
From: Coale, Dana
Sent: Monday, July 09, 2007 7:00 AM
To: Rower, Jack; Tosi, Gino; Jamison, David; Mengel, John; Carman, Clifford; Taylor, Erin
Subject: FW: Request for witness on NFDM
Attachments: ATTACHMENT.TXT

From: ben@yalelawoffice.com [mailto:ben@yalelawoffice.com]
Sent: Sunday, July 08, 2007 4:19 PM
To: Coale, Dana
Subject: RE: Request for witness on NFDM

Dana

Thanks for responding to our request. We are disappointed that the information only USDA has in its possession will not be used to develop the record for commodity pricing, an issue at the heart of the FMMO system. It was the intent of the letter to be part of the hearing and that is why we sent a copy to the address for such comments. On the other hand, requesting the USDA to provide evidence has, in the past, not been considered a violation of the ex parte rules.

Ben

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

From: Coale, Dana [mailto:Dana.Coale@usda.gov]
Sent: Thursday, July 05, 2007 5:42 PM
To: ben@yalelawoffice.com
Cc: Rower, Jack; Tosi, Gino; Jamison, David; Mengel, John; Carman, Clifford; Taylor, Erin
Subject: RE: Request for witness on NFDM

Ben-

This is in response to your e-mail of June 29, 2007, requesting that representatives of NASS and Dairy Programs testify at the reconvening of the Class III/IV price formula hearing concerning nonfat dry milk NASS survey reporting related issues. The hearing is being reconvened in Pittsburgh, Pennsylvania, on July 9, 2007.

As you probably know, the interim final rule establishing a dairy product mandatory reporting program was published on July 3, 2007, in the *Federal Register*. A 60-day comment period has been provided for the submission of comments and exceptions to this rule. Additionally, a separate analysis of the impact of NASS price revisions from April 2006 through April 2007 on Federal order minimum prices was completed and is available on the AMS Dairy Programs' website.

Since the mandatory price reporting program and the Class III/IV price formula proceedings are separate rulemakings, we do not find it necessary or appropriate to provide witnesses at the hearing next week in Pittsburgh. NASS does not have direct responsibility in determining Class III/IV prices under the Federal milk order program. Rather, NASS surveys and publicly reports product price information that Dairy Programs uses to set minimum Class III/IV prices. I suggest you consider submitting comments to the interim final rule as your email identifies areas of concern to your clients.

7/16/2007

Since your e-mail is an *ex parte* communication on both rulemaking proceedings, it will, together with this response, be posted to the AMS Dairy Programs' website for both proceedings.

Sincerely,

Dana H. Coale
Deputy Administrator
Dairy Programs

From: ben@yalelawoffice.com [mailto:ben@yalelawoffice.com]

Sent: Friday, June 29, 2007 2:19 PM

Subject: Request for witness on NFDM