Merck Suspends Zilmax Sales, Initiates Five-Step Plan
In a news release earlier today, Merck Animal Health announced its decision to temporarily suspend sales of Zilmax in the United States and Canada. “We remain confident in the safety of the product, based on our own extensive research and that of regulators and academic institutions, and are committed to the well-being of the animals that receive it,” says KJ Varma, BVSc, Ph.D., Diplomate ACVCP, Senior Vice President Global R&D, Merck Animal Health. “This important step demonstrates our commitment to providing our industry partners with data that will reaffirm confidence in Zilmax. We sincerely regret that this situation creates business challenges for our customers but it is critical to ensure that this process is conducted appropriately and with rigorous scientific measures. After the five-step plan is completed, the results will be shared publicly.”

Earlier this week, Merck announced the initiation of a Five-Step Approach to Ensuring Responsible Beef and educating customers and interested groups about Zilmax.

1. Merck Animal Health is committed to re-certifying every feeder/nutritionist/veterinarian who feeds Zilmax to cattle. The re-certification process will begin immediately. Special attention will be given to feed mixing and determining which cattle are good candidates for the use of beta-agonists.

2. Within the next 30 days, Merck Animal Health is committed to reaching out to packers and suppliers to initiate a scientific audit, which will focus on the feeding of Zilmax, and will follow those cattle from the feedyard to the packing plant to determine potential causes of lameness and other mobility issues during feeding, transportation, offloading and staging at the processing facility.

3. Based on the findings, Merck Animal Health is committed to reinforcing appropriate management practices for feeder customers to include overall nutrition and feeding objectives, animal handling, low-stress environments and transportation.

4. The company will form the Merck Animal Health Advisory Board within the next 30 days, made up of representatives from small, medium and large feeders, packers, cow-calve operators, as well as animal health and nutrition experts, to review available data. If additional recommended management practices are needed, these will be identified, shared and promptly implemented.

5. Merck Animal Health takes its responsibility very seriously and is committed to sharing all of these findings and to be transparent.

NCBA commended Merck for addressing questions about Zilmax. “America’s farmers and ranchers take animal care very seriously and support Merck’s efforts to ensure that Zilmax can be used responsibly to raise beef without compromising the health and well-being of cattle,” NCBA said in a statement. Since Tyson’s announcement last Wednesday that it would suspend the purchase of Zilmax-fed cattle, NCBA and TCFA leaders and staff have invested many hours in meetings and conference calls with other stakeholders in an effort to better understand the events and ensure that decisions are based on sound science.

To read the Merck release, go to http://tinyurl.com/merck-release.
For more information about beta-agonists, go to www.factsaboutbeef.com.

U.S. Lawyers Side with Pro-COOL Crowd
Government lawyers last Friday asked a U.S. District Court in Washington D.C. to refuse to issue an order blocking USDA’s implementation of mandatory country-of-origin labeling (COOL). The judge set Aug. 27 to hear oral arguments on the motion by U.S., Mexican and Canadian livestock producers to enjoin the COOL rule.

U.S. Department of Justice attorneys, representing Secretary of Agriculture Tom Vilsack and Agricultural Marketing Service Administrator Anne Alonzo, argued the nine groups that sued to block implementation of COOL have failed to show they are entitled to an emergency order, according to Agri-Pulse Communications.
For more, go to http://tinyurl.com/agri-pulse-cool.
Four pro-COOL groups also have entered the fray. The U.S. Cattlemen’s Association (USCA), joined by National Farmers Union (NFU), the American Sheep Industry Association (ASI) and the Consumer Federation of America (CFA), filed a motion with the District Court in Washington, D.C. to intervene in the lawsuit.

If granted intervenor status by the court, USCA, NFU, ASI and CFA will be presenting arguments in defense of the USDA Agricultural Marketing Service regulations on COOL. A decision by the court on the motion for intervenor status will be made in the near future, but there is no specific time limit for such decisions, reports Ron Hays with the Radio Oklahoma Network.

LFTB Legal Wrangling Continues
Last Friday, Beef Products Inc. (BPI) filed four briefs opposing efforts to dismiss its $1.2 billion defamation lawsuit against ABC News and others, related to the social media uproar and the use of the phrase “pink slime” to describe lean finely textured beef (LFTB) in the spring of 2012.

The briefs were filed in South Dakota state Circuit Court, where the lawsuit was moved in June from federal District Court. BPI filed two separate arguments opposing the motion to dismiss by the “ABC defendants,” which include ABC News, Diane Sawyer and Jim Avila. BPI also filed a separate motion related to its case against former USDA employees Gerald Zirnstein and Carl Custer, and one against former BPI employee, Kit Foshee, according to Meatingplace.com.

