



Growing Michigan

Michigan Agricultural News

Dairy Farmers Looking For Relief

On June 25, 2010, the USDA and the Department of Justice held a workshop to discuss the lack of competition in the dairy industry, and the corresponding low milk prices. According to the Associated Press, more than 500 farmers, lobbyists and others attended the workshop. The Milwaukee Journal Sentinel quoted Secretary of Agriculture Tom Vilsak as stating that "in the past ten years, the number of U.S. dairy farms has fallen from 111,000 to fewer than 65,000." While some of that change comes from farm consolidations and voluntary retirements, Vilsak continued that "most of the losses come from farmers who have been forced out of business, especially in the past two years."

The primary legal issue raised by farmers relates to the method by which farm milk prices are set. According to the Sentinel, "the price of farm milk is determined by the price of cheddar cheese on the Chicago Mercantile Exchange and a few Mercantile traders can influence milk prices by selling or buying cheese at strategic moments." Farmers currently get less than one-third of the cost of a gallon of milk sold at retail. Class action lawsuits alleging price fixing have been filed in the northeast and southeast against the nation's largest dairy cooperative, Dairy Farmers of America and the nation's largest dairy, Dean Foods.

Michigan dairy farmers in particular have suffered substantially over the past few years. On July 4, dairy farmers were asked to protest low milk prices by dumping a day's worth of production. At least one Michigan dairy farmer did so, dumping 1,300 gallons of milk on his farm. Protest proponents have been asking that a bottom rate of \$18 for every 100 pounds of milk be set nationwide. Michigan dairy farmers currently get on average \$13.38 per hundredweight. According to the United States Department of Agriculture, the total cost of milk production in Michigan was nearly \$22 per hundredweight.

Cottage Food Bill Signed by Governor

On July 12, Governor Granholm signed legislation encouraging the production and sale of foods made in home kitchens. The Cottage Food Bill exempts certain small food processor operations from otherwise mandatory licensing and evaluation provisions and applies to producers with sales of cottage food products of \$15,000 or less annually. A cottage food operation is a person who produces or packages "non-potentially hazardous" food (such as jams, jellies, cereal, granola and dry mixes) in a home kitchen. The cottage food operation must still comply with existing labeling requirements, and in addition, must label any products that it sells as "made in a home kitchen that has not been inspected by the Michigan Department of Agriculture." Cottage foods do not include meat or milk.

CAFO Case Argued Before the Michigan Court of Appeals

In 2009, the Newaygo County Circuit Court issued a ruling upholding Michigan's CAFO Rule R 323.2196(1) which purports to regulate CAFOs with only the potential to discharge waste. The Michigan Farm Bureau and other plaintiffs appealed that ruling to the Michigan Court of Appeals, and on July 7, 2010, the Appellate Court held oral argument. The case was argued by Varnum attorney Richard Samdal and a ruling from the Court is expected in the coming weeks.

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"The EPA has an important job, and it should properly place its focus where it belongs – on spilled oil, not spilled milk."

Representative Candice Miller,
R-Mich.

Agriculture Events

- July 19-23: Michigan Dairy Expo at MSU Pavilion for Agriculture and Livestock Education. <http://michigandairyexpo.com/>
- July 20-22: AG Expo at MSU College of Agriculture and Natural Resources. <http://www.agexpo.msu.edu/>
- July 25-28: North American Blueberry Research and Extension Workers Conference. <http://nabrew.anr.msu.edu/>

EPA Classifies Milk as Oil

The Environmental Protection Agency is classifying milk as oil because it contains a small percentage of animal fat – a form of oil. Consequently, farmers with above ground milk storage capacity of more than 1320 gallons could be required to comply with EPA's spill prevention control and countermeasure ("SPCC") regulations. Those rules were designed to prevent oil spills from entering the nation's waterways and may require farmers to build extra storage tanks and form emergency spill plans. In response to an outcry from farmers and sympathetic lawmakers, EPA is planning to extend implementation dates until it decides whether to exempt milk containers from SPCC regulation. In a letter to the National Milk Producers Federation, EPA Administrator Mathy Stanislaus stated "EPA is moving forward to take final action on the proposed rule making as expeditiously as possible and we hope to have that process completed by early 2011."

USDA Announces Assistance to Producers of Honeybees, Livestock and Farm-Raised Fish

On June 30, 2010, Secretary of Agriculture Tom Vilsak announced government assistance for livestock, honeybee and farm-raised fish producers that suffered losses in 2008 because of disease, adverse weather or other conditions. The assistance will include more than \$10 million, of which more than \$6 million will be used to compensate beekeepers for losses resulting from colony collapse disorder. Disaster assistance related to 2009 losses is expected to be released later this summer.

EPA Releases Draft Permit for Pesticide Applicators

Last month, EPA released a draft general permit in response to a Federal Court of Appeals ruling that invalidated EPA's longstanding exemption for pesticide applicators under the Clean Water Act. The court decision will require over 300,000 pesticide applicators to obtain NPDES permits by April 2011. EPA is now accepting comments on the draft general permit and intends to finalize the permit by December 2010. While the permit does not directly apply to Michigan applicators, it is expected to provide a baseline for the Michigan DNRE in developing its permitting program for pesticide applicators. The court ruling, and draft general permit, only apply to pesticide applications to, over or near waters of the United States.

Public Pressure Works – Sometimes

The public outcry over applying SPCC regulations to milk storage tanks demonstrates the power the agricultural community has to influence legislation and rule making. Almost as soon as it was reported that EPA's SPCC rules may apply to milk storage, politicians lined up to berate the agency. The Michigan Legislature even adopted a resolution chastising the EPA. While the issue is not yet resolved, EPA is rapidly considering an exemption for the dairy industry.

