder@ams.usda.gov>; Richmond, William - AMS <William.Richmond@ams.usda.gov>; Allen, William - AMS <William.Allen@ams.usda.gov>; Coale, Dana - AMS <Dana.Coale@ams.usda.gov>; Summers, Bruce - AMS <Bruce.Summers@ams.usda.gov>
Subject: Re: Georgia Dock resolution plan

Craig, thank you for keeping me in the loop. I know you've been working on talking points; (b) (5)

(b) (5), (b) (6)

I'd like to provide Scuse's office with a status report prior to the website change Friday, so let's check in quickly on Thursday so I know where things stand in the discussions. Thanks for your and the team's work on this.

Elanor

On Aug 2, 2016, at 4:57 PM, Morris, Craig - AMS <Craig.Morris@ams.usda.gov> wrote:

Elanor:

Attached is the plan to resolve the Georgia Dock situation. We will keep you informed as we continue to monitor this.

Thanks,
Craig

From the desk of:

Craig A. Morris, Ph.D.

Deputy Administrator, Livestock, Poultry and Seed Program

U.S. Department of Agriculture

Agricultural Marketing Service

<http://www.ams.usda.gov/LPS>

<Plan to Resolve Georgia Dock Issues 8-2-16.docx>

From: [Starmer, Elanor - AMS](#)
To: [Morris, Craig - AMS](#)
Cc: [Snyder, Angie - AMS](#); [Richmond, William - AMS](#); [Allen, William - AMS](#); [Coale, Dana - AMS](#); [Summers, Bruce - AMS](#)
Subject: Re: Georgia Dock resolution plan
Date: Tuesday, August 02, 2016 5:29:29 PM

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(b) (5), (b) (6)



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Thanks,
Craig

From the desk of:
Craig A. Morris, Ph.D.
Deputy Administrator, Livestock, Poultry and Seed Program
U.S. Department of Agriculture
Agricultural Marketing Service
<http://www.ams.usda.gov/LPS>

<Plan to Resolve Georgia Dock Issues 8-2-16.docx>

From: [Morris, Craig - AMS](#)
To: [Starmer, Elanor - AMS](#)
Cc: [Coale, Dana - AMS](#); [Richmond, William - AMS](#); [Summers, Bruce - AMS](#); [Morris, Erin - AMS](#)
Subject: GA Dock Update
Date: Friday, September 02, 2016 11:39:37 AM

On September 1, 2016, Mike Lynch, David Garcia and Annie Terry, met with Dr. Sutton and Alec Asbridge from the Georgia Department of Agriculture (GDA). AMS shared a mock-up of a new addition to our Weekly National Whole Broiler/Fryer Report to get their feedback as whether this would be helpful to the Georgia poultry industry. The new feature shows current price information for three different weight categories of whole birds, including light weight birds weighing 2.5# and less. GDA gave the report good reviews, but they were unsure how the Georgia poultry industry could use it to price off of because those processors utilize longer term contract prices that do not fluctuate like the spot market. However, GDA said they would help promote our report to their processors.

(b) (5)



From the desk of:
Craig A. Morris, Ph.D.
Deputy Administrator, Livestock, Poultry and Seed Program
U.S. Department of Agriculture
Agricultural Marketing Service
<http://www.ams.usda.gov/LPS>

From: [Starmer, Elanor - AMS](#)
To: [Morris, Craig - AMS](#)
Cc: [Coale, Dana - AMS](#); [Richmond, William - AMS](#); [Summers, Bruce - AMS](#); [Morris, Erin - AMS](#)
Subject: RE: GA Dock Update
Date: Friday, September 02, 2016 11:51:15 AM

Sounds like things are moving in a good direction. Thanks, Craig.

Elanor Starmer
Administrator
Agricultural Marketing Service
U.S. Department of Agriculture
202-720-5115
elanor.starmer@ams.usda.gov

From: Morris, Craig - AMS
Sent: Friday, September 02, 2016 11:40 AM
To: Starmer, Elanor - AMS
Cc: Coale, Dana - AMS; Richmond, William - AMS; Summers, Bruce - AMS; Morris, Erin - AMS
Subject: GA Dock Update

On September 1, 2016, Mike Lynch, David Garcia and Annie Terry, met with Dr. Sutton and Alec Asbridge from the Georgia Department of Agriculture (GDA). AMS shared a mock-up of a new addition to our Weekly National Whole Broiler/Fryer Report to get their feedback as whether this would be helpful to the Georgia poultry industry. The new feature shows current price information for three different weight categories of whole birds, including light weight birds weighing 2.5# and less. GDA gave the report good reviews, but they were unsure how the Georgia poultry industry could use it to price off of because those processors utilize longer term contract prices that do not fluctuate like the spot market. However, GDA said they would help promote our report to their processors.

