

From: Mack, Vandetta **On Behalf Of** Coale, Dana
Sent: Friday, May 01, 2009 2:56 PM
To: ryan@miltnerlawfirm.com; awr@ashrlaw.com; nbryson@hollandhart.com
Subject: Miltner request re P-H hearing

Dear Ryan:

This is in reply to your three separate emails requesting statistical data and other information on behalf of the American Independent Dairy Alliance for the upcoming Producer-Handler and Exempt Plant hearing in Cincinnati.

We are working to complete your and all other data requests. Because of the number of specific requests, it is unlikely that we will have all of the requested information available before the hearing begins on Monday, May 4th. However, be assured that we will provide as much of the information requested as we are able and as soon as possible.

As to your specific requests, we will not be able to supply some of the data you requested. In this regard, I wanted to let you know what data and other information requested we are not able to provide:

Regarding your first email request of April 16, 2009:

- 1) Items 5 and 6: Neither Class I volumes by average fluid handler nor total volume by average manufacturing handler for the selected time-periods are available. Accordingly we will be unable to provide this data.
- 2) Items 8-12: The information you requested will not be provided. In addition to being beyond the scope of providing statistical data, what you seek cannot be articulated without the benefit of testimony and evidence that this hearing will examine.
- 3) Items 15 and 16: A plant blend price for each handler assuming that the individual handler pool proposal had been adopted cannot be provided because specific sales, sales conditions and terms to individual plants by specific producers are unknown. Also, the range of mail box prices received by FMMO producers for the months in 2007, 2008 and 2009 for each marketing area is not available because the data is collected by milkshed, not marketing area.

Regarding your second email request of April 22, 2009:

- 1) Item 2: Cost-of-production data divided into categories as you requested is not collected by AMS. However, cost-of-production data on an average cow basis is available from USDA's Economic Research Service. Please refer to the ERS web site: www.ers.usda.gov.
- 2) Item 4: AMS does not collect brand-specific sales outlet or home delivery information. Accordingly, this data cannot be provided.
- 3) Item 5: AMS does not collect data for sales of milk that is "locally produced by grass-fed cows for niche markets." Accordingly this information cannot be provided.

- 4) Item 8: We will be able to provide a portion of the data you requested – specifically, data on distributing and pool plant volumes by order will be provided for the years 2000, 2005 and 2009.

Regarding your third email request of April 24, 2009:

USDA has statistical information that will be presented and offered as evidence at the hearing. Additionally, please know that every data request regarding this hearing will be posted, together with the data we are able to provide, on our website. As always, we satisfy all data requests to the extent we are able and the decision to enter prepared data into the record is ultimately at the discretion of the party requesting the data.