

THE NATIONAL MILK SANITATION BILL AND ITS PROBABLE EFFECT ON NORTHEASTERN MILK MARKETS¹

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For several years bills known as the National Milk Sanitation Act have been presented to congressional committees in the Federal Congress. The older obsolete bills were opposed by most state and local sanitary milk regulatory agencies and by the U. S. Public Health Service. There was need for thorough revision of the principles underlying the bills or for discarding them completely.

The bills introduced to committees in February 1959 incorporate new methods of procedure and objectives and the Johnson Bill H.R. 50, January 3, 1961 is one of several similar bills on which hearings were held this past summer. The bills have changed but the same objections continue to be used against them. One should consider the basis of this bill, the bill itself, and the probable disadvantages and advantages of the passage of this legislation.

UNDERLYING PRINCIPLES

It is difficult to correctly convey meanings by quotations but in this instance it is well to quote directly from the report of the Association of State and Territorial Health Officers (1) which has been used as the basis to formulate the present bill known as the National Milk Sanitation Act.

"... the Association believes there is a need to strongly reaffirm that the sanitary control of fluid milk and fluid milk products is a public health matter which is primarily the responsibility of State and local governments except where interstate commerce is involved"

"The Association recognizes that States and their political subdivisions have the right to exclude milk of questionable quality, but unanimously agrees that health regulations should not be used to restrict either the intrastate or interstate movement of milk of high sanitary quality."

"It was the consensus . . . that the problems of the milk industry can no longer be considered solely on a local milk shed basis, that the increased interstate movement of milk has complicated its control by State and local agencies, and that uniform sanitary standards and practices are necessary to insure the quality of milk shipped interstate, and to eliminate the unjustified use of health regulations as trade barriers."

The Association considered former bills and "... is opposed to those sections of the bills that would provide for centralized Federal control, supervision, and the extension of such control to all milk supplies affecting interstate commerce." "... the Association believes that the essential elements of this program (voluntary State-PHS milk certification) should be incorporated into any Federal legislation enacted by the Congress to control interstate milk supplies. It was the consensus that if these elements were coupled with a provision prohibiting a State or municipality from excluding milk from out of State sources which complied with basic public health criteria for certification, that such an approach would provide an effective and practical means of assuring high quality products for consumers in milk-importing areas and for eliminating the use of health regulations as trade barriers without abridging the rights of State and local agencies to control the sanitary quality of their intrastate supplies. In fact, the Association believes that this approach would strengthen the programs of State milk sanitation agencies."

Then the Association outlined recommendations to be incorporated in the bill. These points will be discussed under the bill but the issues are clearly outlined in these quoted principles. One would expect that the State health officers concerned with milk sanitation did not make recommendations to delegate their professional responsibilities to a Federal agency.

THE PROVISIONS OF THE BILL (4)

The bill starts with the premise that the sanitary control of milk is necessary to protect the public health, that "... such sanitary control is primarily the responsibility of State and local governments, but that no State or local government has the right to obstruct the free movement of interstate commerce of milk and milk products of high sanitary quality by use of unnecessary sanitary requirements or other health regulations." It includes not only milk for fluid consumption but also milk products as defined in the last edition of the PHS recommended Grade A milk ordinance when such milk or milk products are "... shipped in interstate commerce in sufficient quantities to be of public health importance and to warrant its control under this title;"

The Surgeon General (chief officer in charge of USPHS) shall by regulation promulgate a Federal

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Milk Sanitation Code (PHS Grade A milk ordinance) which shall provide for quality at least equivalent to the present Grade A. Also, he shall by regulation promulgate standard rating and compliance methods. Any State milk sanitation rating agency that wishes to have milk in this program must submit a State plan to the Surgeon General for approval. Also, the State shall submit the list of plants wishing to ship interstate under this Act and the data showing that the farms and plants rate at least 90%. If the information submitted by the State meets the requirements, ". . . including a requirement that such ratings will be made only by State rating officials who are full-time employees of the State milk sanitation rating agency . . ." then the State program shall be approved as long as compliance continues. There shall be a published list of approved supplies, but consent of the company must be secured to publish its rating. It should be noted that this procedure is similar to the voluntary program of the National Conference on Interstate Milk Shipment. Ratings must not be more than one year old.

Decisions of the Surgeon General may be reviewed at a public hearing and from the evidence the decisions may be confirmed or changed. The complaining party has the right to transfer the record of the hearing to the United States court of appeals for the circuit in which the interstate milk plant involved is located and the court, before rendering a decision, may require the Surgeon General to secure additional information through hearings.