Magistrate Orders Bond Posted in New Mexico Horse Slaughter Case
A federal magistrate has ordered the animal rights groups that won a temporary ban on domestic horse slaughter to post a bond of nearly $500,000 as their legal challenge continues.

U.S. Magistrate Robert Scott settled on the amount after hearing from attorneys who represent two companies that had planned to begin operations at horse slaughterhouses in New Mexico and Iowa, according to the Santa Fe New Mexican.

The Humane Society of the United States (HSUS), Front Range Equine Rescue and others won a temporary restraining order that blocked Valley Meat Co. and Responsible Transport from opening their plants. The bond will cover the companies’ losses for the next 30 days, should the animal rights groups lose the case.

Meanwhile, the Navajo Nation is jumping into the fray, drafting a letter to federal officials in support of Valley Meat Co. The letter comes one week after Robert Redford and former N.M. Gov. Bill Richardson joined the opposite side of the debate, saying, among other reasons, that they were “standing with Native American leaders” to protect cultural values.

But Erny Zah, spokesman for Navajo President Ben Shelly, said that the nation’s largest Indian reservation can no longer support the estimated 75,000 feral horses that are drinking wells dry and causing ecological damage to the drought-stricken range.

“It’s a sensitive subject to begin with because horses are considered sacred animals, so you just can’t go out and euthanize them,” Zah said. “That would go too far against cultural conditions. At the same time, we have a bunch of horses that no one is caring for, so it’s a delicate balance.”

Because of the horse overpopulation, the tribe already is rounding up and selling wild horses, Zah said. Some of those, he said, end up being shipped to Mexico.


Are More Imports of Mexican Cattle in the Offing?
Mexico’s national agricultural ministry and the state government and farmers of Baja California Sur in Mexico are working together to obtain accreditation from USDA for their efforts to deal with bovine tuberculosis. It is expected this recognition will open the U.S. market for calves from more Mexican regions.

Mexico’s national campaign against bovine tuberculosis has been in place for 16 years, according to the North American Meat Association. During this time, there have been significant improvements. Prior to 1992, the prevalence of bovine tuberculosis in Mexico was unknown. Now, there are 25 states classified as “low prevalence.” It is expected USDA would make a verification visit to Baja California Sur in November 2013 to verify that the prevalence of tuberculosis is less than 0.5 percent.

Environmental Update
The U.S. Supreme Court will meet on Sept. 30 to decide whether or not to hear lawsuits filed by several states and industry groups challenging EPA’s initial suite of greenhouse gas (GHG) rules, including its finding that GHGs from motor vehicles endanger public health and welfare; a vehicle GHG rule and a GHG-permitting rule.
The pending petitions ask the high court to reverse a federal appeals court ruling that upheld the agency’s GHG regulations, a decision that the full court then refused to reconsider. A three-judge panel for the U.S. Court of Appeals for the District of Columbia Circuit in Coalition for Responsible Regulation v. EPA in June 2012 unanimously upheld EPA’s GHG endangerment finding, along with its “tailpipe” rule setting GHG limits for vehicles and its “timing” and “tailoring” rules that require major stationary sources to obtain GHG permits, but the high court petitioners say the ruling was in error.

Meanwhile, industry groups are urging the U.S. Court of Appeals for the District of Columbia to uphold a lower court’s decision to vacate EPA’s value for conductivity in its mountaintop mining permit guidance, citing concerns that it is one of several Clean Water Act (CWA) guidances EPA is using illegally as regulation to affect a broad swath of business sectors.

Groups representing the agriculture, home building, electric utility and other industries have fought EPA’s efforts to finalize the 2011 CWA jurisdiction guidance or adopt a rule using a similar approach, fearing it would expand the water law’s reach and subject many more industrial activities to strict environmental requirements.

**Nation’s First Commercial Cellulosic Ethanol Plant Online**

The nation’s first commercial-scale cellulosic ethanol plant is up and running in Florida, the Red River Farm Network reports.

The plant at INEOS Bio’s Indian River BioEnergy Center in Vero Beach uses a unique hybrid of gasification and fermentation to convert wood scraps, grass clippings and other waste materials into ethanol and energy for heat and power. The plant is expected to generate 8 million gallons of ethanol and 6 megawatts of electricity per year.

**History of the Federation of State Beef Council Chronicked**

The partnership between state beef councils and national beef checkoff efforts over the past 50 years are chronicled in a new booklet available through the Federation of State Beef Councils and online. The booklet explores beef industry volunteers who made beef checkoffs possible, provides a timeline for actions that moved checkoffs forward, and establishes the foundation for grassroots-oriented initiatives that made the Beef Checkoff Program what it is today.

