

Model Bills and Regulations Committee

Minutes of July 30, 2011 Meeting

Model Bill and Regulations Committee (MBRC) Chairman Doug Lueders called the meeting to order at 3:30 p.m. on Saturday, July 30, 2011. He welcomed committee members and guests present, and reviewed the agenda.

Committee members in attendance were: Doug Lueders, Dr. Bill Burkholder, Eric Nelson and Richard TenEyck. Industry advisors present were Kristi Kraftka, Wayne Bomgarden and Richard Sellers (AFIA); David Dzanis (APPA and ACVN), Jan Campbell and Randy Gordon (NGFA), Angele Thompson and Kurt Gallagher (PFI), and Doug Alderman and Sue Hays (Wild Bird Food Association). In addition, there were 79 AAFCO members, industry representatives and guests in the gallery.

The Chair asked if there were any additional agenda topics that committee members wished to consider, and none were offered. He also noted that all of the committee's recommendations developed during 2010-11 and forwarded to the AAFCO Board of Directors had been approved by the AAFCO membership as of the AAFCO business meeting earlier in the morning (July 30). He noted there was no old business to conduct.

New Business

The committee proceeded to consider new business, and took the following actions:

- **Model Regulation 3 (a) (4) VI b. – Required Guarantees for Goat Formula Feeds:** The committee discussed a recommendation from the Feed Labeling Committee that proposed amending the AAFCO Model Regulations (attachment A) to revise the guaranteed analysis for goat complete feeds and supplements (for all animal classes) by: 1) adding a maximum percentage of Acid Detergent Fiber; and 2) deleting the phrase “(...or if total copper exceeds 20 p.p.m.)” from the minimum and maximum copper guarantee. In response to a question, it was noted that analytical methods exist for determining ADF in dairy and beef cattle complete feeds, so that such analysis would be feasible for goat formula feeds. Subsequently, it was moved by Mr. TenEyck and seconded by Dr. Burkholder that the proposal be adopted and recommended to the board of directors for placement in the AAFCO Official Publication. The motion was approved unanimously.
- **Soliciting More State Participation on MBRC:** The Chair sought input from committee members, advisors and guests on how to encourage more AAFCO members from states to serve on the committee. Among the ideas mentioned were to: 1) require all junior AAFCO Board members serve; 2) require all AAFCO Board members serve; and, 3) solicit involvement of representatives from other AAFCO committees that submit legislative and regulatory proposals to

the MBRC for consideration. These recommendations will be presented to the AAFCO board of directors for their consideration.

- **Inspection Fees for Exports:** The chair discussed the issue of state feed regulatory agencies not being able to collect tonnage fees on feed and feed ingredients exported from the United States, which he said had been referred to the committee for discussion by the AAFCO Board. He cited Section 9(a) of the Model Bill that currently reads, in relevant part, that, “inspection fees...shall be paid on commercial feeds distributed in this state...” *[Emphasis added.]* He noted that feed and feed ingredient distribution has changed significantly since the Model Bill first was adopted in 1969. He also said that significant quantities of feed and feed ingredients are shipped to feed-deficit states like California, North Carolina, Texas, Arizona, New Mexico and Idaho. Mr. Lueders cited, in particular, the volume of distillers grains and soybean meal exports that are not subject to tonnage fees.

During the subsequent discussion, industry advisors responded that exported feed ingredients, including distillers grains and soybean meal, should not be subject to tonnage fees because State feed regulatory agencies do not exercise regulatory jurisdiction over such products. Rather, they said, such fees should continue to be based upon tonnage reports on which sampling is conducted by state feed regulatory agencies. During the discussion, both industry and several AAFCO members indicated that a subsequent agenda item – the issuance by states of certificates of free sale or other certification upon request for exported feed ingredients based upon an inspection or audit – would be a more appropriate avenue for collecting a fee in exchange for a service rendered. Mr. Lueders said he would provide the committee’s feedback to the AAFCO Board.

- **Export Certification:** Next, the committee discussed the appropriateness of amending the AAFCO Model Bill to add language providing clear authority for states, upon request from a commercial feed or feed ingredient manufacturer or distributor, to develop rules to inspect, audit and certify such facilities and issue certifications for exported products. Mr. Sellers said that Brazil and other foreign countries had expressed a willingness to accept such certifications from a recognized State authority in lieu of federal certifications. He also noted that under the Food Safety Modernization Act, FDA was expressly authorized and directed to issue federal export certificates in exchange for a fee, but that implementation could take several years and there were export opportunities that would be lost during the interim.

