NATIONAL MILK PRODUCERS FEDERATION

Regulatory Register

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National Conference on Interstate Milk Shipments Recap

The National Conference on Interstate Milk Shipments (NCIMS) met in Portland, Oregon from April 24-29, 2015 to address the 100 proposals submitted to revise the *Grade "A" Pasteurized Milk Ordinance* (PMO) and its related documents. National Milk Producers Federation (NMPF) staff attended the Conference to advocate positions of interest to dairy cooperatives and their producer members. Many NMPF members also attended and played key roles in the deliberations of the Conference.

Key items of note:

The NCIMS Conference capped off a multi-year campaign in striving to align the PMO with FSMA Preventive Controls provisions, an effort spear-headed by NMPF and in collaboration with the NCIMS Liaison Committee. Ultimately, four separate proposals from the Liaison Committee were passed by the delegate body to modify the PMO to address gaps that existed between the PMO and FSMA. By passing the proposals, it was recognized that an exemption from FSMA for Grade "A" facilities would not be necessary as PMO-regulated facilities would be compliant with FSMA, and these facilities would continue to be regulated and inspected under the PMO moving forward.

Three significant proposals related to drug residue testing were passed by the delegates.

A pilot program will be developed to expand the drugs (beyond beta-lactams) for which testing is required;

1) Responsibilities were established related to use of "unapproved" drug residue testing, or testing that is done outside of what is currently required (i.e., non-beta-lactams) with test kits that have not been approved by FDA and NCIMS;

2) The criteria for approving drug residue test kits was modified – specifically the sensitivity requirement for tetracyclines and for other drugs that have "safe" levels was lessened.

A proposal to modify the Somatic Cell Count requirement failed on the delegate floor (by a vote of 18-32).

A special NCIMS edition of the NMPF Regulatory Register has been published (available online) detailing all actions from the NCIMS Conference.

Contact: Beth Briczinski.

Food Safety

DHS Safety Act Rule – A Win for the Government & Industry

The Department of Homeland Security (DHS) has been promoting a little known program that was created by the Support Anti-Terrorism by Fostering Effective Technologies (SAFETY) Act and resulted in the promulgation of a final rule in 2006.

The overall concept of the SAFETY Act is to promote the adoption of anti-terrorism technologies by civilians by limiting legal liabilities associated with their use. In essence, if a technology provider applies to the DHS for the review and certification of their technology, the technology provider (e.g. seller) and end user can assert the government contractor immunity defense in any litigation that stems from a terrorist act relating to the technology. The government contractor defense is a robust defense and DHS interprets *technology* in a very broad sense. DHS has already determined that vulnerability assessment services and security plan services are eligible for coverage.

NMPF staff inquired if a food company could take its food defense plan and submit it to DHS for their review and evaluation as anti-terrorism technology — the answer came back yes. Notably both FDA and USDA are engaged in food defense planning services. USDA has a voluntary program for meat and FDA is in the promulgation process of a food defense rules under the authority of the Food Safety Modernization Act (FSMA). The fact that a food defense plan will be required by FDA for some facilities does not affect the ability to take advantage of the program — adoption can be based on voluntary or mandated actions. FDA and USDA are also both interested in having some of their food defense tools reviewed and qualified. FDA, in particular, would like to have DHS review the next version of its Food Defense Plan Builder Tool. If that tool gets certified as Qualified Anti-terrorism Technology (QATT), facilities that use that tool to create their food defense plans will be able to apply to DHS for legal liability protection.

While the likelihood of a terrorist attack on the food supply is low, the consequences of such an attack could be massive and liabilities huge. Taking advantage of the protection offer by the SAFETY Act could be the difference for a business continuing to exist, or not, should an attack occur.

Contact: Clay Detlefsen.

Food Safety

NMPF Continues to Fight Against Expanding Consumer Access to Raw Milk

After sending a letter in March to West Virginia Governor Earl Ray Tomblin urging him to reject Senate Bill No. 30, NMPF thanked the governor for his veto of the bill. Tomblin said the bill, which would have allowed consumers to obtain raw milk through herd-shares or other arrangements under which they become part owners of a dairy cow, posed "a serious risk to public health".

