

Final Court Decision Confirms Constitutionality of Dairy Checkoff

The U.S. Court of Appeals for the Third Circuit in Philadelphia affirmed the constitutionality of the dairy producer-funded checkoff program in early October, reversing a decision made by the court in February 2004. This ruling, which marks the formal conclusion of the legal challenge against the producer-funded dairy checkoff program, follows the U.S. Supreme Court decision in May 2005 that rejected a First Amendment challenge against the beef checkoff program.

"This ruling is good news for America's dairy producers as their investment in promotion and research helps build sales for U.S.-produced dairy products and ingredients," said Paul Rovey, an Arizona dairy producer and chairman of Dairy Management Inc., which manages the national dairy checkoff program. "We're working hard to help develop lifelong dairy consumers through powerful partnerships that provide a long-term value to producers nationwide."

According to the U.S. Department of Agriculture, per capita total dairy consumption has increased by more than 13 percent since 1983, when the national checkoff program was created. Today, the average person consumes more than 592 pounds of dairy products on a total solids basis, compared to 522 in 1983.

F.D.A. Proposes New Restrictions on Animal Feed

The Food and Drug Administration has proposed new rules to prevent the spread of mad cow disease by banning brains and spinal cords from older cows in all animal feed.

But the rules are not as strict as those the agency proposed last year. The new proposal removes the highest-risk neurological tissue from the entire food chain, meaning that the potentially infectious tissues of cattle can no longer be used in feed for any animals, including pet food for non-ruminant animals.

The FDA did not, as it was first rumored, ban the feeding of poultry litter to cattle, nor did it ban calf milk replacer made from cow blood and fat. In the rules proposed in early 2004, poultry litter and plant waste would have been banned.

Dr. Stephen Sundlof of the FDA's Center for Veterinary Medicine, said removing the brains and spinal cords of older cattle would remove 90 percent of potentially infectious matter from all animal feed.

The FDA has also considered the cost to industry. Getting rid of just brains and spines from older cattle, he said, would create only 64 million pounds of waste that renderers would have to burn or bury, and would cost only about \$14 million or about two billion pounds of waste, which he said would be an environmental problem and a big expense for the industry.

The rules will not be adopted until sometime next year, after a comment period ends on December 19.

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PLEASE CONTACT

Eric Rupprecht, PE
1.888.752.6500
erupprecht@wilcoxassociates.com

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