(b) (5)



From the desk of:
Craig A. Morris, Ph.D.
Deputy Administrator, Livestock, Poultry and Seed Program
U.S. Department of Agriculture

Agricultural Marketing Service
<http://www.ams.usda.gov/LPS>

From: [Starmer, Elanor - AMS](#)
To: [Johnson, Ashlee - OSEC](#)
Subject: FW: Attached is AMS-LPS-2016-28 Information Memorandum for Secretary Georgia Dock 07-29-16.
Date: Monday, August 01, 2016 11:11:09 AM
Attachments: [AMS-LPS-2016-28 Information Memorandum for Secretary Georgia Dock 07-29-16 no Legend.docx](#)

Here's what we sent up on Friday. Thanks!

Elanor Starmer
Administrator
Agricultural Marketing Service
U.S. Department of Agriculture
202-720-5115
elanor.starmer@ams.usda.gov

From: Morris, Craig - AMS
Sent: Friday, July 29, 2016 10:47 AM
To: Starmer, Elanor - AMS
Cc: Richmond, William - AMS; Summers, Bruce - AMS
Subject: FW: Attached is AMS-LPS-2016-28 Information Memorandum for Secretary Georgia Dock 07-29-16.

FYI only

From: Snyder, Angie - AMS
Sent: Friday, July 29, 2016 10:46 AM
To: Morris, Craig - AMS <Craig.Morris@ams.usda.gov>
Cc: Flores, Elizabeth R - AMS <ElizabethR.Flores@ams.usda.gov>
Subject: FW: Attached is AMS-LPS-2016-28 Information Memorandum for Secretary Georgia Dock 07-29-16.

Done.

From: McDonald, DonnaR - AMS
Sent: Friday, July 29, 2016 10:41 AM
To: Taylor, Jameelah - AMS <Jameelah.Taylor@ams.usda.gov>
Cc: Bernau, Jim - AMS <Jim.Bernau@ams.usda.gov>; Snyder, Angie - AMS <Angie.Snyder@ams.usda.gov>; Templin, Elizabeth - AMS <Elizabeth.Templin@ams.usda.gov>
Subject: Attached is AMS-LPS-2016-28 Information Memorandum for Secretary Georgia Dock 07-29-16.

Good Morning Jameelah,

Attached is AMS-LPS-2016-28 Information Memorandum for Secretary Georgia Dock 07-29-16.

Thank you,

Donna R. McDonald
Secretary
USDA, AMS, Livestock, Poultry & Seed Program
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Washington, DC 20250-0249
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Office Fax Number: (202) 720-3499
Donnar.McDonald@ams.usda.gov



1400 Independence Avenue, SW.
Room 3071-S, STOP 0201
Washington, DC 20250-0201

INFORMATIONAL MEMORANDUM FOR THE ACTING DEPUTY SECRETARY

THROUGH: Edward M. Avalos
Under Secretary
Marketing and Regulatory Programs

FROM: Elanor Starmer
Administrator
Agricultural Marketing Service

SUBJECT: Discontinuing Publication of the Georgia Department of Agriculture's "Georgia Dock" Poultry Market News Report

ISSUE:

The Agricultural Marketing Service (AMS) plans to discontinue an AMS Market News report based on the Georgia Dock report, a Georgia Department of Agriculture (GDA) poultry report, after discovering issues with the methodology behind the Georgia Dock report, including that the reported price of broilers and fryers (chicken) in the report could not be verified.

SUMMARY:

GDA collects and disseminates daily market information in a series of reports featuring Georgia processed poultry prices (Georgia Dock). AMS has been publishing a truncated version of the Georgia Dock report since 1993. AMS recently discovered that GDA does not and could not verify the information reported in its Georgia Dock report. AMS attempted to work with GDA officials on the methodology and a report that reflects verifiable market prices, but GDA decided to continue publishing the Georgia Dock report without change. As a result, AMS plans to discontinue an AMS Market News report based upon the Georgia Dock report and will begin issuing a new report using reporting methods consistent with AMS confidentiality guidelines, with data verified by AMS Market News reporters.

