

NEWSNOTES

*Merry Christmas
 Happy Hanukah
 & New Year
 from
 New York State
 Dairy Foods, Inc*

NYS Assemblyman Clifford Crouch Visits Dean Dairy Plant



Left to Right: Rod Decker, Aid; Assemblyman Cliff Crouch; Dean Foods Plant Manager Elizabeth Van Buren

In early November, 107th Assembly District Representative Clifford Crouch, (R-Binghamton, NY) made a stop for a plant visit and tour of Ultra Dairy Fraser/Dean Foods Plant in Delhi, NY. On hand to provide details about the growth of the former Fraser Milk Plant was General Plant Manger Elizabeth Van Buren. Van Buren commented " we were very happy to host Assemblyman Crouch, we feel it is very important to show our key state legislators the growth and technology within our industry and thus the important role dairy processing and manufacturing plays in the entire dairy industry of the state." Assemblyman Crouch was introduced to and discussed the dairy business with employees he met along the tour. A former dairy farmer, Assemblyman Crouch is the ranking minority member in the State Assembly Agriculture Committee from Binghamton NY.

IMPORTANT REMINDER

January 1, 2006 Deadlines for Trans Fat and Allergen Labeling

January 1, 2006 is the deadline for all new Trans Fat and Allergen labeling for food packaging. You should have your packaging label changes ready now. For more information contact our office.

Three Northeast Dairy Supplier Support Organizations to Merge Jan. 1, 2006

Syracuse, NY - Bruce W. Krupke, Executive Vice President for New York State Dairy Foods announced three dairy supplier support organizations will merge as of January 1, 2006. New York State Dairy Food Boosters, Inc., the Northeast Ice Cream Suppliers and the New England Dairy Technology Society board of directors have all agreed to merge their organizations to form the Northeast Dairy Association, Inc.

Peter Garafalo of Derry Management Services and the Executive Director for both the former Northeast Ice Cream Suppliers and New England Dairy Technology Society said "the merger will result in a much stronger, unified and bigger dairy supplier organization that will serve the entire dairy industry in the Northeast U.S." Mr. Garafalo is known to many in the dairy and ice cream industry as the July Ice Cream Supplier Clambake director. Garafalo continued, "we'll make sure that all members of the previous organizations are notified and invited to be part of the new association. There will be many new benefits everyone will be very pleased with."

Bruce Ritenburg, President of Nog, Inc. and also President of the former New York State Dairy Food Boosters said "I'm looking forward to uniting these three groups, it will give us more critical mass and allow the new group to support the dairy industry in many new and exciting ways. We'll continue to support New York State Dairy Foods, Inc. and the PA Association of Milk Dealers annual convention each September along with the July Clambake at Hinerwadel's held in N. Syracuse NY." Ritenburg continued " what will be really exciting will be the work we can do with the technology side of the dairy industry. We'll be able to interact with more of mid-level management employees and support them with educational workshops and information a great deal more throughout the entire Northeast area through the Technology Society."

Bruce W. Krupke said the new organization will have it's headquarters with New York State Dairy Foods, Inc. in N. Syracuse, NY. He said "all members of the three previous organizations will be receiving official notice of the merger in the mail in December 2005 with the ability to renew their dues with the new organization." Krupke continued, "I strongly encourage any company involved in the business of supplying the dairy industry with goods and services to be a part of this exciting new association and can do so by contacting our office."

CONTINUED ON PAGE 6, SECOND COLUMN



Bruce W. Krupke
Executive Vice
President Report

Well I'd like to give you an update from my report in the last *Newsnotes* regarding the dairy farmer Milk Income Loss Contract subsidy program. If you recall, I reported the program was discontinued at the end of September. Since that time lobbying groups have been trying to get it reinstated. As of this writing, Congress has yet to make a decision. Groups like IDFA are opposing the program. Our association's board of directors have voted to support reinstatement until the next federal Farm Bill in 2007 has been implemented. Interestingly enough, I'm not seeing too much support or lobbying from dairy cooperatives around the nation although Farm Bureau here in NY State is in support of reinstatement.

