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Food Labeling

NMPF to FDA: End Bolthouse Farms' Egregious Labeling of Pea-Based "Milk"

In a letter sent April 4 to the U.S. Food and Drug Administration (FDA), NMPF criticized both Campbell Foods and its California-based Bolthouse Farms brand for the prominent use of the word "MILK" on the center of its package. According to NMPF, Bolthouse violates federal regulations by inaccurately labeling its product as milk, and ignoring FDA standards of identity that make clear milk and other dairy products must be sourced from animals, not plants.

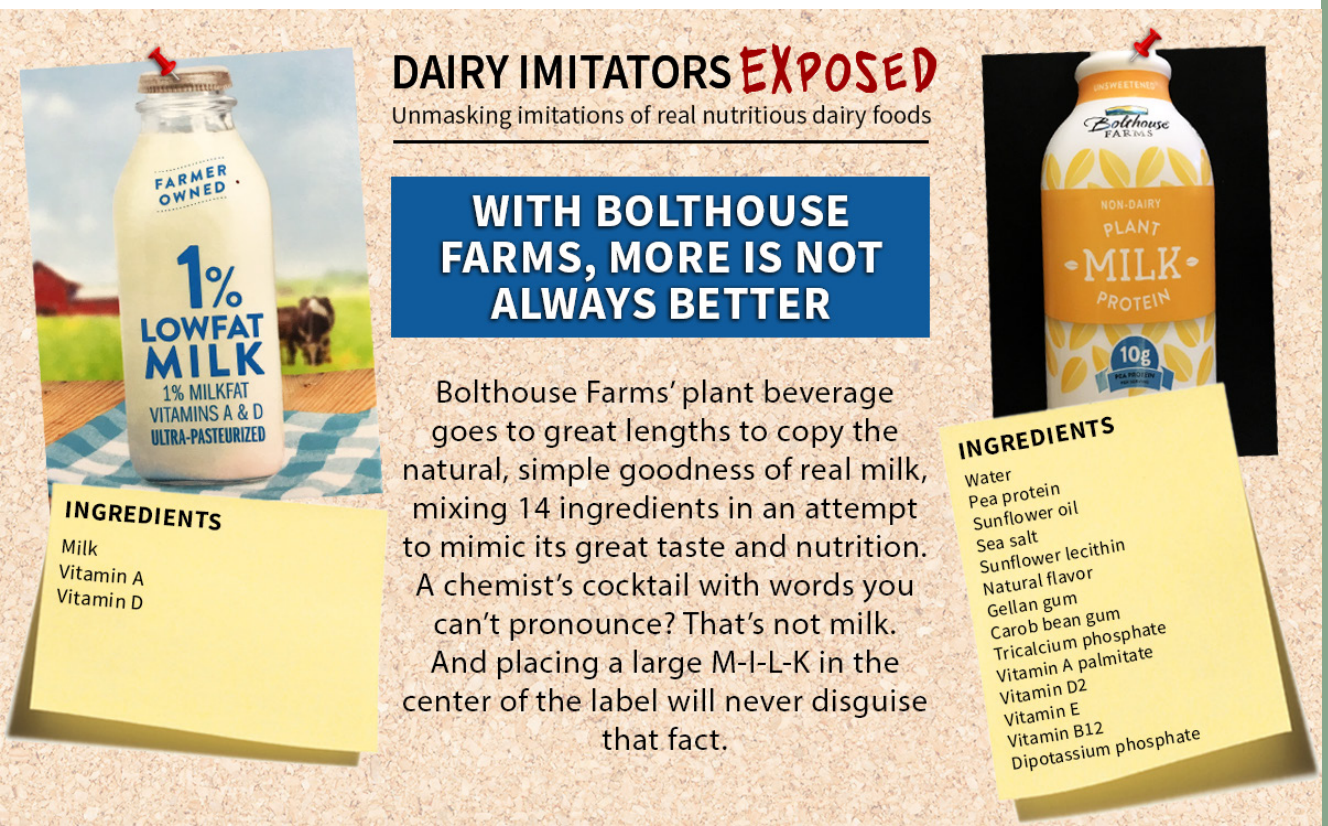
The letter also noted that in many grocery stores the Bolthouse product is sold in the dairy case immediately adjacent to real cow's milk, further leading to consumer confusion about the origin and nutritional content of the product. The "lack of segregation, combined with the deliberate attempt to mislead consumers with the prominent use of the term 'MILK' on the label," can easily confuse customers into believing the pea powder-based product is another brand of cow's milk, NMPF wrote.