Now the real substance of this bill is that ". . . no milk or milk product which emanates from an interstate milk plant in another State, while such plant is listed by the Surgeon General . . . with respect to the milk or milk product, as the case may be, shall be subject to seizure or condemnation in, or to exclusion from, a receiving State or locality, or from transportation, distribution, storage, processing, sale, or serving in such State or locality, . . .". The right of the receiving State or locality to subject any milk or milk product to laboratory or screening tests to determine compliance with the Federal Milk Sanitation Code and to reject shipments not in compliance is specified. In case of litigation a United States district court shall have jurisdiction.

INTERPRETATIONS AND PROBABLE EFFECTS

Thus far this presentation has introduced neither interpretations of the bill nor its probable effects upon milk sanitation, regulation, and the dairy industry. There are many reasons for the controversial nature of this bill among which are milk prices and competition, and the future of sanitary milk regulations in selected areas. In discussing this phase of the problem it should be emphasized that the views

expressed here were not determined by any action of the Department of Dairy and Food Science at Cornell University or by the Board of Directors of the Dairy Products Improvement Institute with which the speaker is associated; instead they are independent personal opinions.

The probable effects of this proposed national legislation will be best analyzed by confining the situation in part to New York and adjacent states. The adoption of the national ordinance is voluntary with each state, hence New York State could continue in the future as at present. It need not change its regulations for sanitary milk production and it can ignore the Federal law so far as acceptance of out-of-state supplies is concerned, with one very important exception. Should the dairy farmers of New York State be required to comply with the sanitary code recommended by the U. S. Public Health Service under the National Milk Sanitation Act, it would be done only through requirement by the New York State Department of Health, by the Board of Health of the City of New York, or by laws passed by the New York State Legislature. Furthermore, any national grade A milk program must be initiated by the State, must be enforced by the State, but is subject to the approval of and spot checking by the U. S. Surgeon General to assure compliance with the Federal law. The U. S. Public Health Service does not assume the responsibility for getting the milk supply of New York State to comply with the Federal legislation but does have the duty of making certain that New York State's milk supply shipped in interstate commerce is in compliance with the proposed law only after New York State has adopted the national law, just as it now checks the state ratings on milk supplies listed for the National Conference on Interstate Milk Shipments. There are now no milk supplies in New York State in this list published by the PHS so there is an absence of experience in this activity in this region.

Now the point of real controversy is that any state irrespective of whether or not it has adopted the proposed Federal milk legislation for use in its own state must accept milk for fluid consumption from another state that has adopted the program; providing that state's milk sanitation rating agency, as established by that state, has reported to the USPHS that the dairy farms and plants concerned with the milk to be shipped interstate rate 90% or better, that the milk is in compliance with the sanitary requirements, and the Surgeon General has substantiated these facts by spot checking of the supplies.

Suppose the National Milk Sanitation Act becomes a law. New York is the second or third largest milk producing state - it sometimes changes positions with Minnesota - and it exports large quantities of New York State Grade A milk. About 99.5% of all New

York State milk is Grade A but nearly half of this milk must be used for purposes other than fluid consumption. In some counties most of the milk is exported to Grade A markets in neighboring states. Under these conditions it seems imperative to place production and processing under the proposed national law. If this is not done, New York State Grade A milk may be discriminated against in some competitive markets in favor of PHS Grade A milk which can be secured irrespective of any local regulation that might exclude New York Grade A milk from the market. It probably is not a question of the quality of the milk. Compliance with the national code would assure interstate marketing.

What will such PHS approval mean on New York dairy farms? The health department of New York State, or designated local health departments, will inspect the farms more critically than previously because its reports as well as some farms, and plants, and milk will be spot-checked by the USPHS. Hard though this may be on some producers whose dairies and barns need improvement, it will be an advance in sanitation and milk quality through more thorough inspection. This statement is no reflection on the excellent sanitary conditions on most New York dairy farms and on the high quality of New York State Grade A milk. There will be items of expense on some farms in meeting the PHS sanitary code. Flowing hot and cold water under pressure must be available in the milkhouse. The double wash vat is almost universal now and the same is true for electric refrigeration required to cool milk below 50°F. Special facilities for washing hands are required. There will be some problem farms in respect to cleanliness and sterilization of equipment. Proper water supplies, toilets, and sewage disposal may be problems in some areas of the state. The New York State Department of Health may need more state sanitarians and more approved laboratories for testing milk to enable it to certify to the U. S. Public Health Service that the milk complies with the Federal standard.