What does it all mean? Well, if you look once again at the month-to-month milk production reports, NY State dairy farmers are producing a whopping 5% more this year than last year, that is HUGE! Traditionally, if we were to see a 1-2% increase, it would mean trouble for raw milk prices. Usually as production goes up, raw milk prices go down at farm level. The MILC program pays dairy farmers when the price goes down, actually below \$16.94 /cwt. Now if farm milk prices were to go down again, and I've got to believe with the way-over milk production we are seeing nationally, (about 4.2%, and will go down at some point in the near future), dairy farmers would be assisted with MILC.

The topic of are milk subsidies good for the dairy economy or not is often discussed and is debatable. The bottom line, keep your eye on milk production, cheese/butter inventories and the value of the American dollar overseas. Those three factors will determine where the price of raw milk will go in the next 6-12 months.

If you recall, I touched on the obesity problem around the country in my last report. To fight the obesity issues, I discussed a NY City Assemblyman who is interested in passing a law that would make it mandatory for chain restaurants and food establishments to list the nutritional information and make up of food they serve. He has introduced a bill, A05664 that if became law would force restaurants to basically provide calorie, saturated and trans fat, carbohydrate, and sodium information for typical food items on a standard, printed menu. For establishments with only menu boards, only calorie information is required to be listed but the other information should be available.

Lets start a debate here. I agree, that we Americans eat too much. Chances are many of us are technically overweight. In a recent *Readers Digest*, a chart listed me as overweight, at 5' 11" tall, I shouldn't weigh more than 190 lbs., I'm 194 actually. I agree, a few less pounds might help in many ways. I think eating right is a good thing. Although I do think we've gone a little overboard. I think Assemblyman Ortiz's effort is to be commended, but do we really need mandatory nutritional labeling at restaurants? Do people, (I mean a majority of them) really read the nutrition label on food packaging? And if they do, is it really doing any good? Do we need that information in the foodservice industry to remind us our file Mignon is full of...?

I contend every time some politician tries to help, it costs more. I know changes in packaging costs you a lot of money. I know that in most cases the consumer will end up paying for labeling changes.

The good news folks is that for a bill to become law in NY State, both houses have to pass it. Fortunately the NY Senate hasn't introduced a companion bill for Assemblyman Ortiz. So we don't have to worry that we'll see this costly, onerous, unjustified law soon. Besides, all I want to see on a menu is the food I want to order, what comes with it and what is it going to cost me!

Sales & Marketing

That Makes a Difference

Milk PEP News — November 2005

Supermarkets continue to be the main avenue for milk sales. Milk processors should use promotional materials to optimize their presence in this powerful selling channel. Click www.milkpep.org to order promo materials!

Studies

[MilkPEP's Dairy Case Optimization Tool 2005](#)

At IDFA's 2005 Smart Marketing Conference, MilkPEP launched its new dairy case optimization tool, which enables processors to calculate the most profitable and consumer-friendly product mix for the dairy case.

Webcast tutorials on MilkPEP's new "Dairy Case Optimization Tool, which helps processors develop the best product configuration for each store's dairy case will be held at 12 noon ET on: Tuesday, December 16, 2005

To register for a webcast tutorial, contact Prema Mirwani at 202-220-3558 or at pmirwani@idfa.org

Third Quarter Good to Dairy Companies

Content compliments of Dairy Foods magazine. For more news, please visit www.dairyfoods.com.

Lifeway Foods Inc., the Illinois-based makers of kefir, saw third quarter sales jump 26% to \$5.2 million from \$4.1 million for the same period a year ago, this may the best example of how the third quarter of 2005 has been a good one for publicly-traded dairy companies. Lifeway saw earnings increased to \$.07 per share for the quarter, from \$.06 per share for the same three-month period in 2004.

Meanwhile, the nation's largest dairy processor Dean Foods had net sales of \$2.6 billion for the quarter, an increase of 2.4% over the third quarter of 2004. Adjusted net income from continuing operations for the third quarter was \$77.7 million compared to \$65.9 million in the third quarter of 2004.

Finally, Dreyer's Grand Ice Cream Holdings, Inc. said net sales of company brands for the third quarter increased 16% from the comparable quarter in 2004, to \$475 million. Total net revenues (including partner brands) increased 10 percent, to \$520 million. Dreyer's says market share of Dreyer's company brands of packaged ice cream sold in the U.S. grocery channel reached 23% for the quarter.

Share Your Marketing Ideas!