The opaque powder-based fluid sold by Bolthouse Farms attempts to replicate the color, taste and mouthfeel of regular milk. But compared to milk's three ingredients, Bolthouse's pea product contains 14, all of which are added during factory processing.

In the fall of 2016, NMPF and the International Dairy Foods Association (IDFA) had contacted Campbell Foods before the launch of its new Bolthouse Farms' pea powder-based beverage, telling the company's general counsel that the product did not adhere to federal standards of identity for dairy foods and therefore should not be labeled as "milk."

To supplement this most recent letter, NMPF created a new graphic to add to its "Dairy Imitators: Exposed" effort, which illustrates the disparities between imitation foods and real dairy foods. The latest edition compares the ingredient lists of both cow's milk and Bolthouse Farms' pea "milk" to highlight the artificial nature of the beverage.

Contact: Beth Briczinski



In this issue

Food Labeling

Congressional Spending Bill Includes Language Requiring FDA Action Against Dairy Imitators

Congress is directing the U.S. Food and Drug Administration (FDA) take action against mislabeled imitation dairy foods, thanks to NMPF's efforts to include language in the massive omnibus spending bill approved on March 23.

The spending measure to fund the government for the remainder of fiscal year 2018 includes language instructing FDA to enforce standards addressing dairy imitators. The language used in the legislation is based on the DAIRY PRIDE Act, a bipartisan bill introduced last year in both chambers of Congress to compel FDA to act against misbranded imitations. Given the existing definition of milk as a product of a dairy animal, NMPF has said that stepped-up enforcement efforts by FDA should restrict the ability of beverages made from plant foods from using the term "milk" on their labels, along with other dairy food names that are defined in the *Code of Federal Regulations*.

At the beginning of 2017, NMPF secured broad bipartisan support for both the House and Senate versions of the bill. For many years, NMPF has pushed FDA to take action against plant-based imitators that mislabel their packages, and worked with dairy advocates in both congressional chambers to generate support for this legislation.

NMPF now plans to work closely with both congressional and FDA leaders to ensure mutual understanding of the enforcement action language included in the spending bill.

Contact: Paul Bleiberg

Environment

Congressional Legislation Relieves Farms of Air Emissions Reporting Burden

As part of the omnibus spending package passed on March 23, Congress has clarified that dairy farm operations do not have to report manure-related air emissions data to the federal government under the CERCLA Act – a major NMPF focus in recent months, and a victory for dairy farmers.

NMPF helped develop bipartisan legislation in both congressional chambers earlier this year to prevent dairy farms from having to generate meaningless air emissions data under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). The Senate acted first, with the introduction of the Fair Agricultural Reporting Method (FARM) Act (S. 2421) to prevent farms, ranches and other agricultural operations from having to report livestock manure emissions data under CERCLA. The FARM Act's lead sponsors included Sens. Deb Fischer (R-NE) and Joe Donnelly (D-IN), along with 18 other Republican and Democratic senators. A companion bill in the House, the Agricultural Certainty for Reporting Emissions (ACRE) Act, was introduced in mid-March by lead sponsors, Reps. Billy Long (R-MO) and Jim Costa (D-CA).

The CERCLA provisions were originally enacted decades ago to deal with accidental hazardous air emissions emergencies from toxic waste sites, not day-to-day farm activities. However, because of recent court decisions, the CERCLA law would have required farms to generate reports that regulatory agencies do not want and will not use.

In 2008, the U.S. Environmental Protection Agency (EPA) exempted most farms from reporting the release of ammonia and hydrogen sulfide under both CERCLA and the EPCRA, deeming such reports unnecessary. However, in April 2017, the D.C. Court of Appeals directed the removal of this exemption for dairy and other livestock operations from the two federal laws.

In October 2017, EPA filed a motion requesting that the court extend its stay on requiring livestock farm compliance with CERCLA and EPCRA until January 2018. The court was expected to issue its mandate after Jan. 22, but on Jan. 19, EPA filed a request to delay the compliance date for another 90 days. The court granted EPA's request, giving Congress time to change the underlying legislation at issue in the courts.

Now that Congress has acted on this issue, NMPF will continue to work with other agricultural organizations to ensure that EPA promulgates a final rule that formalizes its October 2017 interim interpretation that farms do not have to report air emissions under EPCRA. EPA interprets that statute as excluding farms that use substances in "routine agricultural operations" from reporting under EPCRA, Section 304. This encompasses routine operations on farms, animal feeding operations, nurseries, other horticultural operations and aquaculture.

