

PROBLEMS ENCOUNTERED BY THE U. S. PUBLIC HEALTH SERVICE IN CARRYING OUT ITS RESPONSIBILITIES IN THE INTERSTATE MILK SHIPPER CERTIFICATION PROGRAM¹

JOHN D. FAULKNER

*U. S. Department of Health, Education, and Welfare
Milk and Food Program, Public Health Service
Washington, D. C.*

Like many of you here today, I have attended all seven meetings of the National Conference on Interstate Milk Shipments, the first of which was held in St. Louis in June 1950. I am certain that the achievements of this Conference, as demonstrated by the growth and acceptance of the voluntary program for certification of interstate milk shippers, exceed the expectations of the representatives of the 26 states who participated in the first meeting.

The success of the program to date has been largely due to the willingness of representatives of receiving and shipping states to sit down together at these Conferences and to cooperatively work out solutions to their problems, and then, upon returning home, to conscientiously put the agreements into effect. This has resulted in the building of a feeling of confidence in the work of others which has, for the most part, replaced the feeling of distrust which previously prevailed. Consequently, the program has gained prestige and National stature which has facilitated its growth, utilization and acceptance.

While the program has worked unusually well, certainly problems have emerged which require the attention of the representatives attending this Seventh National Conference. This is only natural, and in fact is a sign of progress. It would have been strange indeed if a fast growing program, such as the cooperative program for certification of interstate milk shippers, had not experienced some growing pains.

I would like to discuss with you now some of the problems encountered by the Public Health Service in carrying out its functions in the cooperative program. Mr. Robinson has outlined the functions and responsibilities which the Conference requested the Public Health Service to undertake when the Service was first invited to participate in the cooperative program. These responsibilities need no further enumeration, but the problems which I will discuss are related to them and are those encountered by our regional office and headquarters staffs, and by Dr. Luther A. Black in his laboratory certification work.

For purposes of this discussion these problems are grouped under four categories as follows: (1) procedural problems relating to existing agreements on "Supervision," "Certification," "Laboratory Certification" and "Role of the Public Health Service;" (2) problems relating to existing agreements on "Reporting;" (3) problems which point up need for clarity in, and possible "codification" of Conference agreements; and (4) technical problems relating to "Regulations" which will occur in transition from the 1939 to 1953 edition of the *Milk Ordinance and Code* as the basic standard.

PROCEDURAL PROBLEMS RELATING TO EXISTING AGREEMENTS ON "SUPERVISION," "CERTIFICATION," "LABORATORY CERTIFICATION" AND "ROLE OF U. S. PUBLIC HEALTH SERVICE"

Procedure for Handling Complaints and Challenges of Validity of Ratings

There have been a number of instances in the last few years in which complaints have been made to the Public Health Service as to the sanitary quality of milk being received. There have been other instances in which the validity of the certified rating awarded by the shipping state has been challenged. When such complaints are received by the Public Health Service they are forwarded to our regional offices, and promptly called to the attention of the milk sanitation rating agency of the state in which the supply is located.

In most instances these complaints have been handled by the shipping state concerned, to the apparent satisfaction of the receiving state, without too much difficulty. However, there have been a few such complaints which have not been handled satisfactorily, either because the state making the complaint did not submit specific information, such as bacterial counts of the milk found in violation, or because of misunderstanding on the part of the state which made the rating as to the procedure which should be followed in investigating and handling the complaint. In addition, there has been a tendency, on the part of some people, in some areas, to cast reflections on the validity of ratings awarded by the state milk sanitation rating agencies of other states

¹Presented at the Seventh National Conference on Interstate Milk Shipments, St. Louis, Missouri, April 20, 1959.

or areas. This has been detrimental to the continued success of this program.

On the basis of work with a number of states in investigating complaints, they would be classified as follows:

- a. Those which were unjustified or unwarranted on the basis of the facts.
- b. Those which were based on a receiving state's desire for the milk supply to comply with sanitation requirements over and beyond those set forth in the Milk Ordinance and Code, which is the basic standard under Conference agreements.
- c. Those which were justified because the sanitation status of the supply had slipped since the last state rating.
- d. Those which were justified because the milk had been mishandled in transit.
- e. Those which were justified because the original rating made by the shipping state, and published by the Public Health Service, did not accurately reflect the sanitation status of the supply.

