FDA proposes extending water rule compliance dates

By SEAN ELLIS
Capital Press

The U.S. Food and Drug Administration has proposed extending initial compliance dates for the agricultural water requirements included in the agency's new produce safety rule by an additional two years.

If accepted — the rule is open for public comment — that would give farmers at least four more years until they have to comply with the water standards.

The produce safety rule is one of seven created by FDA to comply with the Food Safety Modernization Act and is the most concerning for many farmers.

They are particularly concerned about the produce safety rule's agricultural water standards, which will require farmers to test their water regularly for potentially harmful bacteria.

Produce that is likely to be consumed raw is covered by this rule.

The new water standard compliance date for large farms would begin Jan. 26, 2022, small farms would have until Jan. 26, 2023, and very small farms would have until Jan. 26, 2024.

FDA Commissioner Scott Gottlieb told state ag department directors during their annual meeting last month that the agency is taking another look at the agricultural water standards to ensure they are feasible for farmers and will hold a summit on the issue early next year.

The agricultural water requirements are by far farmers' main concern when it comes to the FSMA rules, said Idaho State Department of Agriculture Chief of Staff Pamm Juker.

"The water component is the big issue," she said, and farmers are wanting to know if they can collaborate on collecting water testing samples.

That hasn't been decided yet but researchers are trying to make the case that farmers should be allowed to share water samples, said Stuart Reitz, an Oregon State University cropping systems extension agent in Ontario.

He said OSU researchers have collected data the past two years that show that makes sense for growers and will share that data with FDA.

He said the testing will be expensive for growers and allowing them to share samples will reduce that cost.

"We hope to save growers time and money," he said.

The agency has also extended the number of approved water testing methods from one to nine.

That was a big announcement, Reitz said, because the rule originally only allowed growers to use a single EPA-approved method that would have been more expensive than some other water testing methods.

Some of the newly approved testing methods are already being used by many farmers in their Good Agricultural Practices audits, he said.

FDA has also announced that inspections of large farms for all of FSMA's other, non-water-related food safety regulations won't begin until spring of 2019, more than a year later than originally scheduled.

Gottlieb said the agency would also consider how it can simplify some of the produce safety rule's other standards.

"The truth is, there are things we've done well in getting this rule ready for prime time but there are also things that may require a course correction," he said.

Wheat groups call for new trade agreements

By MATTHEW WEAVER
Capital Press

Capital Press File

The National Association of Wheat Growers and U.S. Wheat Associates are telling U.S. leaders to pivot from renegotiating existing trade deals and start developing new ones.

Wheat organizations are telling U.S. officials to stop renegotiating existing trade deals and start working on new ones in desired markets.

In a joint statement, the National Association of Wheat Growers and U.S. Wheat Associates told the Office of the U.S. Trade Representative to pivot the emphasis.

The wheat industry hopes for a focus in Southeast Asia, particularly Vietnam and Japan. The goal is creating new market access at a time when other wheat export countries have new trade agreements.

"Our competitors will benefit from removal of tariffs and other trade barriers through trade agreements, while the U.S. will stand still or worse," said Chandler Goule, CEO of NAWG.

The wheat organizations would like to see steps to begin negotiations of a new trade agreement as soon as possible, Goule said.

President Donald Trump promised farmers a series of bilateral trade agreements in place of the Trans-Pacific Partnership, Goule said. Trump withdrew from the TPP, slated to be an agreement between the U.S. and 11 other countries, in January.

"It is time to get past plowing the same fields and start opening ground in new markets," Goule said in the press release." "Right now, we are standing around watching the world pass us by on trade agreements."

The United States and South Korea pledged this week to begin negotiations on aspects of the Korea-U.S. Free Trade Agreement, or KORUS, the groups noted.

KORUS was signed in 2007. It is the most recent trade agreement for the U.S. and barely a quarter of the way through full implementation.

"I'm glad to see we're not making any rash decisions about withdrawing from trade agreements, but we need to see more than that," said Vince Peterson, president of U.S. Wheat, in the press release. "In the decade since KORUS was negotiated, we have no new trade agreements and zero additional market access for wheat farmers. The administration has committed to 'do no harm' for agriculture, but we think there is harm in not negotiating new trade agreements."