Contact: Clay Detlefsen

Food Safety

NMPF Asks McGill Researchers to Recognize Dairy is Nutritious, Safe

In a strongly worded letter to a Canadian university, NMPF admonished two authors of a recent study that cited research falsely describing milk as a high-risk factor in spreading foodborne illness. NMPF insisted that the study's authors must clarify that any significant dairy-related food safety risk is only associated with the consumption of raw milk, not commonly available pasteurized dairy products.

Prepared by a graduate student at McGill University and published in the January issue of the *Journal of Food Science and Technology*, the study compared the nutritional profiles of four imitation dairy beverages to conventional cow's milk. The research demonstrated that none of the plant-based imitations replicates the nutritional benefits of real milk. However, the study also published inaccurate claims that cow's milk "has been associated to cause wide spread disease outbreaks around the world."

NMPF rebuked the authors' claim, saying it is actually raw, unpasteurized milk that is a demonstrable source of pathogens. The public health risk associated with raw milk is supported by scientific evidence spanning over one hundred years. Raw milk is a key vehicle in the transmission of human pathogens like *E. coli, Listeria* and *Salmonella*, the letter said. The U.S. Centers for Disease Control and Prevention (CDC) has reported that over 70% of foodborne outbreaks involving dairy are attributed to raw milk. It is illegal in both Canada and many U.S. states.

"There is no basis for your statement linking milk consumption to worldwide foodborne outbreaks," said the letter. "Such a comment has the potential to do incredible, unjustified harm to our industry and has the potential to cause fear in consumers who are seeking nutrient-dense and safe products for themselves and their families."

NMPF's Dr. Beth Briczinski later submitted to the journal a formal letter to the editor to clarify the study's misunderstanding of dairy food safety, saying: "The food safety risk of consuming cow's milk is misrepresented and thus the authors' focus has the potential to place unwarranted doubts into consumers' minds as to the safety of all dairy products."

Contact: Beth Briczinski

Transportation

NMPF Wins Delay on Electronic Logging Mandate, Works to Improve Ag Exemption

NMPF is working to relieve the dairy industry from a pending mandate that dictates all commercial trucks must be equipped with electronic logging devices (ELDs) to track compliance with federal hours of service (HOS) regulations.

The mandate took effect last fall, but agricultural haulers received a three-month exemption until March. NMPF joined others in agriculture in successfully petitioning for an additional three-month delay. As a result, the mandate will now take effect this June.

At the same time, NMPF is working with the U.S. Department of Transportation (DOT) to improve and clarify the existing statutory HOS exemption for haulers moving agricultural commodities from farm to plant. NMPF believes that a dairy terminal or transfer station should be considered a "source" of agricultural commodities. NMPF also commented on how to apply the HOS exemption for agricultural commodities when a hauler is loading a commodity at multiple sources during one trip. Milk is a uniquely perishable commodity, and haulers must often stop at multiple dairy farms to completely fill their tankers. NMPF advocated that milk haulers be able to utilize the 150 air-mile agriculture exemption beginning at each pickup location.

NMPF submitted comments urging the DOT to recognize these circumstances and provide clear and consistent interpretation and enforcement guidelines to all states with respect to the application of the agricultural commodities exemption to milk. NMPF will continue to work closely with industry and regulators on this issue.

Contact: Paul Bleiberg

Animal Health

NMPF Supports USDA Withdrawal of Organic Animal Welfare Standards

On Jan. 17, NMPF submitted comments supporting the U.S. Department of Agriculture's withdrawal of a final rule on animal welfare standards after a request last December. USDA had requested comments on withdrawing the Organic Livestock and Poultry Practices rule, originally published in January 2017, which proposed imposing a variety of new animal care and housing standards in the organic program.

NMPF initially expressed concern about the proposed standards in July 2016, saying the changes fall short of those already employed by the National Dairy Farmers Assuring Responsible Management (FARM) Animal Care Program. In its most recent comments, NMPF supported withdrawal of the final rule. The organization stated that the FARM Animal Care Program assures animal care and wellbeing throughout the U.S. dairy industry, thus the requirements in USDA's final rule are unnecessary and duplicative for dairy cattle. Furthermore, the basis of the FARM Animal Care Program is sound science, and its standards are updated every three years to accommodate the latest research around animal health and wellbeing.

On March 13, USDA formally withdrew the final rule, determining it exceeded USDA's statutory authority. Additionally, USDA determined withdrawal was justified based on assessments of the Final Rule's benefits and burdens as NMPF comments consistently stated.