To determine the facts, however, it was necessary for an investigation, "spot-check," or resurvey to be made by the milk sanitation rating agency in the shipping state.

All receiving states have the right — in fact the duty — to register complaints, and to request accurate information on any supply which they have reason to believe is questionable. Each shipping state which participates in this program must accept the responsibility to investigate such complaints as soon as possible. Unless this is done, the receiving states will soon lose confidence in the cooperative certification program. Receiving states making complaints also have a responsibility. They should submit complaints in writing stating the reasons why they feel the supply is unsatisfactory or why it does not measure up to the sanitation compliance ratings awarded.

Conference agreements on the handling of complaints and challenges are badly needed. They should spell out specifically the procedure to be followed and the responsibilities of the state certifying agency. At present, Conference agreements state only that "The receiving state shall notify the shipping state of any irregularities in the imported supply."

Revocation or Modification of an Interstate Shippers Rating; or Removal of Shipper from List

Closely coupled with the problem just discussed is the need for a clear procedure to be followed by the state certifying agency when it is found either by the state directly, or through Public Health Service "spot-checks," that the shipper is no longer entitled to the rating which he has been awarded. The answer is clear as to the ultimate action. The Service cannot accept the responsibility for publication on the list of a given rating when it is known that

the shipper is not entitled to such rating. The procedure to be followed, and the action to be taken by the state certifying agency, should differ depending upon whether the information at hand is based on a complete survey or a "spot-check."

It is recommended that the appropriate Task Committee of this Conference be requested to develop procedures to be followed in dealing with this problem, and that in their consideration they give thought to procedures for modification or amendment of ratings, revocation or withdrawal of certification, and removal from the list. The Task Committee should also outline the steps which the state certifying agency should take to notify the Public Health Service of any discrepancies found in order that correct information can be disseminated to receiving areas between regular issues of the quarterly list of "Sanitation Compliance Ratings of Interstate Milk Shippers."

It is also recommended that this Conference give consideration to requiring the interstate shipper to state in writing, at the time he signs the publication release, that he understands and will comply with the sanitation and other pertinent provisions set forth in the Conference agreements. Situations have been encountered where a few interstate shippers concentrate periodically on improving the sanitation compliance of their milk supplies in order to achieve high ratings, but then relax until the time when they expect the next survey to be made. The State of Virginia has added the following statement to its publication release form in order to alert each listed shipper to the fact that he has a responsibility for maintaining the sanitation compliance rating of his supply at all times:

"It is understood and agreed by the undersigned that the official surveying agency may review and appraise this supply at any time during the two year period referred to above. It is further understood that we will notify the surveying agency, which is the Virginia Department of Health, if any significant change should occur affecting our raw milk supply or our pasteurization plant."

A statement similar to this, perhaps strengthened somewhat, could be required.

Procedure to be followed when U. S. Public Health Service Spot-Checks Indicate that the Rating Awarded an Interstate Shipper is not Merited

The report of the First National Conference on Interstate Milk Shipments on the "Role of the Public Health Service" states:

"The prime role of the Public Health Service is to bring about the highest degree of uniformity in attitude and performance on the part of state authorities so that any certification of milk supply can be accepted with confidence."

Conference agreements also state that the Service should "spot-check" the inspection and survey work

of enforcement agencies to determine whether milk regulations are being correctly interpreted and enforced.

As Mr. Robinson has pointed out, the Service has conscientiously attempted to carry out this responsibility to the extent that existing staff and fiscal resources would permit. During the past four years USPHS regional milk consultants have "spot-checked" more than 650 listed interstate shippers. In the majority of states, Public Health Service responsibility for "spot-checks" is well understood. In fact, a number of states, in recognition of the value of this function, have initiated "spot-check" programs of their own, which they conduct between biennial surveys. This type of continuous surveillance promotes and maintains high levels of compliance.

There are, however, a few states who evidently misunderstand the purpose of both Public Health Service and state conducted "spot-checks." They consider it a duplication of the survey procedure despite the fact that the number of farms and plants surveyed during the "spot-check" represent only a cross-sectional sample of the total number of interstate milk shippers supplies which have been certified by each state. The value of such "spot-checks" is indicated by the experience of one of our regions. This region made 234 "spot-checks" of listed shippers during the past four years. As a result, it was necessary to request the state certifying agencies to re-survey more than 30 shippers, since conditions indicated compliance was significantly lower than the listed rating. This is not a reflection on the state certifying agencies concerned. This type of situation can be expected when the frequency of survey is once every two years, and it points up the need for the states to conduct "spot-checks" of their own. The Conference should re-emphasize the value of the "spot-check" procedure.