According to the wheat organizations, over the past decade, wheat export competitors have been "significantly" more active in signing new free trade agreements:

• Argentina signed new agreements with Israel, Botswana, Lesotho, Namibia, South Africa, Swaziland, Egypt and Colombia.

• Australia signed new agreements with Chile, Brunei Darussalam, Burma, Malaysia, Philippines, Singapore, Vietnam, Cambodia, Laos, Indonesia, South Korea, Japan, Canada, Mexico, Peru and China.

• Canada signed new agreements with Iceland, Liechtenstein, Norway, Switzerland, Peru, Colombia, Jordan, Panama, Honduras, Korea, Ukraine, Australia, Brunei Darussalam, Japan, Malaysia, New Zealand, Singapore and Vietnam.

• The European Union signed new agreements with Albania, Montenegro, Serbia, Bosnia and Herzegovina, Kosovo, South Korea, Moldova, Georgia, Antigua and Barbuda, Bahamas, Barbados, Belize, Dominica, Dominican Republic, Grenada, Guyana, Haiti, Jamaica, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Suriname, Trinidad and Tobago, Madagascar, Mauritius, the Seychelles, Zimbabwe, Fiji, Papua New Guinea, Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, Panama, Colombia, Ecuador, Peru, Cameroon, Ukraine, Ghana, Ivory Coast, Botswana, Lesotho, Mozambique, Namibia, South Africa, Swaziland and Canada.

• Russia signed new agreements with Belarus, Moldova, Tajikistan, Armenia, Kazakhstan, Kyrgyzstan, Uzbekistan and Vietnam.

• Ukraine signed new agreements with Iceland, Liechtenstein, Norway, Switzerland, Azerbaijan, Belarus, Armenia, Kazakhstan, Kyrgyzstan, Moldova, Tajikistan,Turkmenistan, Uzbekistan, Montenegro and the European Union.

Supreme Court declines to review GMO cooking oil lawsuit

By MATEUSZ PERKOWSKI
Capital Press

The U.S. Supreme Court has declined to review a class action lawsuit against Conagra over the labeling of vegetable oil made with genetically engineered crops.

Food manufacturers had watched the case closely due to the many class action cases over labeling in recent years, growing from fewer than 20 to more than 400 in a decade.

Plaintiffs in the lawsuit claim that Conagra misled consumers by labeling its Wesson brand of cooking oils as "100% Natural" even though they're made from genetically modified organisms, or GMOs.

Earlier this year, the lawsuit was certified as a class action by the 9th U.S. Circuit Court of Appeals, which means Conagra is potentially liable to the millions of consumers who bought its cooking oils.

According to the Grocery Manufacturers Association, the huge financial exposure created by class action certification coerces companies to settle lawsuits that are frivolous.

Conagra claims the lawsuit over GMO cooking oil shouldn't have been certified as a class action because it's impossible to efficiently identify the enormous number of people who've bought the product.

In reality, the court will have to trust the word of millions of alleged buyers who generally don't keep receipts for minor purchases, the company said.

Food manufacturers argued it's necessary for the Supreme Court to resolve the question about identifying class members because federal appellate courts disagree on the issue.

The 2nd Circuit, 3th Circuit, 4th Circuit and 11th Circuit all require that people can feasibly be verified as belonging in the class. The 9th Circuit, 6th Circuit and 7th Circuit don't have such an "ascertainability" test.

These conflicting interpretations weaken the uniformity of food labeling rules set by the U.S. Food and Drug Administration, since food companies face disparate legal risks in different parts of the country, according to GMA.

Roughly two-thirds of food labeling cases are filed in California, where the federal courts are effectively supplanting the FDA as label regulators, the group argued.

The attorneys who are suing Conagra urged the Supreme Court not to take up the case, arguing it's premature to reject a class action based on potential challenges with claims administration.

Blocking such class actions would basically allow food manufacturers to "commit wide-scale, but low value, harm to individual consumers with impunity," they said in a court brief.