Contact: Jamie Jonker

Nutrition

NMPF Comments on School Meal Crediting

On Feb. 12, NMPF answered an information request from the U.S. Department of Agriculture (USDA) by submitting comments that supported a protein requirement in breakfast meals and argued for an increase in fortification levels for dairy milk substitutes.

Last December, USDA's Food and Nutrition Services (FNS) requested information on food crediting in child nutrition programs (National School Lunch Program, School Breakfast Program, Child and Adult Care Food Program, and Summer Food Service Program). To claim federal reimbursement, Child Nutrition Program operators must serve meals and snacks that meet the minimum meal pattern requirements of the respective program. Crediting was designed by FNS to specify how individual food items contribute to the Child Nutrition Programs' meal patterns.

In justifying the need to increase fortification levels in dairy milk substitutes, NMPF noted that the current requirements for fortification are based on the nutrients in whole milk. However, as the fat content of milk decreases (e.g., from whole to 1%), the other nutrients in the same volume increase. Because only 1% and fat-free milk are allowed in schools, one or both milk varieties is the appropriate comparator to guarantee nutritional equivalence and assure students who don't consume milk are more closely meeting their nutritional needs.

FNS has extended the comment period to April 23. NMPF will file additional comments in response to relevant information that has been submitted to the docket.

Contact: Beth Briczinski

Food Safety

Annual FDA Drug Residue Report Shows Continued Progress

Only 1 out of 9,500 milk tankers tested positive for antibiotic residues last year, according to the 2017 National Milk Drug Residue Database annual report, released last month by the U.S. Food and Drug Administration. This continues a long-term national pattern of improvements in milk quality practices by the industry.

Of the approximately 3.39 million milk pick-up tankers tested in the past year, only 356 (0.011%) yielded a positive result. Additionally, not a single sample of the 33,511 consumer-packaged pasteurized milk products tested positive for animal drug residues.

Data from the last eight years have not yielded a single positive drug test result for pasteurized Grade "A" products. Overall, the total number of samples tested (tankers, packaged products, producer samples) that were reported as positive decreased from 618 in 2016 to 605 in 2017.

Contact: Beth Briczinski

Environment

Latest Chapter of WOTUS Story Generates More Confusion

The process surrounding the controversial Waters of the U.S. (WOTUS) rule will remain complicated for the foreseeable future thanks in part to the U.S. Supreme Court's determination earlier this year that the district courts have jurisdiction over the rule's applicability.

In January, the high court agreed to resolve a dispute regarding which federal court should hear challenges to the U.S. Environmental Protection Agency's (EPA) 2015 WOTUS rule, the implementation of which had been suspended by the U.S. Court of Appeals for the Sixth Circuit. Because of the Supreme Court's ruling, the Sixth Circuit revoked its suspension and EPA issued an applicability date for WOTUS, which will delay its implementation until Feb. 6, 2020. EPA acted in anticipation of the Sixth Circuit's decision to preserve the Trump Administration's plan to repeal and replace the 2015 rule via the regulatory process it initiated in 2017.

The WOTUS rule went into effect on Aug. 28, 2015, despite widespread concern from NMPF and other agricultural groups over its ambiguity. On Oct. 9, 2015, the Sixth Circuit court ordered a nationwide stay of implementation of the final rule. NMPF has told EPA that the final rule sufficiently addresses the concerns raised in the organization's comments on the proposed rule.

The purpose of the WOTUS regulation, proposed in April 2014 by EPA and the U.S. Army Corps of Engineers, is to clarify

the agencies' authority over certain waters. That jurisdiction originally included "navigable" waters, though it has since expanded to include upstream waters and streams, such as those farmers use for drainage and irrigation.

NMPF believes the WOTUS regulation will be revoked by the new leadership at the EPA or nullified by the courts or Congress. This will create an opportunity for farm groups to begin work with federal regulators on a more legally appropriate and workable water quality policy.

Contact: Jamie Jonker

Regulatory

NMPF Submits Comments to FDA on FSMA, Nutrition Regulations

In February, NMPF submitted comments to FDA in response to a September 2017 *Federal Register* notice titled "Review of Existing Center for Food Safety and Applied Nutrition Regulatory and Information Collection Requirements." FDA issued the request to assist the agency in identifying regulations and related paperwork requirements that it could modify, repeal or replace to reduce the regulatory burden on the public and the industry.