The basic problem, however, relates to the procedure which should be followed when a Public Health Service "spot-check" indicates a drop in the sanitation compliance rating. Present Conference agreements are inadequate in this respect. The following procedure is suggested for consideration by the appropriate Task Committee:

If, as a result of a Public Health Service, "spot-check," it is indicated that a resurvey is necessary, the Public Health Service regional office shall request the state certifying agency in writing to make another survey within 60 days. If the shipper agrees, this new rating will be forwarded to the Public Health Service for publication. If the state indicates that it cannot make a resurvey, the Public Health Service shall direct a letter to the state certifying agency, with a copy to the shipper concerned, notifying them

that the shipper will be dropped from the next quarterly interstate milk shipper list.

There is also need for delineating a procedure that can be followed when a state declines permission for the Public Health Service to make "spot-checks." If the Service is to fulfill its responsibilities, full cooperation is needed on the part of the state authorities, and if a state refuses to allow the Service to "spot-check" listed shippers, certified ratings for publication from the state involved cannot be accepted. Certainly, such a state would not be living up to either the letter or spirit of the cooperative program agreements. It is proposed that the Conference consider inclusion in the agreements of a procedure which spells out that, if a state declines permission to the Public Health Service to make "spot-checks," after being given reasonable notice, the Service shall direct a letter to the state certifying agency, with a copy to each listed shipper in such state, advising that all shippers will be dropped from the next quarterly listing unless the "spot-check" problem can be resolved.

Laboratory Certification Procedures Problems

There are a number of other problems which we have encountered that relate to laboratory certification procedures that should be resolved at this Conference.

Annual vs Biennial Laboratory Evaluation, and Split-Sample Procedures. The annual versus biennial laboratory survey requirement has been interpreted in light of the definition of an "acceptable" split-sample program recommended in the report of the Task Committee on Laboratory Certification, which report was adopted by the Conference. However, a few states have not felt that the recommendations of the Task Committee constituted a mandatory requirement. Therefore, clarification is needed as to the requirement for an "acceptable" split-sample program if the state prefers to make biennial rather than annual surveys.

The Conference report concerning split-sample programs states that an "acceptable" program shall consist of a minimum of 10-12 samples (split samples) to be analyzed each *six months* by all laboratory methods . . . etc. The meaning of this statement should be clarified as to:

- (a) **Whether or not the state approved laboratory must send to each local participating laboratory 10-12 samples each six months period; and**
- (b) **Should the Public Health Service refuse publication of an interstate shippers rating if the state has not split samples with the local laboratory some time during the six months period immediately preceding the date of the survey.**

Clarification is also needed as to the required fre-

quency of split samples in cases where the annual laboratory reviews are performed.

Certification of Laboratories Examining Water Samples. A question has been raised relative to the certification of laboratories which perform bacteriological and chemical examinations of samples of water from dairy farm and pasteurization plant supplies. It has been proposed that the certification of such laboratories be required by Conference agreements. The Public Health Service would recommend against such an action as it would mean the Conference would be extending its activities into areas outside its field of immediate responsibility. Information on the reliability of laboratories who make analyses of water can usually be obtained from the State Department of Health.

Collection of Samples from Farm Bulk Tanks. At the last Conference, this subject was considered by a Committee on Bulk Milk Sampling. The report of this Committee indicated that control agencies should collect and examine at least one sample per six months period from the farm bulk tanks. During the past two years the influx of farm bulk tanks has been great, and milk sanitation agencies are finding it difficult to collect even one sample per six months at the farm. This is a question that involves the basic standard. Undoubtedly, an interpretation of Section 6 of the Milk Ordinance and Code is needed on this subject, and it will be forthcoming.

As you know, the 1953 edition of the ordinance and code permits the health officer to accept the results of industry laboratory examinations of raw milk for pasteurization, provided he periodically checks the industry laboratory and finds it satisfactory. This is one solution. Another is to collect for official examination, as is being done, samples taken by the haulers. The Service would welcome the views of the Conference on this matter.

Other Questions Relating to Laboratory Certification. A question has been raised as to how the branch laboratories of the states are to be treated in the certification of the state laboratory by the Service. It would appear reasonable for the branch laboratories to be certified by the state laboratory. This is being done now, and Dr. Black states that no particular problems have been encountered on this point.

