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Description of document:	Department of Agriculture (USDA) Briefing on disruption to carbon dioxide markets 2020
Requested date:	2021
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Source of document:	Freedom of Information Act Request Department of Agriculture Departmental FOIA Officer 1400 Independence Avenue, SW Room 4039-A Washington, DC 20250-0706 USDA Public Access Link (PAL) Email: USDAFOIA@usda.gov

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United States
Department of
Agriculture

Office of the General Counsel
1400 Independence Ave. SW
Washington, DC 20250-1400

August 13, 2021

Delivered via Electronic Mail

RE: Final Response for Freedom of Information Act (FOIA) Request 2021-OSEC-04878-F

This is the Office of Information Affairs' (OIA) final response to the above-referenced FOIA request, which sought:

A copy of the most recent briefing by the Office of Energy and Environmental Policy (OEEP), part of the Office of the Chief Economist, to USDA Department Officials on the Disruption to Carbon Dioxide Markets

Your request was processed under the FOIA, 5 U.S.C. § 552.

A search for responsive records was conducted by the Office of the Chief Economist (OCE). The OCE advises the Secretary on the economic situation in agricultural markets and the economic implications of policies and programs affecting American agriculture and rural communities. The OCE serves as the focal point for economic intelligence and analysis related to agricultural markets and for risk assessment and cost-benefit analysis related to Departmental regulations affecting food and agriculture. The OCE identified ten (10) pages of responsive records.

Following a review of the responsive records, the OIA has determined that six (6) pages should be withheld in part pursuant to 5 U.S.C. § 552(b)(5) (FOIA Exemption 5). Additionally, four (4) pages of records have been withheld in their entirety under 5 U.S.C. § 552(b)(5) (FOIA Exemption 5), as Deliberative Process Privilege (DPP). Below is an explanation of the information that has been withheld.

FOIA Exemption 5 – Deliberative Process Privilege (DPP)

FOIA Exemption 5 protects from disclosure those “inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency.” One of the frequently invoked FOIA Exemption 5 privileges is the deliberative process privilege. To fall within FOIA’s deliberative process privilege, the records must be both pre-decisional and deliberative; the records must precede the adoption of an agency policy and include the opinions, recommendations, or deliberations on a legal or policy matter.

In this instance, the OIA is withholding, under the deliberative process privilege, pre-decisional intra-agency discussions related to carbon dioxide supplies, producers, consumers, and estimated targets. The information withheld also includes recommendations on how to implement legislative policy goals related to carbon dioxide supplies. These items are pre-decisional in that they are antecedent to

any final agency decision on the release of FOIA-exempt materials. These items are also deliberative in that they reflect the evolving, back-and-forth process between agency employees that is so integral to the Executive Branch decision-making process; more specifically, the development of potential recommendations made by agency advisors for use in making policy decisions.

If these pre-decisional, deliberative communications were released to the public, USDA employees would be much more cautious in their discussions with each other, and in candidly discussing and providing all pertinent information and viewpoints in a timely manner to agency decision-makers. This lack of candor would also seriously impair the Department's ability to engage in forthright, internal discussions necessary for efficient and proper agency decision-making.

You may appeal this response by email at USDAFOIA@usda.gov. Your appeal must be in writing, and it must be received electronically no later than 90 calendar days from the date of this letter. The OIA will not consider appeals received after the 90 calendar-day limit. Appeals received after 5:00 p.m. EST will be considered received the next business day. The appeal letter should include the FOIA tracking number, a copy of the original request, the OIA's response to your original request, and a statement explaining the basis of your appeal. For quickest possible handling, the subject line of your email should be marked "Freedom of Information Act Appeal" and reference FOIA No. **2021-OSEC-04878-F**.

You may also seek dispute resolution services from the OIA's FOIA Public Liaison, Mr. Harald Fuller-Bennett. Mr. Fuller-Bennett may be contacted by telephone at 202-239-4522, or electronically at Harald.FullerBennett@usda.gov or USDAFOIA@usda.gov.

You also have the option to seek assistance from the Office of Government Information Services (OGIS). Please visit <https://www.archives.gov/ogis/mediation-program/request-assistance> for information about how to request OGIS assistance in relation to a FOIA request.

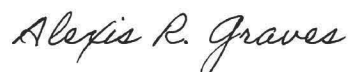
Provisions of the FOIA allow us to recover part of the cost of processing your request. In this instance, no fees will be charged.

If you have any questions regarding the processing of these requests, please contact Mr. Roman Vayner electronically at Roman.Vayner@usda.gov or USDAFOIA@usda.gov.

For additional information regarding USDA FOIA regulations and processes, please refer to the information available online at www.dm.usda.gov/foia.

The OIA appreciates the opportunity to assist you with this matter.