In the area of food safety, NMPF commented on the Food Safety Modernization Act (FSMA) regulations that require annual written assurances from customers responsible for controlling food safety hazards. NMPF stated that the requirement added a considerable amount of paperwork and documentation without additional food safety protections for consumers. With respect to the Intentional Adulteration rule, NMPF expressed concern about a lack of stakeholder engagement and a requirement that industry also consider events of extremely low probability where the public health benefit would not be realized for centuries.

In the area of nutrition, NMPF commented on the voluntary sodium reduction targets, which were inappropriately applied to cheese, where sodium plays critical roles in functionality and food safety. NMPF also encouraged FDA to update the definition of the term "healthy" in light of changes in nutrition science. NMPF also provided comments on FDA's "50-gram rule", whereby foods with a small Reference Amount Customarily Consumed (i.e., cheese) must meet nutrient thresholds based on a larger serving size. This rule puts some dairy products at a disadvantage for certain label claims (like low-sodium cheeses).

Finally, with respect to standards of identity, NMPF encouraged FDA to amend the yogurt standard. FDA issued a proposed rule in 2009, but has yet to finalize the rule.

Contact: Clay Detlefsen or Beth Briczinski

NMPF Weighs in on State Dairy Food Safety Issues

In March, NMPF and the International Dairy Foods Association (IDFA) jointly opposed a bill (HB 2548) in the Missouri State House of Representatives that would have consolidated the State Milk Board (SMB) with the new Missouri Agriculture Board, with the resulting entity representing a wide range of commodities, from grapes to cotton to biofuels. NMPF and IDFA recommended the proposal be amended to exclude the SMB from any consolidation efforts.

The NMPF letter said that the "the SMB was created in 1972 to encourage orderly and sanitary production, transportation, processing and grading of fluid milk and processed milk products for consumption intrastate and well as interstate." The state's dairy industry and consumers rely on the SMB as a regulatory agency to oversee the implementation of the Pasteurized Milk Ordinance (PMO), the model regulation of dairy product safety standards and requirements adopted by and uniformly enforced by state regulatory agencies with the oversight of the U.S. Food and Drug Administration (FDA) to assure the safe production and processing of Grade 'A' milk and milk products."

"Missouri's dairy industry has enjoyed success – the dairy foods industry employs over 24,000 Missouri residents, with an economic impact of over $6.78 billion, and a total economic impact of dairy products produced and sold specifically in Missouri of nearly $16 billion – in part, because of the strength and leadership of the SMB. The SMB's responsibilities to consumer health are too important and require extensive technical knowledge, which would make it extremely challenging to include in a general consolidated advisory board," the comments continued.

There was strong opposition from dairy stakeholders at the bill's hearing on March 13. Ultimately, the bill did not move out of the House Special Committee on Government Oversight.

NMPF also submitted letters this winter opposing several

other bills being considered in state legislatures that would relax food-safety regulations on raw milk:

- NMPF opposed Virginia HB 516 and SB 675, which would exempt yogurt produced in private homes from state inspection. The bill would have removed the regulation and inspection requirements of the Grade "A" Pasteurized Milk Ordinance, without adequate assurance that public health would be protected. Neither bill made it out of their respective committees.
- NMPF and IDFA opposed Tennessee HB 1963 and SB 1913, which would establish a state definition of butter that would not require that milk or cream used in the production of butter be pasteurized. NMPF and IDFA also opposed HB 2229 and SB 2104, which would exempt raw milk and dairy products sold from a home kitchen from licensure, inspection and regulation. These bills would have removed existing Tennessee regulations prohibiting the direct sale of raw milk and milk products. Rejection of these bills was encouraged "due to the significant public health risks associated with the consumption of raw milk". The Tennessee general assembly did not approve any of the four bills, effectively killing the effort to pass both measures this year.

Contact: Beth Briczinski

Nutrition

NMPF Supports Removal of FDA Soy Health Claim

On March 19, NMPF submitted comments in support of an FDA proposal to revoke the authorized health claim linking soy protein to a reduced risk of coronary heart disease, and repeated its insistence that the agency take action against plant-based food companies that inappropriately use dairy terminology to market inferior imitation dairy products, such as soy "milk."

In October 2017, FDA published in the *Federal Register* its proposal to revoke the authorized soy heart health claim. In a statement, Dr. Susan Mayne, Director of FDA's Center for Food Safety and Applied Nutrition, stated that "numerous studies published since the claim was authorized in 1999 have presented inconsistent findings on the relationship between soy protein and heart disease." This is the first time that FDA has proposed to revoke an authorized health claim.

