

Produce Safety

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Produce Safety Educator's Monthly Call #5

January 13, 2014

2 PM EST

Meeting Summary

Total Attendance (Web & Call In): 37

Meeting recording available at:

<https://cornell.webex.com/cornell/lr.php?AT=pb&SP=EC&rID=20498837&rKey=7c12f75cb5b5227a>

Agenda

- **Discussion on the Environmental Impact Assessment on Proposed Produce Safety Rule**
Dr. Annette McCarthy

Comments on EIS are due March 15, 2014 –

<http://www.regulations.gov/#!documentDetail;D=FDA-2011-N-0921-0321>

For more information visit:

<http://www.fda.gov/Food/NewsEvents/ConstituentUpdates/ucm375072.htm>

or

<https://www.federalregister.gov/articles/2013/08/19/2013-20087/notice-of-intent-to-prepare-an-environmental-impact-statement-for-the-proposed-rule-standards-for>

- **FDA Interest in Additional Info On Biological Soil Amendments**
- **Produce Safety Alliance Update**
 - Current participation in produce safety educators' group and general listserv
 - Survey to collect contact information from the PSA educators' group in preparation for outreach and Train-the-Trainer information
 - Update on curriculum modules and review process

Discussion

- I. **Discussion on the Environmental Impact Assessment of proposed Produce Safety Rule**
 - National Environmental Policy Act (NEPA) – requires agencies to consider environmental impact of all final actions.
 - When the proposed rule was published, went forward with what is called a 'Claim of Categorical Exclusion', this is lowest level of review based on best thinking and information available at the time. This precluded the need for an Environmental Assessment (EA) or an Environmental Impact Statement (EIS).
 - In preamble to proposed rule, questions were put forth aimed at helping to determine whether the rationale used to support the Categorical Exclusion was indeed appropriate and represented current industry practices.

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- Looking at steps that farmers are currently using to exclude animals, such as physical deterrents (fencing) or chemical deterrents (poison) and whether these practices have already negatively impacted habitat for rare or declining species.
- Key provisions of EIS Concern:
 1. Agricultural Water
 2. Biological soil amendments of animal origin
 3. Domesticated and wild animals
- Water and soil amendments will likely have environmental impacts and need further environmental review.
 - Based on proposed water standard:
 - Switch from surface water to ground water may lead to ground water draw down may be more severe than initially anticipated.
 - Concern that the standard may also lead to increased use of pesticides.
 - Based on the proposed soil amendments standard:
 - Questions tend to be focused on storage and disposal of manure if it cannot be applied to fields and additional off-gassing of greenhouse gases if it cannot be applied.
 - Based on the proposed domestic animal and wildlife standard:
 - No specific concerns, although will continue to evaluate moving forward. Will continue to work with fish and wildlife services as it applies to endangered species.
- NEPA process:
 - Publish notice of intent
 - Currently in the scoping process: FDA has opened the public scoping period to identify and evaluate potential areas of concern where impacts may be likely and areas where FDA can mitigate impact or provide alternatives to key provisions.
 - The agency plans to host a public meeting, not yet scheduled.
 - Next step: Prepare and publicly release draft environmental impact statement. Will have its' own comment period for public comment.
 - When comment period is closed, agency will consider all comments and consider any revisions that are needed to EIS before it becomes final.
 - Final EIS will be published prior to the publication of the final rule.

Questions & Comments:

- This comment period is slightly different than the rule; it will seek input on information specific to what environmental impacts are likely as a result of the proposed rule. For example: need to assess impacts on ground water, increase of pesticide use and adverse impact, changes in land use, etc.
- Could farmers use a 'precautionary principle' to shut down the FDA's Produce Rule and prevent them from having to do anything? Clarification: Can the environmental impact assessment be used to shut down the rule based on its' findings?

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- NEPA dictates the process when considering environmental impacts. Does not require that the agency chooses the alternative that has the least likely environmental impact, as long as there is legitimate rationale for choosing an alternative. The agency must follow due diligence to make sure they have explored all impacts; they are able to make decisions that support the goals of the project. The EIS is not enough to stop the rule from moving forward.
- What other players are involved in the EIS process, aside from NRCS?
 - NEPA has been in discussions with EPA, Fish & Wildlife Services, as well as USDA as a whole. Conversations with Native American Tribes throughout United States – covering entire rule, not just EIS. NEPA has also reached out to State Depts. of Agriculture to indicate that this process is ongoing and invites comments from them.