Although the milk industry of New York State need not comply with the national code if the law is passed, nevertheless, the state must accept milk from other states that do comply, providing the milk quality is satisfactory upon arrival. Is this much of a change for New York State dairy farmers? Years ago a law was passed in New York State requiring that all out-of-state Grade A milk producers whose milk enters New York State must be inspected by a sanitarian in the employ of the New York State Department of Health. This law was passed to prevent the shipping of milk of inferior quality into the state and a budget was provided to do the inspections. As time passed conditions changed and it is often said today that the out-of-state milk producer generally receives more assistance from the New York State

sanitarians to meet New York State sanitation requirements than does the New York State farmer. As it is necessary to inspect out-of-state supplies upon request, there is a rather free flow of Grade A milk into this state. Surely, the Health Department of the City of New York also has policies which assure that health regulations are not used as trade barriers. The National Milk Sanitation Act would not alter these conditions but might encourage the thought of shipments from greater distances. Incidentally, the State health department endorsed a bill last year eliminating the requirement that out-of-state inspections could be made only by New York State milk sanitarians, and this bill is desirable for all concerned.

The acceptance of PHS Grade A milk in interstate commerce solves the problem of restrictive public health trade barriers. What about the contention that it will lower the quality of some milk entering the market in areas having unusually high-level local sanitation standards? In a nation-wide study of milk regulations and quality conducted through the National Research Council (2) it was found that irrespective of variations in sanitation regulations "Each of the eight cities had a healthful milk supply of good sanitary quality." "The sanitary conditions of milk production on the farm were related to the bacterial counts of the raw and of the fresh pasteurized milk, but they were not related to the initial flavor and the keeping quality of the pasteurized milk." It was found, also, that the rigid enforcement of a limited number of essentials of sanitary milk production was the effective means of producing high quality milk. Thus, it is not correct to assume that some extra regulations will produce higher quality milk or that excellent sanitation guarantees good flavor and keeping quality.

Surely, one cannot seriously consider any possibility of increased danger of milk-borne disease epidemics from USPHS Grade A milk. Such epidemics occur rarely and do not repeat in specific areas. Also, about two-thirds of all cities and states in this country now have PHS Grade A milk regulations. The possibility of lowered quality of milk is not a question of ordinance but of enforcement at the state and municipal level.

Actually, the concern of the Northeast dairymen over the passage of the National Milk Sanitation Act is based upon possible economic competition with Midwest milk at lower Class I prices. The use of public health regulations to control market areas and prices is a gross misuse of the valuable work done in public health, and it is not approved by the public health services. Public health regulations ought to be concerned with the health of the people and it is improper for any industry or any health department to endeavor to control markets, prices, and jobs

through such regulations. Fortunately, there are state milk control agencies and Federal market administrators created by laws for the specific purpose of governing milk prices in various markets in the interests of consumers and producers. If such laws cannot handle the problems there is need to modify them so they can do the job.

New York State sanitation laws and the sanitary code of the City of New York have been designed to serve the public in respect to health rather than to restrict the free exchange of milk in commerce. The New York milk industry imports and exports milk with neighboring states in normal trade. There is little, if any, Grade A milk received from the Midwest and its importation is not restricted by public health regulations. The shipment of Grade A milk from Wisconsin to New York City may be a liability to the shipper for, the U. S. Department of Agriculture (6) found in 1954, such milk would have been shipped from Eau Claire, Wisconsin to New York City at a loss of sixteen cents per hundred.

Obviously, surplus Grade A milk bought at manufacturing prices might be shipped profitably to New York if sold at Class I prices, and the same might be true for milk shipped from New York to Wisconsin. This problem of pricing is one for the milk market administrators, the dairy farm cooperatives, and the milk dealers of the various milk marketing regions. It should not be entangled with public health sanitation regulations. It is true that the market administrator might be able to use public health regulations as effective trade barriers to support higher Grade A prices to producers, but it is to correct this type of misuse of health regulations that the National Milk Sanitation Act has been presented to the Congress.

The principal valid objection to the National Milk Sanitation Bill is that it creates another power in the Federal Government which must continue indefinitely. Final authority for the national milk sanitation ordinance and its enforcement would be Federal. The great advances in milk sanitation occurred under state and local control without interference by the Federal Government. The troubles with state autonomy are the obvious reasons for agitation for Federal legislation. Do we need, and are we ready for a national sanitation code for milk for fluid consumption? In editorials invited by the International Association of Milk and Food Sanitarians the two differing public health viewpoints are presented objectively by Olson (5) and by Corash (3). Whether one sanitation code can be used equitably under all conditions in this country probably is less important than whether sanitary milk control officials are ready to accept one code. Actually the proposed bill prescribes one code only for Grade A milk shipped in interstate commerce, hence present

codes at a local and state level will remain in effect until changed by the states.