NMPF commended the agency for undergoing a rigorous review of recent science to take a closer look at the health benefits of soy protein. NMPF stressed the importance of acknowledging the continuing evolution of nutrition science and information, and the regular review of authorized health claims. If the soy protein health claim is revoked when the rule is finalized, FDA will allow the use of a *qualified* health claim if there is sufficient evidence to support a link between soy protein and a reduced risk of heart disease.

FDA's proposed change comes almost 10 years after the agency initially announced its intent to reevaluate the science behind the soy protein health claim. During this time, NMPF said, soy food manufacturers have been able to capitalize on the claim to advertise their products as healthy, when science has not supported that assertion.

Certain soy food companies have used the claim when labeling their imitation dairy products, insisting that because of soy's purported healthful properties, soy "milk" is a healthy alternative to conventional cow's milk. Not only is this health claim without significant scientific support, based on FDA's proposed rule, it also blatantly skirts federal regulations on the labeling of dairy foods like "milk," "cheese" and "yogurt."

"It is imperative that consumers have accurate label information in addition to health claims – specifically, the name of the food, which also conveys nutrition information," said NMPF, reiterating its plea for FDA to take enforcement action against such products.

Contact: Beth Briczinski

Food Safety

NMPF Submits Comments on FDA Recall Guidance

On Jan. 17, FDA released a guidance document to assist and provide recommendations to industry and FDA staff regarding the use, content and circumstances for issuing public warnings and notifications for firm-initiated or FDA-requested recalls. The guidance, titled "Public Warning and Notification of Recalls Under 21 CFR Part 7, Subpart C Guidance for Industry and FDA Staff," also discusses what information should be included in a public warning, as well as the parties responsible for issuing it. NMPF staff reviewed the guidance document and submitted comments on March 20.

While the document overall seemed to capture current practices around recall situations, NMPF requested clarification around requirements for Class I and Class II recalls. For example, in addition to Class I recalls, FDA also recommended public warnings for some "urgent Class II recalls that, while not rising to Class I hazards, still present a serious hazard to health." FDA later stated that "urgent situations" or "urgent recalls" require a public warning.

NMPF expressed concern that FDA was blurring the line between Class I and Class II recall situations, and is seeking additional clarification from the agency, including examples of what differentiates Class I recalls, and urgent and non-urgent Class II recalls.

Contact: Clay Detlefsen

Nutrition

NMPF Supports Return of 1% Flavored Milk in Schools

In joint comments submitted at the end of January, both NMPF and the International Dairy Foods Association (IDFA) praised a proposed USDA rule to bring low-fat flavored milk back into school meals. The organizations commended the agency for the positive effect the change will have on the widely recognized problem of declining school milk consumption.

In 2012, USDA eliminated low-fat flavored milk as an option in the school meal and a la carte programs, which resulted in students consuming 288 million fewer half-pints of milk from 2012-2015. Milk is the No. 1 source of three out of four nutrients of public health concern that are under consumed: potassium, vitamin D and calcium. NMPF and IDFA called the troubling trend "a threat to public health and to the nutritional intakes of all Americans, notably children and adolescents."

In Summer 2017, Agriculture Secretary Sonny Perdue announced USDA would reinstate low-fat flavored milk as an option allowed by the department. According to the interim rule published in the *Federal Register* in November, school districts can solicit bids for low-fat flavored milk in the spring before the 2018-19 school year, giving milk processors time to formulate and produce a low-fat flavored milk that meets the specifications of a school district. It also allows schools to offer low-fat flavored milk during the next school year without requiring schools to demonstrate either a reduction in student milk consumption or an increase in school milk waste.

This interim rule, the NMPF-IDFA comments noted, is consistent with the 2015-2020 Dietary Guidelines for Americans (DGA), which do not suggest that flavored milk should be fat-free or that there is any reason to avoid low-fat flavored milk. In fact, the DGA "acknowledges the potentially positive role of moderate amounts of sweeteners

in making foods like milk and yogurt more palatable." Low-fat flavored milk offers the same nutritional benefits as white milk, but with a taste more children prefer. And with recent formulation changes, flavored milk is now available with significantly lower levels of calories and added sugar.

NMPF and IDFA told USDA that its interim rule also aligns with the recent re-examination of fat – and dairy fat specifically – in the American diet. As more scientific studies find that advice to reduce fat intake was misguided, they also appear to show that full-fat dairy foods play either a neutral or beneficial role regarding the risk of several chronic diseases.