Find a digital copy of the booklet at [www.beefusa.org/federation50thanniversary.aspx](http://www.beefusa.org/federation50thanniversary.aspx) under the Federation tab. To receive a hard copy of the booklet, contact Walt Barnhart at wbarnhart@beef.org or (303) 850-3347.

**New York City Bar Withdraws Resolution to Repeal Animal Enterprise Terrorism Act**

During the American Bar Association (ABA) House of Delegates meeting earlier this week, the New York City Bar Association (NYCBA) withdrew a resolution it had offered to support the repeal the Animal Enterprise Terrorism Act (AETA). The NYBCA claims that the law is overbroad and unconstitutional because it infringes on free speech and assembly. They believe the law creates a chilling effect, which deters activists from taking part in conversations about animal welfare.

In 1993, Congress passed the Animal Enterprise Protection Act (AEPA) which provided for federal criminal sanctions against animal rights and eco-terrorist extremists whom attack legitimate animal industries. The law was amended by the AETA in 2006 to include academic and commercial enterprises that use or sell animals or animal products. The AETA also increased the penalties and allows animal enterprises to seek restitution for damages. These two laws are the tools the FBI and other federal law enforcement agencies use to investigate and prosecute animal rights/eco-terrorist violence against not only animal facilities, but those who work with and for legitimate animal industries.

TCFA and NCBA support the AETA and the AEPA and worked with several attorneys and coalitions to generate opposition to the NYCBA resolution, which will likely be resubmitted for consideration at the next ABA meeting, Feb. 5-11, 2014.

**TCEQ Accepting Nominations for 2014 Texas Environmental Excellence Awards**

Nominations are now being accepted for the 2014 Texas Environmental Excellence Awards, the state’s highest environmental honor. These annual awards recognize achievements across Texas that significantly reduce waste, conserve natural resources and prevent pollution. Deadline for applications is Oct. 4.

The Texas Environmental Excellence Awards are presented annually by the governor’s office and the Texas Commission on Environmental Quality. A governor’s blue ribbon committee identifies outstanding contributions in nine diverse categories. The public may nominate an individual, community, company or organization for an award. Award categories include: Agriculture, Civic/Community, Education, Individual,
Innovative Operations/Management, Pollution Prevention, Technical/Technology, Water Conservation and Youth. To nominate an exemplary environmental effort for the 2014 awards, apply online at www.TEEA.org.

Save the Date
Sprouse Shrader Smith will present the 12th Annual Labor & Employment Law Seminar on Thursday, Sept. 12 from 8:00 a.m. to 4:00 p.m. at the Amarillo College Business Center, 1314 S. Polk St., Amarillo, TX 79101. Discussion topics include federal and state law updates; ObamaCare updates; disability and leave compliance tools; wage and hour compliance tools; and human resources topics. For more information and to register online, go to http://tinyurl.com/law-seminar.

Affordable Care Act Notice of Marketplace Letters
Prior to Oct. 1, 2013, employers must provide all their employees, including part-time and OBRA/Continuation participants, with a Notice of Marketplace letter explaining the availability of healthcare coverage on the Exchange/Marketplace. This is required of both large and small employers with or without benefits. New hires will need to receive the notification at the time of hiring or shortly after.

For audit purposes employers also must retain either a copy of the letter to each employee or a report listing each employee to whom the letter was given.

Sample model notices are available at:
- Model Notice if offering insurance: www.dol.gov/ebsa/pdf/FLSWithplans.pdf
- Model Notice if NOT offering insurance: www.dol.gov/ebsa/pdf/FLSWithoutplans.pdf

The federal government has provided a calculator to help you determine if your plan meets minimum value. The calculator can be found at http://tinyurl.com/aca-calculator.

Restaurant Performance Stays Strong
The National Restaurant Association's Restaurant Performance Index (RPI) stood at 101.3 in June, down 0.5 percent from May’s level. Despite the slight drop, June represented the fourth consecutive month that the RPI exceeded the 100 level, which signifies growth in the index of key industry indicators.

The Current Situation Index stood at 100.7 in June – down 0.9 percent from a level of 101.6 in May. Despite the decline, it remained above 100 for the third consecutive month. Although a majority of restaurant operators reported higher same-store sales in June, the results were somewhat softer than the solid May results. Operators also reported slower traffic results in June.

TCFA News
Industry and TCFA Events (www.tcfा.org/events.html)
Sprouse Shrader Smith 12th Annual Labor & Employment Law Seminar – Sept. 12
TCFA Annual Convention, Omni Hotel, Fort Worth, TX – Nov. 3-5

Please note: All links are available at www.tcfα.org under This Week’s Newsletter links.

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