II. Information Needed on Soil Amendments

- FDA Staff present: Mike Mahovic, David Ingram, Michelle Smith, & Scarlett Salem
- Biological Soil Amendments have received many comments and there is a need to look deeper into revisions. FDA is reaching out to invite national information on how soil amendments are being used and what kind of role they play. Primary issue has been identified - changes to the current industry standards for raw manure (90/120) and movement towards a 9 month application interval since the FDA has identified that 90/120 might not be enough from a food safety standpoint.
- FDA currently does not have sufficient scientific research to support the 90/120 interval. Little to no research supporting any other application interval, other than what the FDA currently has proposed (9 month interval).
- Comments received were not explicit in why the use of raw manure is superior when alternative methods, such as composting, can help reduce or eliminate pathogens.
- FDA is interested in finding ways that they (as an agency) can support people adopting composting processes; whether that be through state partnerships, educational components, creation of situations (such as large centralized composting centers) that could help facilitate adoption of composting.

Questions & Comments

- Aquaponics is a challenge in Michigan and other areas of the country. Raw manure from these systems is used for leafy greens and the 9 month application interval may pose significant barriers to using these practices.
 - Challenge to FDA: Is this considered a 'soil amendment' or would it fall under the water standards (235 CFU)?
 - If it does not contact edible portion of the crop, then do the water standards provide a bit more leeway? FDA currently does not have a stance on this topic.
- Hawaii and American Aquaponics Association put in comments to the proposed rule relating to the fact that fish are cold blooded animals, they are not warm blooded (i.e. cattle) – and that poop is not poop when it comes to aquaponics. This is not a

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manure/compost issue but may fall under the water quality standards. This is a gray area right now.

- Many growers have manure slurry pits that will need to be emptied. What are the compost options for these pits that have constant influx of manure into them? How do you convert slurry pits into composting structures?
 - Would it be an option to have two slurry pits? This is a space and infrastructure challenge.
 - There are commercial systems that have addressed the issue of slurry pits – dewatering systems are available. The resulting material is dry and transportable.
 - Disposal issues with manure – corn, wheat, forage would require no change to application intervals. Only change would apply to raw manure use and application related to fruits and vegetables (9 month).
- Alaska would like to see more data on the viability of pathogens in soil, specifically on permafrost soils. Many growers in AK (a few as far north as 60 N latitude) use uncomposted fish waste and incorporate it into the soil in the fall then grow in the spring.
- Maryland organic growers say composting is feasible in some situations but it is much more time and labor intensive. Many are currently using a combo of composted and raw manure. Incentives for organic growers to compost would be to provide funding to set up partnerships to compost in central locations or as a collective.

III. Produce Safety Alliance Update

- PSA since 2010 has been building collaborative networks to keep people informed on FSMA's Produce Rule. One primary method we keep in touch is through the PSA general listserve which currently reaches over 750 industry members, farmers, educators, regulatory agents, and others. This will become a crucial method of contacting farmers and educators about FSMA updates, future training opportunities, and educational resources available. Please encourage your growers to sign up for more info.
- PSA Educators Group has 181 actively engaged. 44 states involved. No educators currently in Idaho, Kentucky, N. Dakota, S. Dakota, Utah, West Virginia, and Wyoming. (Although, we are basing this off of e-mail lists and not collect data, so there may be a few). We currently do not have much data on who is following the Educator's group since we only have your e-mail addresses. We would like to collect some additional information that might help us better form collaborative networks and outreach opportunities around the country. Look for a short survey coming soon from us to help identify who is participating and who is interested in educational opportunities, both for Train-the-Trainer and Grower Training programs.
- Last PSA module was sent out to the Executive and Steering committees for final review. We are waiting for final comments (due date: Jan 31) and will rerelease modules for review one last time before making the content final. Hoping the entire process will be complete in February.

Call Wrap Up:

- Question & Discussion about foreign participation in the Produce Safety Educator's group:

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- Currently, we are partnering with JIFSAN as per our cooperative agreement to do future international outreach. Recent conversations with Canada.
- Initially, PSA's focus is on training educators and growers within the US, but not to the exclusion of others.
- Calls with educators group have been very valuable and not always US centric (because of import/exporting growers), so it might be useful to include international participation in the calls, if requested or individuals are identified.
- Need to tap into other countries because some of their people live in our country and speak languages other than English. Ethnic make-up of US farmers is going to evolve greatly in the next 20 years. Might also consider inviting larger industry to support the PSA process and educational programs. Need their buy in and support to reach their members as well.
- PSA educator's group is not exclusive, so the question becomes whether we should advertise our group to more actively recruit people from national organizations.
- FDA has been involved with many different aspects of outreach for FSMA, not just through PSA to international stakeholders. FDA would like to maintain communication with the US base as well as international educators, but does support the current focus of the PSA calls.
- *Future Produce Safety Educator Meeting Agendas:* Let us know what you would like to talk about! Send us your ideas, concerns, comments and we will add it to the next monthly meeting.
- **Reminder:** FDA comment period for Environmental Impact Statement is open through March 15, 2014. This is for the scoping process for the EIS to identify issues in the rule that may have environmental impacts.
- **Next meeting: Monday February 10th, 2014 at 2PM EST**