DISCUSSION:

The GDA Poultry Market News Division collects and disseminates daily market information on Georgia poultry and poultry products in a series of reports featuring prices of broilers and fryers f.o.b. (free on board) dock (i.e., processed poultry prices offered by Georgia processors to buyers). These reports include the *Georgia Dock Quoted Poultry Prices* report issued by GDA every Wednesday and the corresponding *Georgia Preliminary Weighted Average Poultry Prices*

INFORMATIONAL MEMORANDUM FOR THE ACTING DEPUTY SECRETARY

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report issued every Friday and *Georgia Final Weighted Average Poultry Prices* report issued every Monday. This series of reports was initiated about 40 years ago, covers prices and volumes for small birds weighing 2.5-3.0 pounds, and is the only poultry market information report issued by GDA.

Through its Federal-State Cooperative Agreement with GDA, AMS has issued a truncated version of the Georgia Dock report since 1993, the *Georgia F.O.B Dock Broiler/Fryers Price* report. On each of these reports issued three times a week on its Web site, AMS includes a disclosure which states, "This information is supplied by the Georgia Department of Agriculture's Poultry Market News Service."

In January 2016, the Georgia Dock report came under public scrutiny after a *Wall Street Journal* article noted prices reported on the Georgia Dock report are consistently higher than poultry prices reported on two other reports (unidentified in the article) and raised the possibility of market manipulation. Around the time of this article, an individual approached the U.S. Department of Justice (DOJ) about the report and, in turn, a member of DOJ reached out to AMS for background information about this report.

Then on July 7, DOJ requested a meeting with AMS where they shared the work they had done since January looking into the issue and shared that they had concerns with the report. At that meeting, AMS agreed to look into the matter.

During the week of July 18, 2016, three members of the AMS Livestock, Poultry, and Seed Program met with Dr. James Sutton, GDA's Director of Operations; and Dr. Robert Cobb, GDA's Division Director of Animal Industry. They also worked with GDA personnel to review reporting procedures concerning the Georgia Dock report. After observing GDA market reporters collect the information from processors, AMS found that GDA was unable to verify the information reported on its Georgia Dock report.

AMS observed that GDA collects volume and price information from the processors for poultry weighing 2.5-3.0 pounds. Small chickens weighing 2.5-3.0 pounds do not make up the majority of current poultry markets, are in very tight supply, and are generally marketed through forward contracts. When actual prices are not available for this smaller size bird, processors estimate equivalent prices. Each week, processors submit summaries to GDA of their forward contract business, which GDA then uses to create its Georgia Dock report. GDA does not have any method in place to verify the data it receives for this report.

AMS also observed that there are not enough daily trade data available for poultry weighing 2.5-3.0 pounds and recommended that GDA issue a weekly comprehensive report instead. AMS assisted GDA in creating a new collection worksheet and a new report format to include negotiated spot market prices covering all poultry sizes and grades. AMS believes the prices reported on this report will better reflect eastern region prices as reported on its *USDA Weekly National Whole Broiler/Fryer* report due to the adoption of standardized reporting

INFORMATIONAL MEMORANDUM FOR THE ACTING DEPUTY SECRETARY

Page 3

methodologies (i.e., all poultry is aggregated regardless of weight or grade). This method will allow the report to meet AMS confidentiality guidelines, enabling data to be verified. GDA initially agreed to these changes.

Accordingly, on July 22, 2016, AMS announced via the header of its *Georgia F.O.B Dock Broiler/Fryers Price* report that GDA will be issuing a new weekly report to replace the current report issued on the AMS Web site. However, then on July 25, 2016, GDA informed AMS of its decision to continue publishing its Georgia Dock report, unchanged, on the GDA Web site because of concerns raised by the poultry processors who contribute data to the current report.

Due to the inability of GDA to verify the Georgia Dock report information, AMS will discontinue publishing its *Georgia F.O.B Dock Broiler/Fryers Price* report on the AMS Web site. However, AMS will develop a separate, new weekly report covering the same regional market as discussed above and publish this new report on the AMS Web site. AMS will draft a Notice to the Trade describing this new report and the discontinuation of the AMS dissemination of the GDA-derived report.