Reshipment of Milk By Certified Shippers

It has been brought to the attention of the Service that occasionally a listed shipper will purchase raw milk from other certified shippers, and then reship this milk under his own company's name. If such

milk is not identified on the bill of lading or shipping tag as to proper source, principles upon which the cooperative program are based are being violated. This problem should be considered by either the Task Committee on Certification or the Task Committee on Information and Reporting, and recommendations developed for dealing with such situations.

PROBLEMS RELATING TO EXISTING AGREEMENTS ON REPORTS AND TRANSMITTAL OF INFORMATION

Transmittal of Information on Bacterial Counts and Temperatures of Milk Upon Arrival

One form of information that would be most helpful to the certifying agencies in shipping states, and to the Public Health Service, would be the reporting, from time to time, of the bacterial counts and temperatures of the milk upon arrival in the receiving areas. Such information would be extremely valuable in dealing with complaints. The Conference may wish to refer this matter to an appropriate Task Committee for consideration.

Transmittal of Information on Volume of Milk Shipped, and Improper Labeling of Shipments

Many states have failed to comply with Conference agreements on volume control. Volumes shipped, in the six months preceding the survey, should be obtained from the milk plant concerned at time of certification, and listed under item 9 on Form PHS-1659, Interstate Milk Shipper Report. The Public Health Service has a definite need for such information to justify its participation in the program budget-wise. The state milk sanitation agencies can also put this information to good use in justifying their participation in the cooperative program, and their needs for adequate resources.

In addition, it has been reported that some states are failing to comply with agreements on proper labeling of shipments and the sealing of transportation tanks.

Submission of Proper Information on Dates of Survey

Occasionally a Form 1659, Interstate Milk Shipper Report, will be submitted to the Public Health Service showing two or more, or different, survey dates for raw milk, pasteurization plants, or enforcement agency. In order to provide the receiving area with the most reliable data available, and because only one "date of rating" should appear on the published list, the "oldest" date has been published as the "date of rating." A question has been raised as to the authority of the Service to make this decision. It is believed this Conference should consider this question and include in its next report a statement

that would limit publication to shippers whose dates of rating for plant, producers and enforcement agency are in close calendar relationship to one another.

Problems Arising from Failure of State to Keep Ratings Current

Some state certifying agencies are prone to forget the expiration date of the rating of listed shippers. Shippers who desire to be kept on the list are therefore sometimes omitted because the state milk sanitation rating officer did not make a new survey in time for the shipper to be retained on the list. This causes no end of trouble, and results in letters and long distance telephone calls from the shipper requesting reinstatement. Perhaps the responsibility for applying for a new rating should be placed on the shipper, but until this is done, the states should make every effort to keep ratings current.

PROBLEMS POINTING UP NEED FOR CLARIFICATION OR CODIFICATION OF CONFERENCE AGREEMENTS

Co-mingling of Basic Agreements with Task Committee Reports

As this conference has proceeded from one meeting to another over the past nine years, reports of Conference proceedings have been developed which tend to "co-mingle" the basic agreements and Task Committee reports. As a result, the intent of a specific agreement is often ambiguous or obscure. In addition, this "co-mingling" has made it difficult to differentiate between requirements and recommendations. This is confusing to the states and to industry, and has led to misunderstandings.

Ambiguities and Obscurities in Conference Reports

An examination of the last Conference report reveals many ambiguities. The words "shall" and "should" are used synonymously; requirements that relate to "Supervision" or "Certification" are intermingled with the report of the "Laboratory Section;" and the words "it is recommended" are sometimes used where the intent of the Conference agreement was for a requirement. Also, as mentioned previously, in some instances the agreements fail to "spell out" the responsibilities of, and the action required to be taken, by the state certifying agency.

Recommendation for Codification of Basic NCIMS Agreements

There appears to be a need for a codification of Conference agreements, limited to substantive actions, in order to eliminate ambiguities and to facilitate understanding. In such a codification, existing agreements should be properly organized under major headings, such as "Regulations," "Supervision," "Certification," "Bill of Lading," etc.; should be con-

cisely stated; and the responsibilities of states, industry and the Public Health Service clearly defined for each major facet of the cooperative program. Such codification could be titled "Basic Agreements of the National Conference on Interstate Milk Shipments," or a similar designation. It should be published as a separate document apart from Task Committee technical reports, or should be made a separate part of the over-all report. Conference consideration of this proposal is suggested.