Ultimately, Tomblin sided with public health experts over raw milk advocates by signing his veto on April 2nd, saying that consuming raw milk "has inherent dangers and . . . is particularly dangerous to children, pregnant women, and persons with compromised immunity." Currently, no form of raw milk sales are permitted in West Virginia.

NMPF has led the dairy industry in opposing efforts to make raw milk more accessible to consumers and urged other state legislatures with bills pending that would ease raw milk sales to consumers to follow West Virginia's leadership in rejecting these measures.

Contact: Beth Briczinski.

Food Safety

FDA-CVM Releases Results of Milk Sampling Survey

A new report released on March 5, 2015 by the Food and Drug Administration underscored the safety of the nation's milk supply and demonstrated that the regulations to keep drug residues out of milk are effective in protecting the public health.

The sampling survey was released by the FDA's Center for Veterinary Medicine, which sampled the raw milk from nearly 2,000 dairy farms in 2012, and conducted extensive laboratory testing on each milk sample for 31 different pharmaceutical compounds. It found that more than 99 percent of the samples were free of residues, "underscoring the safety of the milk supply," according to the FDA.

The FDA's objective in the 2012 survey was to determine if those dairy farms with previous drug residue violations in market-bound meat were also producing milk that contained residues. A small number of dairy farms have been cited by regulators over the years for being in violation of existing standards for antibiotic and other drug residues in animal carcasses at meat processing facilities.

The FDA survey involved the confidential collection of milk samples from 953 dairy farms with a previous tissue residue violation, and another 959 randomly selected samples. The residue testing was conducted on raw milk from the farm, not on milk that had gone through the protocols in place further down the processing chain to keep antibiotics out of the milk supply. This was not an analysis of processed, retail-bound dairy products that reached consumers.

The report found 15 confirmed positive samples out of 1,912 tested, or 0.7%. There was no statistically significant difference in the results when comparing the target farm group with the random samples. The FDA said the results "are encouraging and indicate that the current system of regulatory oversight results in high rates of industry compliance. The FDA remains confident in the overall safety of the U.S. milk supply."

Contact Beth Briczinski.

Food Safety

FDA Releases Risk Ranking Report

In April 2015, FDA published their report *Multicriteria-based Ranking Model for Risk Management of Animal Drug Residues in Milk and Milk Products* (available online). This model is a science-based analytical approach involving a variety of data and factors to review animal drugs used in dairy cows. The report fulfilled a 2007 request from the NCIMS Appendix N Modification Committee and will be used, in part, to consider potential changes to the current milk testing program requirements (Appendix N of the Pasteurized Milk Ordinance).

The model is based on four overarching criteria that collectively contribute to a drug's score and rank within the group: (1) the likelihood that it would be administered to lactating dairy cows; (2) the likelihood that, following administration, drug residues would be present in bulk tank milk; (3) the relative extent to which consumers could be exposed to drug residues via consumption of milk and milk products; and (4) the potential for a human health hazard given exposure to the drug residue.

FDA is currently accepting comments on the risk assessment – specifically on the model construct and approach, the scoring in the model, the assumptions and data used to inform the model, etc., not necessarily on the output from the model.

NMPF is preparing comments on the Ranking Model, which are due July 29th.

Contact: Beth Briczinski.

Nutrition

NMPF Comments on Dietary Guidelines Committee Report

On January 28, 2015, the final scientific report from the 2015 Dietary Guidelines Advisory Committee (DGAC) was submitted to the US Department of Health and Human Services (HHS) and the US Department of Agriculture (USDA). On March 24th, NMPF provided oral comments at a public meeting in Bethesda, Maryland and, on May 8th, NMPF also submitted written comments to the Agencies on the DGAC report.

Dairy foods are a good or excellent source of nine essential nutrients, including three of the four nutrients of public health concern identified in the DGAC report (vitamin D, calcium, potassium). NMPF's comments noted the unique nutrient profile of milk and dairy products, reaffirmed their important role in the diet, and encouraged the continued recommendation in the 2015 Dietary Guidelines of three servings of milk and dairy products per day for those age 9 and older.

Specifically related to the messaging of the 2015 Dietary Guidelines, NMPF suggested recommendations not be so restrictive around nutrients to avoid, such as added sugars or sodium, which may result in Americans forgoing consumption of nutrient-dense dairy foods (milk, cheese, yogurt) and missing the essential nutrients these foods provide.