Do you have a promotion or marketing idea you would like to share with the industry? If so, please call our office or send us an e-mail. We'll accept stories, concepts, and pictures. Give us a call or e-mail our office bkrupke@nysdfi.org, we would like to hear from you and so would our other members as well!

Congress Restores National Organic Provisions

The agricultural appropriations bill recently passed by Congress included an important provision that helps restore the original U.S. Department of Agriculture (USDA) National Organic Program's (NOP) rules, a move supported by IDFA. Congress was asked to take up this issue as a result of a June 2005 federal court decision in the case of *Harvey v. Johanns*, which had severely limited the types and levels of non-organic agricultural ingredients that could be added to foods labeled with USDA's organic seal.

It was estimated that if Congress had not acted, more than 90% of the multi-ingredient organic foods in the marketplace, including many organic dairy products, would have lost USDA's organic labeling status. IDFA joined an industry coalition, led by the Organic Trade Association, that lobbied Congress to pass an emergency procedures provision to rectify this problem.

Specifically, the court decision called into question technical inconsistencies between the Organic Food Protection Act (OFPA), passed as part of the 1990 Farm Bill, and the current USDA NOP standards, which were implemented in October 2002. In the lawsuit, Harvey asked the court to eliminate the NOP provisions that created a national list that "allowed synthetics to be added during the processing of organic food." These provisions resulted in a list of 36 synthetic substances allowed in processed food products under 7 CFR§205.606 and §205.600(b), "allowing a synthetic processing aide or adjuvant."

The court decision in Harvey's favor meant that only five substances would be allowed for use in organic foods -- namely corn starch, water-extracted gums, kelp when used as a thickener and dietary supplement, unbleached lecithin, and high methoxy pectin -- and blocked the use of such common ingredients as carbon dioxide, vitamins and minerals. The ruling also required the revision of rules relied upon by small dairy farmers who are transitioning to organic, with the unintended consequences of inflicting significantly higher costs on those operations. Also, the decision disallowed the USDA's procedures implemented by the secretary's organic-certifying agents that recognized the commercial unavailability of some organic agricultural products.

After the court decision was issued, USDA set an effective date of two years (June 9, 2007) on these actions due to the potential for confusion and to enable an orderly transition to comply with the district court's order. This time delay allowed Congress to take action to amend the OFPA.

Specifically, the emergency procedures language regarding this issue in the 2005 agricultural appropriations bill is as follows;

(6) Expedited petitions for commercially available organic products constituting less than 5 percent organically processed product. The secretary may develop emergency procedures for designating agricultural products that are commercially unavailable in organic form for placement on the National List for a period of time not to exceed 12 months.

This means that USDA may undertake a notice and comment rulemaking process to develop procedures to define "commercial availability" and "emergency." It is believed that this action will be used in truly disaster-type situations, such as in times of crop failure or other market-disrupting events. For example, organic vanilla is a crop grown in Madagascar, which has been subject to major storms that have restricted the availability of organic vanilla for at least a year. Vanilla is widely used in processed organic products, but only in small amounts.

(B) Transition Guideline - crops and forage from land included in the organic system plan of a dairy farm that is in the third year of organic management may be consumed by the dairy animals of the farm during the 12 month period immediately prior to the sale of organic milk and milk products.

This means that flexibility would be allowed for feed and replacement heifers used in organic dairy farms, as dictated by the organic systems plan.

In addition, a conference report related to the bill language directs the USDA secretary to undertake the following actions:

- (1) As soon as practicable conduct an evaluation of any impacts of the court decision in Harvey v. Johanns; and*
- (2) no later than 30 days submit to Congress a report that:*

(A) describes the results of the evaluation; (B) includes a determination by the secretary on whether restoring the National Organic Program, as in effect on the day before the court decision would adversely affect organic farmers, organic food processors and consumers; (C) analyze issues regarding the use of synthetic ingredients in processing and handling; (D) analyze the utility of expedited petitions for commercially unavailable agricultural products; and (E) consider the use of crops and forage included in the organic systems plan for dairy farms that are in the third year of organic management.