Quarterly Publication of List of Sanitation Compliance Ratings of Interstate Milk Shippers

The original request of the Conference to the Public Health Service was for publication of semi-annual lists of the ratings of interstate milk shippers with supplements to be issued bimonthly. As you know, it has proven to be more feasible for the Service to publish the list quarterly. This modification should be noted in the Conference agreements.

Effective Date Provision in Agreements

Whenever it is proposed to establish an effective date provision, with which compliance is necessary to maintain the listing of interstate shippers, the Conference should be certain that the "deadline" date is practical, and one which can be reasonably complied with by shippers and the states within the period specified. The difficulties experienced in placing into effect the laboratory certification and split-sampling provisions of the program well illustrate the need for caution in such matters.

TECHNICAL PROBLEMS RELATING TO "REGULATIONS" INVOLVED IN TRANSITION TO THE 1953 EDITION OF THE MILK ORDINANCE AND CODE

The 1957 Conference agreements specify that the 1953 edition of the *Milk Ordinance and Code* shall become the basic standard one year after date of publication by the Public Health Service of the revised edition of "Methods of Making Sanitation Ratings of Milk Sheds;" and that it can be used at any time following publication of the revised rating method if a state should so desire. The revised rating method was published in January of this year, and the 1953 edition of the ordinance and code is already being used by some states.

As you are all aware, there are certain alternate technical provisions in the 1953 edition, which can be selected by a state or community adopting the ordinance, which differs from the 1939 edition. There are also differences in some of the recommended administrative practices. Two of the alternate provisions — reduction tests and brucellosis control, are of such significance that the Conference should

consider their implications. In calling these items to your attention, it is pointed out that precipitous action on these items by the Conference could result in breaking down uniformity, and in the creation of "trade barriers" within the Conference agreements.

Recognition of Use of Reduction Tests for Raw Milk

The 1953 edition provides as an option that a community can use either the methylene-blue or resazurin reduction tests. Under the "Laboratory Section" of the last Conference report, the following statement appears:

"Where alternate methods are permitted by the Standard Methods, milk intended for interstate shipment should be examined by either the standard plate count or the direct microscopic method."

This raises the question as to whether reduction tests on Grade A raw milk for pasteurization will be acceptable under Conference agreements.

A recent poll made by Public Health Service regional offices indicates that reduction tests for raw milk are being utilized by cities in a few Midwestern states, Louisiana and Oklahoma. The City of Chicago, which supervises the milk supplies of a large number of listed interstate shippers, also uses reduction tests. The Public Health Service feels that since the 1953 edition of the *Milk Ordinance and Code* permits the use of reduction tests, that the Conference should continue, for the time being, to recognize their use. If the Conference so decides, revision of the "Laboratory Section" statement, just quoted, will be required.

Brucellosis Control

When the 1953 edition of the *Milk Ordinance and Code* was being developed, the Public Health Service strengthened the brucellosis control provision by

requiring that either Plan A or Plan B, as approved by the U. S. Department of Agriculture for the eradication of brucellosis, be placed into effect within three years after adoption of the Ordinance. This was a forward step, and one which we feel has led to improvement in brucellosis eradication.

Certain states are now requiring compliance with Plan A as a condition for acceptance of milk from areas outside their jurisdiction, and this has created a problem for other states. In a few instances, compliance with Plan A is required under state law and, of course, must be complied with. However, as far as can be determined, only fifteen states have so far achieved "modified accredited status" for brucellosis control, and to require that all milk shipped interstate under the cooperative program be from herds complying with Plan A would at this time work a hardship on dairy farmers.

We are now working with the U. S. Department of Agriculture on a proposed revision of Item 1r, "Cows Health," and it is recommended that the Conference continue to recognize both Plans A and B until such time as Item 1r of the *Milk Ordinance and Code* is officially revised.

CONCLUSION

In conclusion, this enumeration of problems which the Public Health Service has encountered is not intended as criticism of either the National Conference on Interstate Milk Shipments or of the states which are participating in the cooperative program for certification of interstate milk shippers. It is re-emphasized that the program to date has worked unusually well, and that the problems which have developed are in no sense alarming, but simply a reflection of the "growing up" process.