While NMPF acknowledged that the interim rule does not compel schools to offer more milk options, schools are expected to revise supply contracts for the coming school year in order to offer more milk options. NMPF will work with other dairy organizations to monitor the increased utilization of low-fat flavored milk in schools.

Contact: Beth Briczinski

Environment

EPA Requests Comments on CWA and Groundwater Discharges

On Feb. 20, the U.S. Environmental Protection Agency (EPA) requested comments on if and how it should revise previous statements regarding the Clean Water Act (CWA) and whether pollutant discharges from point sources that reach certain surface waters via groundwater or another direct hydrologic connection may be subject to CWA regulation. NMPF is studying the issue and will file comments by the May 21 deadline.

Congress waded into the debate with a provision in its recently passed spending bill, stating that the regulation of groundwater is not subject to the CWA and suggesting EPA issue a regulation stating that releases of pollutants through groundwater are not subject to regulation as point sources under the CWA. Congress also asked EPA for a briefing of its findings and any plans for future rulemaking.

The courts have been mixed regarding whether ground water discharges of pollutants that trace back to a point source (e.g. are hydrologically connected) can be regulated under the CWA. In the 1990s, the Seventh Circuit Court of Appeals said the CWA did not apply. However, just last month the Ninth Circuit Court stated that it was applicable, and three additional cases are working their way through the appellate courts.

NMPF is concerned about the intention to broaden the CWA, and has noted that a dairy farm is already facing litigation over nutrients from its crop land, composting areas, animal pens and lagoons reaching groundwater and traveling to a point where they are discharged into U.S. waters.

Contact: Clay Detlefsen

Environment

NMPF Commends Maryland's Efforts to Create Water Quality Trading Program

NMPF expressed support this past December for the Maryland Department of Environment's (MDE) proposed regulation to establish a water quality trading program, one that could serve as model for how other states provide opportunities for dairy farmers to benefit from the management of nutrients.

In its comments, NMPF endorsed the fact that nutrient removal technologies will be eligible to participate in the program – an issue the organization raised several times over the years as Maryland officials worked on the issue. NMPF also requested that trading not be time-limited, and that a trading system with a duration of 10 or more years is needed to realize an economic benefit. NMPF believes nutrient removal technologies can play an important role in the MDE's trading program.

Unfortunately, Maryland's plan to reallocate $10 million from the Bay Restoration Fund (BRF) to water quality trading for nutrient credit purchases did not come to fruition. Had the proposal been approved, it would have created significant interest in the nutrient trading program. NMPF was also disappointed that piloting interstate trades within the Chesapeake Bay watershed suffered a similar fate. Regardless, NMPF commended both the MDE and the Maryland Department of Agriculture for creating the program and the rule. NMPF will continue to support Maryland's effort to establish a workable water quality trading program.

In addition to the effort in Maryland, a variant of water quality trading continues to advance in the Pennsylvania state legislature. Senate bill 799 passed by a 47-3 margin on Jan. 31, 2018. The legislation calls for the creation of a competitively bid procurement system to remove excess nutrients from the environment. If the bill passes the House, farmers could be paid to utilize nutrient removal technologies to remove nitrogen and phosphorus from the environment at a significantly lower cost than controls on waste water or storm water. NMPF and its cooperative members have and will continue to support the creation of the Pennsylvania program.

Contact: Clay Detlefsen

Food Safety

Dairy Plant Audits to Increase as FDA Releases Guidance on Supply Chain Program

The U.S. Food and Drug Administration (FDA) issued guidance in January to help importers and food producers comply with the food safety rules mandated by the Food Safety Modernization Act (FSMA). One of the documents, "Chapter 15: Supply Chain Program for Human Food Products," covers the supply-chain program, required by the Preventive Controls Rule for Human Food. NMPF is reviewing the document and will work with FDA to prevent burdensome audits across the dairy processing chain related to FSMA compliance.

At issue for the dairy industry is a ready-to-eat (RTE) food manufacturer's use of milk powder or cheese in a RTE food. Because *L. monocytogenes* (Lm) can cause serious health issues, FDA is requiring an annual on-site audit to ensure the dairy manufacturing facility is controlling the pathogen. The guidance describes how to approve suppliers, determine supplier verification activities and determine the frequency of conducting verification.