NMPF also offered comments on sustainability, food safety, and imitation dairy products, as well as the emerging science of dairy fat.

NMPF's comments concluded by emphasizing that simple, understandable, actionable messages are needed for the Dietary Guidelines to motivate real dietary improvements for consumers. Two such messages NMPF suggested were "*Include three servings of milk and dairy products each day*" and "*Add one more serving of milk or dairy foods each day*".

USDA and HHS will translate the DGAC report into recommendations in the *2015 Dietary Guidelines for Americans* (DGA), which is anticipated to be released before the end of this year. The DGA serves as the basis for federal nutrition and feeding programs, including the National School Breakfast and Lunch Programs and the Supplemental Nutrition Assistance Program.

Contact Beth Briczinski.

Animal Health

FARM Program Prepares to Begin Guideline Revisions

This summer, academics, veterinarians, co-op staff and producers that comprise the National Dairy Farmers Assuring Responsible Management (FARM) Program Technical Writing Group will begin revising the program guidelines. The more than 52 best management practices, that serve as the cornerstone of the FARM program are revised by this group of experts every three years; most recently in 2013.

The revision process takes approximately 6 months, and Version 3.0 of the guidelines will be available mid-2016. FARM Program evaluators will begin evaluating farms against the new guidelines a year later, in 2017. Current guidelines are readily available in the FARM Animal Care Reference Manual.

Contact: Emily Meredith.

Animal Health

National Action Plan for Combating Antibiotic Resistant Bacteria

On March 27, 2015, the White house released a National Action Plan for Combating Antibiotic Resistant Bacteria. The National Action Plan is a follow-up to the September 18th Executive Order 13676 on Combating Antibiotic-Resistant Bacteria. The goals and objectives of the National Action Plan have potential implications for how antibiotics may be used in the dairy industry. The goals of the National Action Plan include:

- Slow the Emergence of Resistant Bacteria and Prevent the Spread of Resistant Infections.
- Strengthen National One-Health Surveillance Efforts to Combat Resistance.
- Advance Development and Use of Rapid and Innovative Diagnostic Tests for Identification and Characterization of Resistant Bacteria.
- Accelerate Basic and Applied Research and Development for New Antibiotics, Other Therapeutics, and Vaccines.
- Improve International Collaboration and Capacities for Antibiotic-resistance Prevention, Surveillance, Control, and Antibiotic Research and Development.

The dairy industry (and other groups) has used the term "judicious use" for a long time to describe how antibiotics are used on our livestock – the right drug, at the right time, at the right dose. The national dialogue is shifting from "judicious use" to "stewardship" – the right drug, at the right time, at the right dose with a contextual overlay of overall antibiotic use in humans and animals. The FARM Program Milk and Dairy Beef Residue Avoidance Manual is an excellent resource on "judicious use" and "stewardship" of antibiotics for the U.S. dairy industry.

Contact Jamie Jonker or Emily Meredith.

Animal Health

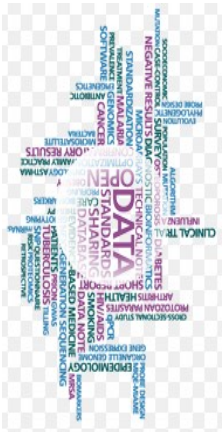
Comments on USDA FSIS Draft Establishment-Specific Data Release Strategic Plan

On January 15, 2015, the USDA Food Safety and Inspection Service (FSIS) released a draft Establishment-Specific Data Release Strategic Plan for sharing data on federally inspected meat and poultry establishments with the public. USDA FSIS developed the Strategic Plan in response to memoranda released by President Obama and the Office of Management and Budget (OMB) that called for increased data sharing; an Executive Order for agencies to develop plans for making information available to the public; National Advisory Committee on Meat and Poultry Inspection (NACMPI) recommendations; and a National Research Council (NRC) review.

Several years ago, USDA FSIS routinely published online a list of tissue residue violators which many dairy cooperatives used to target education and outreach to dairy producers on antimicrobial use and residue avoidance. During the time when this data was publically available, dairy cull cow tissue residue violations decreased by 55 percent – from 1,017 in FY 2007 to 454 in FY 2011. USDA FSIS stopped publishing that information in March 2011. Since then, there has been a rise in the number of dairy cull cow tissue residue violations – by sixty-three percent to 743 in FY 2014 .