Sincerely,



Alexis Graves
Director
Office of Information Affairs

Enclosure: Responsive Records (10 pages)

From: [Rollins, Blake - OSEC, Washington, DC](#)
To: [Ghee, Hailey - OSEC, Washington, DC](#); [Sullivan, Lauren - OSEC, Washington, DC](#); [Crowe, Taylor - OSEC, Washington, DC](#)
Cc: [CLS1, SLC1 - OSEC, Washington, DC](#); [Hohenstein, William - OCE, Washington, DC](#); [Tkacz, Kailee - OSEC, Washington, DC](#); [LINDEN, RALPH - OGC, Washington D.C.](#)
Subject: Secretary Perdue -- Policy Brief Carbon Dioxide Supply 2 PM Version
Date: Tuesday, April 21, 2020 12:58:54 PM
Attachments: [Secretary Perdue -- Policy Brief Carbon Dioxide Supply 2 PM Version.docx](#)
[2 Party CO2 Agreement April 21 930.docx](#) Two (2) pages withheld in full under (b)(5) Deliberative Process Privilege (DPP)
[3 Party CO2 Agreement April 21 1030.docx](#) Two (2) pages withheld in full under (b)(5) Deliberative Process Privilege (DPP)
[Ethanol Slide 4.21.20.pptx](#)
[Determination of CO2 rates 04192020 1030pm .docx](#)

Hailey & Lauren, please input in calendar.

Hailey/Taylor, please print for SP.

Sorry for quick turnaround.

Thanks,

Blake



PRE-DECISIONAL, DELIBERATIVE

CO2 Briefing

April 21, 2020

Background:

- Food and beverage industries use about 70% of the US CO2 supply (about 7 million tons per year).
- Ethanol is the largest source of CO2 production in the US (35%), and ethanol production is declining.
- U.S. production in the week ending Apr 10 was 168 million gallons, down 154 million gallons from the week ending Jan 10. **48% reduction from January 10 to April 10.**
- **CO2 Production at Ethanol Plants:**
 - o Pre-COVID Production Capacity: About 13,000 tons per day.
 - o Current Production: About 6500-7000 tons per day
- Reduced CO2 supply has resulted in surcharges & reduced allocations for end users (drinking water plants, food and beverage companies, and other end users).
- Currently, CO2 distributors are able to meet most demand by shifting CO2 supply and obtaining it on the spot market.
- This could become more difficult as we move to the summer, which has been the period of peak CO2 demand in the food and beverage industry (for chilling during transportation, and beverage production).

VPOTUS Team's Engagement:

- VPOTUS Team's Conclusions on (b) (5) DPP
 - o (b) (5) DPP
 - o (b) (5) DPP

North American Meat Institute (NAMI) Data:

- **Liquid CO2** (55 users surveyed):
 - o On March 1, these users paid on average \$111.71/ton, and on April 15, these user paid on average \$169. 33/ton, **an increase of \$57.62/ton.**
 - o In addition, 10 of these users faced a reduction in allotment, ranging from a 15% reduction to a 50% reduction.
 - o The surcharges and reductions were prevalent across the north-east, mid-west and west coast. Less so in the south and south-west.
- **Dry ice** (24 users surveyed):
 - o On March 1, these users paid on average \$251.86/ton, and on April 15, these user paid on average \$281.38/ton, **an increase of \$29.52/ton.**
 - o In addition, 2 of these users faced a reduction in allotment, ranging from a 15% reduction to a 20% reduction.
 - o One company in Georgia and North Carolina incurred lower prices on 4/15 relative to 3/1.

Policy Considerations:

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(b) (5) DPP

DRAFT Priority Rank	End Use	Typical Market Share
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(b) (5) DPP

(b) (5) DPP

Recommendation:

(b) (5) DPP

(b) (5) DPP

(b) (5) DPP



(b) (5) DPP



(b) (5) DPP

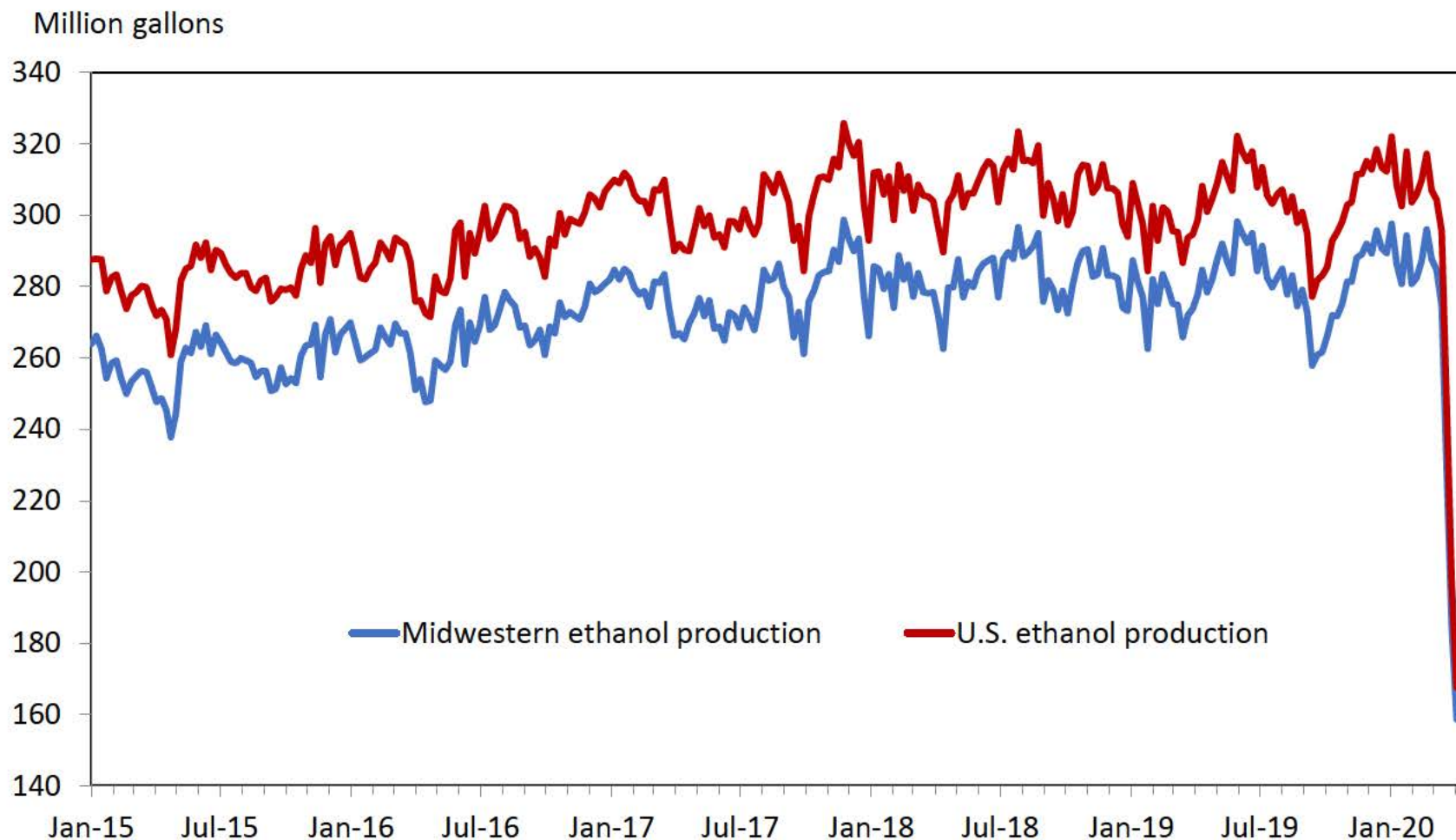


(b) (5) DPP





The latest ethanol production data are for the week ending Apr 10. Production has fallen off dramatically in the last 3 weeks. U.S. production was above 294 million gallons per week (1 million barrels per day) from the week ending Oct 25 through Mar 20. U.S. production in the week ending Apr 10 was 168 million gallons, down 154 million gallons from the week ending Jan 10.



Selection of Fixed Price for Month of May

	Ethanol (\$/gal)								
	Iowa	Nebraska	Illinois (Eastern Cornbelt)	IA variable cost margin, NYMEX natural gas price, no CO2	NE variable cost margin, NYMEX natural gas price, no CO2	ECB variable cost margin, NYMEX natural gas price, no CO2	(b) (5) DPP		
	Ethanol (\$/gal)			(\$/gal)	(\$/gal)	(\$/gal)			
2/7/2020	1.2400	1.2450	1.3500	-0.03	0.01	0.05	(b) (5) DPP		
2/14/2020	1.2400	1.2250	1.3600	-0.03	-0.02	0.08			
2/21/2020	1.2400	1.2300	1.3600	-0.03	-0.03	0.08			
2/28/2020	1.2100	1.1850	1.2800	-0.03	-0.03	0.04			
3/6/2020	1.1850	1.1700	1.2750	-0.07	-0.07	0.02			
3/13/2020	1.1700	1.1550	1.2600	-0.07	-0.08	-0.02			
3/20/2020	0.9200	0.9450	1.0000	-0.16	-0.10	-0.06			
3/27/2020	0.8100	0.8100	0.9450	-0.14	-0.09	0.03			
4/3/2020	0.7350	0.7650	0.8350	-0.10	-0.10	-0.03			
4/10/2020	0.7500	0.7250	0.9050	-0.08	-0.05	0.06			

(b) (5) DPP

(b) (5) DPP