In addition, FDA discusses how an environmental monitoring program is used to verify that the supplier's sanitation controls are working, and described situations where an immediate supplier may not be the only one performing a preventive control. For example, if a RTE food manufacturer's immediate supplier does not make the cheese, but cuts and wraps it, then the RTE food manufacturer will need information from its immediate supplier about its environmental monitoring program. The RTE manufacturer will also need from the cheese manufacturer (or the supplier's supplier) information regarding milk pasteurization and environmental monitoring.
NMPF envisions that most cut-and-wrap operations will secure the appropriate verification from the cheese manufacturers and pass it along to the RTE food manufacturers, thereby cutting down on multiple on-site audits. NMPF has told FDA in the past that too many audits detract from food safety.

Contact: Clay Detlefsen

Animal Health

NMPF Supports Cattle Fever Tick Eradication Efforts

In late January, NMPF jointly submitted comments to the Agriculture Department's Animal and Plant Health Inspection Service (USDA-APHIS) and the U.S. Fish and Wildlife Service (FWS) supporting cattle fever tick eradication efforts in the Laguna Atascosa and Lower Rio Grande Valley National Wildlife Refuges. The comments were submitted with the National Cattlemen's Beef Association and the American Association of Bovine Practitioners.

USDA-APHIS had requested comments on two options for cattle fever tick eradication in the refuges, published in the *Federal Register* on Dec. 21, 2017. In the joint comments, NMPF supported Alternate B (USDA-APHIS' and FWS' preferred option), which would expand the use of ivermectin-treated corn feeders to treat white-tail deer in the refuges.

Efforts to eradicate cattle fever ticks require a coordinated and integrated approach, including treatment of wildlife and cattle grazing. NMPF will continue to work with USDA and the beef industry on this issue.

Contact: Jamie Jonker

Animal Health

USDA Releases Third 2014 Dairy NAHMS Report on Health and Management Practices on U.S. Dairy Operations

In March, USDA's National Animal Health Monitoring System (NAHMS) released "Health and Management Practices on U.S. Dairy Operations, 2014," the third report from its 2014 Dairy NAHMS study. USDA conducts Dairy NAHMS studies every 5 to 7 years to examine animal health and management on U.S. dairy farms. The 2014 Dairy NAHMS is the fifth study on the U.S. dairy industry.

Some highlights of the study include:

- The most common clinical diseases reported by farmers in their cows were mastitis (24.8 percent), any degree of lameness (16.8 percent), infertility (8.2 percent) and metritis (6.9 percent).
- Nearly all operations (94.8 percent) would consult their private veterinarian for general information about a foreign animal disease, should an outbreak occur.

The full report is available online. NMPF serves as a technical reviewer of NAHMS reports to ensure they remain an accurate portrait of animal health and management practices on U.S. dairy farms.

Contact: Jamie Jonker

Animal Health

FARM Program Now World's First Animal Care Program to Achieve ISO Recognition

In mid-February, the National Dairy FARM Program became the first livestock animal care program in the world to be recognized internationally for its industry-leading animal welfare standards, after USDA affirmed that it complies with the animal welfare requirements within the International Organization for Standardization (ISO).

ISO's animal welfare technical specification was designed to evaluate if animal welfare programs meet international standards for animal care. ISO, an independent, international standards-setting body, works with the World Organization for Animal Health (OIE) to help farmers and animal welfare programs like FARM determine how to implement species-specific animal welfare standards. The OIE, the World Trade Organization-recognized body for setting animal health and welfare standards affecting international trade, adopted dairy cattle welfare standards in 2015. In the United States, the USDA's Agricultural Marketing Service (AMS) offers a voluntary marketing program that ensures independent welfare programs meet the specifications of the ISO standard.

ISO compliance means that dairy customers both here and abroad can safely trust that their products meet the stringent, internationally recognized animal welfare standards set by the OIE. This recognition becomes even more critical as nearly 16 percent of U.S. milk production is exported to foreign customers.

After a lengthy assessment process, the FARM Program now has a prestigious, independent corroboration that its science-based approach to high-quality animal care sets the standard for the dairy value chain in the United States and around the world.

Contact: Jamie Jonker

Upcoming Dates

International Cheese Technology Expo
Milwaukee, Wisconsin — April 17 – 19, 2018

2018 ADPI/ABI Annual Meeting
Chicago, Illinois — April 29 – May 1, 2018

FDA Western Milk Seminar
Reno, Nevada — May 1 – 3, 2018

NMPF Board Meeting
Arlington, Virginia — June 4 – 6, 2018

ADSA Annual Meeting
Knoxville, Tennessee — June 24 – 27, 2018

NMPF
NATIONAL MILK PRODUCERS FEDERATION

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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 dairy producers on Capitol Hill and with government agencies.

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