In comments supporting the Strategic Plan, NMPF requested the resumption of data of dairy cull cow tissue residue violators for dairy cooperatives to target education and outreach to dairy producers on antimicrobial use and residue avoidance.

Contact: Jamie Jonker.



Animal Health

NMPF Submits Comments on OIE Dairy Welfare Chapter

Last month, NMPF submitted the fourth round of comments on the World Organization for Animal Health (OIE) *Welfare and Dairy Cattle Production Systems* Chapter.

These guidelines were distributed as part of OIE's initiative to develop international farm animal welfare guidelines for its 180 member countries, including the U.S. OIE also has sought comment on chapters affecting other species including *Introduction to the Recommendations for Animal Welfare* and *Animal Welfare and Broiler Chicken Production Systems*. NMPF's comments will be collated and submitted by the U.S. delegation to OIE and reviewed by the drafting committee. The final draft of the dairy welfare chapter will be debated at a May meeting of OIE in Paris, France.

Jamie Jonker and Emily Meredith will be in attendance to help represent the U.S. dairy industry interests at both the upcoming OIE and ISO meetings.

Contact: Emily Meredith or Jamie Jonker.

World Organisation for Animal Health

Environment

Advocacy Groups Sue EPA over Air Emissions

On April 15, 2015 several environmental and animal rights advocacy groups requested a Federal court to reopen a 2009 lawsuit which challenged the EPA for illegally adopting a 2008 rule that exempted CAFOs from complying with hazardous substance reporting requirements outlined in CERCLA and the EPCRA.

In the course of the original litigation, which was filed in the United States Court of Appeals for the District of Columbia, the EPA asked the Court to leave the rule in effect and send it back to the agency for prompt reconsideration and suitable amendment. Following the agency's promise of swift action, the Court granted that request. In the 2015 request, the coalition claims the EPA never revised the exemption and has asked the federal appeals court for the District of Columbia to re-open the case and order the EPA to make a final decision in regards to the exemption.

Previously on January 28, 2015, several environmental and animal rights advocacy groups sued EPA for failure to take action on two earlier petitions to regulate air emissions from livestock farms. In petitions submitted to EPA in 2009 and 2011, the groups requested EPA regulate ammonia and other emissions from waste produced by large livestock facilities under the Clean Air Act due to the gases' potential detrimental effects on human health and the environment. The 2009 petition requested that concentrated animal feeding operations (CAFOs) be listed as a category of "stationary sources" of air pollution under the Clean Air Act thus subjecting CAFOs to regulation. The petition requested regulation of greenhouse gases, hydrogen sulfide, ammonia, particulate matter, and volatile organic compounds through performance standards for new and existing CAFOs. The 2011 petition requested that EPA make an endangerment finding and to establish health and welfare-based ambient pollution standards specifically for ammonia.

Contact Jamie Jonker.

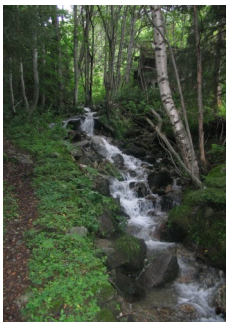
Environment

NMPF Participates in Second Bi-Annual Waste to Worth Conference

The second annual Waste to Worth Conference was held in Seattle, WA on March 30 through April 3rd and was hosted by the Livestock and Poultry Environmental Learning Center. The biannual event brought together agricultural professionals and included presentations on a range of issues related to air, water, soil and climate.

The Keynote address on Tuesday, March 31st was delivered by Washington's Governor Jay Inslee and highlighted the importance of the state's dairy industry and renewable energy with an emphasis on anaerobic digestion on dairy farms. On Wednesday, March 31st participants had the opportunity to choose between four tours which included visits to composting operations and anaerobic digester tours of the VanderHaak Digester and VanDyk Digester on dairy farms in Whatcom County, Washington. Both of the operations had nutrient removal fertilizer technologies for their digestate coming out of the anaerobic digester.