Discussion then turned to legislative language adopted by the Indiana General Assembly in 2011 that authorizes the Indiana State Chemist’s Office to perform such certifications on a voluntary basis. Mr. Robert Waltz explained the Indiana legislative language and responded to questions. It was noted that seven to eight States have indicated that they believed existing statutes would authorize them to issue such certificates of free sale or other certifications without further

legislation, but that inclusion of such language in the AAFCO Model Bill would be useful to other States that believe such authority is lacking or that wish to enhance clarity. Mr. Nelson also described the criteria FDA currently uses as the basis for issuing certificates of free sale.

During the ensuing discussion, comments were made as to whether it would be advisable for AAFCO to develop criteria – such as the AAFCO Model Current Good Manufacturing Practice Regulations – that should serve as the basis for inspections or audits performed by States prior to issuing export certifications. Industry advisors responded that it might be most appropriate not to include references to specific standards in enabling legislation, so as to provide flexibility for States to adapt certifications to the type of requirements and specifications contained in export contracts. The NGFA representatives joined AFIA in supporting the concept of including such language in the Model Bill, and said that it could be beneficial from the industry's standpoint to have both FDA and individual States be authorized to grant such export certifications for commercial feed and feed ingredients, so long as the system was voluntary and triggered by a request for such service from industry firms.

Following discussion, The Chair appointed Working Group consisting of the following persons to develop language for the AAFCO Model Bill that would expressly authorize states, upon request, to inspect, audit and issue certifications for export of commercial feed and feed ingredients: Kevin Klommhaus (Iowa), April Hunt (Michigan), Richard Sellers (AFIA), Randy Gordon (NGFA), a representative to be designated from PFI, and himself. It also was suggested by Mr. Gallagher and other PFI representatives that the Working Group consider involving the U.S. Department of Agriculture's Animal and Plant Health Inspection Service (APHIS) in its work, given APHIS's important role in negotiating with foreign governments on export certification issues.

The Chair said the working group would prepare a draft of the Model Bill language for consideration at the January AAFCO meeting, and would strive to complete its work sooner if possible.

Other Business

The Chair observed that no new business had been forwarded to the committee for consideration from the AAFCO general business session earlier in the day.

Adjournment

The Chair asked if there were any additional items that committee members wished to discuss. There being none, the committee meeting was adjourned at 4:40 p.m.

FLC recommends the following language on Goat feed labeling be forwarded to the Model Legislation and Regulation committee via the Board.

Proposed Regulation 3(a)(4)VI (Original text from 2010 annual meeting MBC report):

- VI. Required Guarantees for Goat Formula Feeds
- a. Animal Classes
 - (1) Starter
 - (2) Grower
 - (3) Finisher
 - (4) Breeder
 - (5) Lactating
 - b. Guaranteed Analysis For Goat Complete Feeds And Supplements (all animal classes)
 - (1) Minimum percentage of Crude Protein
 - (2) Maximum percentage of equivalent crude protein from Non-Protein Nitrogen (NPN) when added
 - (3) Minimum percentage of Crude Fat
 - (4) Maximum percentage of Crude Fiber
 - (5) **Maximum percentage of Acid Detergent Fiber**
 - (6) Minimum and maximum percentage of Calcium
 - (7) Minimum percentage of Phosphorus
 - (8) Minimum and maximum percentage of Salt (if added)
 - (9) Minimum and maximum percentage of total Sodium shall be guaranteed only when total Sodium exceeds that furnished by the maximum salt guarantee.
 - (10) Minimum and maximum Copper in parts per million (ppm) (if added). ~~or if total copper exceeds 20ppm~~
 - (11) Minimum Selenium in parts per million (ppm)
 - (12) Minimum Vitamin A, other than precursors of Vitamin A, in International Units per pound (if added)

Goat working group comments:

Language implements recommendations of expert panel report accepted by FLC in January 2011.

Expert panel recommended allowing the use of the statement “none added” in the copper guarantee. We did not want to set the precedence of putting that in the model regulations. Quite a bit of debate was held on the subject with the group split on the matter.

No maximum spread for the copper guarantees was stipulated due to the high analytical Variation for copper. The actual level should be near the minimum number. Leave it to the manufacturer to inform the consumer without misleading them.