From: [Starmer, Elanor - AMS](#)
To: [Morris, Craig - AMS](#)
Cc: [Richmond, William - AMS](#)
Subject: RE: Update on Georgia Dock
Date: Monday, July 18, 2016 1:42:07 PM

Sounds like a great start. Thanks for keeping us informed.

Elanor

Elanor Starmer
Administrator
Agricultural Marketing Service
U.S. Department of Agriculture
202-720-5115
elanor.starmer@ams.usda.gov

From: Morris, Craig - AMS
Sent: Monday, July 18, 2016 12:11 PM
To: Starmer, Elanor - AMS
Cc: Richmond, William - AMS
Subject: FW: Update on Georgia Dock

Just a status report. I hope to know more this week about what the issues may be and a timeline moving forward.

From: Lynch, Michael - AMS
Sent: Monday, July 18, 2016 8:39 AM
To: Morris, Craig - AMS <Craig.Morris@ams.usda.gov>
Cc: Snyder, Angie - AMS <Angie.Snyder@ams.usda.gov>; Flores, Elizabeth R - AMS <ElizabethR.Flores@ams.usda.gov>; Bernau, Jim - AMS <Jim.Bernau@ams.usda.gov>
Subject: Update on Georgia Dock

Craig-

Taylor Cox, Jason Karwal, and Annie Terry held a conference call with the Georgia Department of Agriculture (GDA) staff on Friday. The GDA staff included Deputy Commissioners Dr. Cobb and Dr. Sutton, Market News reporting supervisor Dan Duncan, and the market reporter, Arty Schronce. Taylor stressed that restoring the integrity of the Georgia Dock report is a high priority, and we need to start immediately on this. They worked out the game plan below for this week:

(b) (5)



(b) (5)



Mike

Mike Lynch

Director

AMS Livestock, Poultry, and Grain Market News

1400 Independence Ave, SW, Room 2619-S

Washington, DC 20250

Office: 202-720-4846

Mobile: (b) (6)

Michael.Lynch@ams.usda.gov



From: [Starmer, Elanor - AMS](#)
To: [Morris, Craig - AMS](#)
Subject: RE: Update on Georgia Dock
Date: Wednesday, August 03, 2016 12:45:55 PM

Excellent. Thanks!

From: Morris, Craig - AMS
Sent: Wednesday, August 03, 2016 12:44 PM
To: Starmer, Elanor - AMS
Subject: Fwd: Update on Georgia Dock

Status.

Sent from my iPhone

Begin forwarded message:

From: "Lynch, Michael - AMS" <Michael.Lynch@ams.usda.gov>
Date: August 3, 2016 at 12:38:01 PM EDT
To: "Morris, Craig - AMS" <Craig.Morris@ams.usda.gov>, "Snyder, Angie - AMS" <Angie.Snyder@ams.usda.gov>
Cc: "Bernau, Jim - AMS" <Jim.Bernau@ams.usda.gov>
Subject: Update on Georgia Dock

Craig and Angie-

I spoke with Dr. Cobb this morning. He said they (GDA) understand the issue of having the processors create a number to represent a 2.5# base equivalent that is reported to Market News, which is then used to formulate off of by the same processors. He informed me that the Commissioner has tasked some members of his staff to immediately begin working to come up with some options to correct this scenario. However, he did not have a timeline other than to say the work was to begin immediately.

(b) (5)

He seemed to welcome the idea and said they would appreciate our help with developing the alternative to current methodology. I offered any technical help our LPGMN staff can provide to assist them with this process.

I specifically asked him whether GDA has any issues or expects any issues with AMS ceasing the publishing the Georgia Dock report. I told him that we plan to replace the report with a redirect message to their site. He said they do not have any issues with that. Dr. Cobb believes the majority of users get the report from GDA. When GDA posts the report on their web site, the report is also simultaneously disseminated to

their Listserv subscribers, which would include their stakeholders.

Dr. Cobb and I plan to keep in close contact by email and telephone as we work to resolve the issue.

Mike Lynch

Director

AMS Livestock, Poultry, and Grain Market News

1400 Independence Ave, SW, Room 2619-S

Washington, DC 20250

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Michael.Lynch@ams.usda.gov