On Thursday, April 2nd, NMPF staff participated in a round table discussion by the EPA which brought together key researchers and multiple livestock sectors to discuss the concept of creating a government sanctioned "Nutrient Recovery Technology Challenge" to verify and accelerate the development of manure nutrient recovery technology.



NMPF staff have since been participating in the EPA's Planning Committee for creating the Nutrient Recovery Challenge. The government has had several other innovation challenges, including the Department of Energy's L Prize.

Contact: Ryan Bennett or Clay Detlefsen

Environment

Waters of the U.S. Rule — Update

On April 6th, the Environmental Protection Agency (EPA) and Army Corps of Engineers (Corps) sent their final regulatory revisions on their Clean Water Act jurisdiction rule, popularly known as Waters of the U.S. (WOTUS), to the Office of Management (OMB) for review prior to final publication. Just over a week later, the House Transportation and Infrastructure Committee passed *The Regulatory Integrity Protection Act,* H.R. 1732, by a vote of 36 to 22. The legislation directs EPA and the Corps to withdraw the rule and provided a list of parameters for reissuing a revised proposed regulation for another round of comments.

The full House of Representatives passed H.R. 1732 on May 12th with a vote of 261-155.

The legislation now heads to the U.S. Senate for further consideration. Companion legislation entitled the Federal Water Quality Protection Act (S. 1140), has been introduced by Sen. John Barrasso (R-WY). S. 1140 is similar to the H. R. 1732 but includes additional provisions that seek clarification on controversial definitions in the proposed rule. S. 1140 has not yet received a scheduled vote, but the Senate Environment and Public Works Committee will hold a hearing on the bill on May 19th. The Senate bill has garnered 25 cosponsors, including Senate Environment and Public Works Chairman, Sen. James Inhofe (R-OK), and Senate Agriculture, Nutrition and Forestry Chairman, Sen. Pat Roberts (R-KS). Also included as original bi-partisan cosponsors were Senators Joe Donnelly (D-IN), Heidi Heitkamp (D-ND), and Joe Manchin (D-WV).

OMB technically has to issue the "Final Rule" within 90 days. When available, NMPF will review the WOTUS "Final Rule" to determine whether the changes addressed our specific comments and the implications for the dairy industry.

Contact: Jamie Jonker or Ryan Bennett.

Environment

U.S. Sustainability Alliance Trade Mission Recap

On March 30 - April 3, 2015, the U.S. dairy industry participated in a sustainability trade mission to the Netherlands and France through the U.S. Sustainability Alliance. The U.S. Sustainability Alliance is a group of American farm, fishery and forestry producers that joined together to explore and share their values regarding sustainability and conservation. The main objective of the mission was to engage Dutch and French stakeholders and decision-makers across the agriculture, fish and forestry value chains in a discussion on sustainability and conservation issues, and in particular to provide an overview of the conservation and sustainability practices used in the U.S. Jamie Jonker represented the U.S. dairy industry by providing an overview of the sustainability activities of the Innovation Center for U.S. Dairy, and the animal well-being and judicious use of antibiotic activities of the National Dairy FARM Program: Farmers Assuring Responsible Management™.

Contact: Jamie Jonker.

NMPF News

Upcoming Events

- June 8-10, 2015 NMPF Board Meeting, Arlington, VA http://nmpf.org/events/nmpf-spring-2015-board-directors-meeting
- July 6-11, 2015 Codex Alimentarius Commission, Geneva, Switzerland http://www.codexalimentarius.org/
- July 12-16, 2015 American Dairy Science Association Meeting, Orlando, FL http://www.jtmtg.org/JAM/2015/index.asp
- July 25-28, 2015 International Association of Food Protection Annual Meeting, Portland, OR http://www.foodprotection.org/annualmeeting/programs-and-activities/program/
- October 26-28, 2015 NMPF Joint Annual Meeting, Orlando, FL http://www.nmpf.org/nmpf-joint-annual-meeting

About NMPF

The National Milk Producers Federation, based in Arlington, VA, develops and carries out policies that advance the well-being of dairy producers and the cooperatives they own. The members of NMPF's cooperatives produce the majority of the U.S. milk supply, making NMPF the voice of more than 32,000 dairy producers on Capitol Hill and with government agencies.

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