The career men in milk sanitation in the Public Health Service of the Department of Health, Education, and Welfare generally have been objective and public spirited in capably performing their duties in the interest of the people. A similar tribute is proper for sanitarians and regulatory officials at state and local levels. In former years USPHS officials testified before congressional committees against passage of a national law forcing universal adoption of the PHS Grade A ordinance, and they have favored the present national legislation only when the adoption of the Grade A ordinance in respect to milk production and processing was left optional with the states. Advancements in the details of milk ordinances have been made through the PHS and there is reason to expect a careful study of the present ordinance with subsequent improvements.

Considering all aspects of this bill it may be that the milk industry will be given its best opportunity for development and that the interests of consumers will be best served by its passage. The principal value of the Act will be a reduction in discriminatory public health regulations affecting free trade and the possibility of providing approved Grade A milk ready for interstate commerce, especially among neighboring states and cities in natural milk producing and market areas. These occasional trade barriers are uneconomic and they are not imaginary. The fundamentals of sanitary milk production, processing, and distribution are known so future progress in milk sanitation will depend much more upon a program of research provided for in this bill than upon the individual trial and error methods of the past.

The principal objection to the Bill is the centralization of authority in Washington. Such authority is absolute, except for hearings and court review, but it is definitely specified within certain limits and can be applied only on milk produced and processed for interstate shipment as requested by the states. High quality of the career staff in the USPHS can do much to control this objection. Some individuals and organizations contend that the enforced acceptance by every state and municipality of high-quality Grade A milk shipped interstate and produced under state and local supervision, but with Federal assurance of quality, is a very objectionable feature; but I think it is one of the principal values of the Act. Temporarily, in a few markets the price structure enforced by state and Federal milk market administrators may become more difficult to maintain. Even though about two-thirds of the cities and states in this country now have the PHS Grade A ordinance there will be some areas where compliance with this regulation will require some effort and expense. The

passage of this bill cannot set aside the high cost of shipment of a bulky refrigerated food that must reach the market promptly, hence distant markets for milk may be an economic illusion.

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MICROBIAL ANALYSIS OF COMMERCIAL¹ FROZEN FISH STICKS

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A total of 78 samples of frozen fish sticks were analyzed for total plate count, coliform count, coagulase-positive staphylococci and members of the *Salmonella-Shigella* group. Fifteen samples (19%) contained 50,000 organisms or more per g. and 4 had 100,000 or more per g. Coliform counts were generally low, ranging from zero to 35 per g., with 6 samples showing counts of 10 or more per g. Two samples contained coagulase-positive staphylococci and an isolate from one of these samples was positive to salmonella polyvalent sera.

The consumption of prepared pre-cooked or partially cooked frozen foods has increased greatly in recent years. Though regulatory groups and public health officials have expressed concern over the sanitary quality of pre-cooked or prepared frozen foods, there has so far been very little promulgated as official standards for such control (7, 8). The U. S. Army Quartermaster Corps stipulates standards of a total plate count not to exceed 100,000 organisms per g, not more than 10 coliform organisms per g and the absence of pathogens (4).

The standards of the Commonwealth of Massachusetts for these products are somewhat more stringent (9). The total plate count is limited to 50,000 organisms per g, and not more than 10 coliform organisms per g and no coagulase-positive staphylococci or members of the *Salmonella-Shigella*

groups should be present. The National Association of Frozen Food Packers has tentatively suggested a standard consisting of 100,000 organisms per g, omitting any maximum allowance for coliforms or staphylococci (2).

Although pre-cooked frozen fish sticks have been marketed commercially since 1953, published bacterial analyses of this product have not been numerous. Larkin, Litsky and Fuller in 1956 (5) examined pre-cooked frozen fish sticks and reported that for most samples coliform counts were less than 20 per g, enterococci were less than 500 per g and total plate counts never exceeded 3,000 per g. They suggested that the breeding on the fish sticks might be a major source of contamination. Benarde (1) in a later study stated that although breeding was found to possess appreciable numbers of organisms, most contaminants were destroyed during processing.

Since the introduction of pre-cooked, frozen fish sticks, the market has expanded greatly and the number of producers has increased. It was thought that re-examination of this commercial product would be of interest.

PROCEDURE

Fish stick samples were purchased in retail outlets in 24 cities across the country, packed and shipped with dry ice, and maintained at temperatures of 0°F or below until examined. Three samples from each of 26 different processors were included.

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