Shoppers Uneasy About Cloning

Poll Finds Worries Over Meat and Milk

By Justin Gillis

Washington Post Staff Writer

Wednesday, November 16, 2005; D01

Two-thirds of American consumers are "uncomfortable" with animal cloning and 43 percent believe food from clones would be unsafe to eat, according to a new poll that comes as the government considers allowing products from clones into the food supply.

The poll, conducted on behalf of the Pew Initiative on Food and Biotechnology, suggests that animal breeders and food producers could face resistance as they try to commercialize the technology that produced Dolly the sheep and has starred in a host of science-fiction movies. Most scientists, including a panel of the National Academy of Sciences, believe food products from clones would be safe, and studies have shown that it can't be distinguished from normal food. The Food and Drug Administration is reviewing the issue and has said it is likely to approve milk from clones and meat from their offspring.

Livestock breeders and a handful of cloning companies are pushing the technology, but environmental and some food-safety groups oppose it. Food processors are caught in the middle, convinced that the scientific research is sound but worried about a kerfuffle once clone burgers go on sale at the supermarket.

To have a backlash, "you need fuel and you need a spark," said Doug Usher, a vice president at the Mellman Group Inc., which conducted the poll on behalf of the Pew Initiative. "What this poll says is that when it comes to cloning, there is fuel for a backlash. That doesn't mean there's going to be one."

The Pew Initiative is a Washington organization set up with foundation money to provide a forum for discussing controversial issues related to biotechnology and the food supply. The group is deliberately neutral. The poll released yesterday, of 1,000 adults interviewed by telephone Oct. 10-16, is one of the largest to date to ask questions about cloning and food.

CONTD. ON PG. 4, SEC. COLM. SEE CLONING

BUSINESS COUNCIL: ALBANY SHOULDN'T RUSH FISCAL REFORM THIS TIME

ALBANY—The Business Council called upon the Legislature today to begin a thoughtful, broadly based effort to develop an effective package of fiscal reforms for the state—rather than rush ahead with another patched-together, poorly thought out proposal like the constitutional amendment that was overwhelmingly rejected by the people on Nov. 8.

Robert Ward, The Council's director of research, said that among the measures to be considered as part of a fiscal reform package might be debt reform, and constitutional limits on taxes, spending, and unbalanced budgets. His remarks came in testimony to the Senate Democratic Task Force on Legislative and Budgetary Reform, at a hearing in Syracuse.

Some have suggested that in the wake of the defeat of Proposal One, the Legislature could quickly enact as law some of the provisions of the plan that the voters rejected. But Ward said that not only would such hasty action show a lack of respect for the decision of the people—it could also kill the opportunity to develop a more comprehensive, well-thought-out package of fundamental fiscal reforms.

"The voters' overwhelming rejection of Proposition One ought to be seen as a wake-up call for Albany," Ward said. "The people want real reform – and they are not easily misled. The last thing Albany should do now is to pass some hasty, cobbled-together, poorly thought-out proposal with a few hand-me-down elements of that proposition. Not only would such hasty action show a lack of respect for the decision of the people – it could also kill the opportunity to develop a more comprehensive, well-thought-out package of fundamental fiscal reforms."

Discussion of fiscal reform should focus on the state's basic problem, Ward said: "Albany refuses to live within its means."

State and local taxes in New York are the highest in the country, by far. And, as Comptroller Hevesi has pointed out, state debt has been rising "at an alarming rate."

"On average, every woman, man and child in New York – every baby born today – is burdened with more than \$10,000 in debt incurred by our state, localities and school districts," Ward told legislators. This year's state budget spends \$4 billion on debt service, more than total state-funded spending on public-protection activities including the State Police, the prison system, parole, probation, criminal courts and crime-victims services.

Rising debt is linked to ever-increasing spending, Ward said: "It is the relentless use of debt that allows Albany to spend more money every year than its tax base produces. Spending more than you can afford in one year guarantees a budget gap in the years that follow – and compels still more borrowing. The cost of debt service, in turn, soaks up dollars that are sorely needed elsewhere. We simply must reform Albany's irresponsible borrowing habits." Real fiscal reform should start with tough Constitutional limits on debt, Ward said.

"The centerpiece of real debt reform should be a Constitutional amendment that limits state-funded debt to an affordable percentage of New Yorkers' personal income," he said. Comptroller Hevesi has proposed a limit of 5 percent, a commonly accepted guideline among public-finance experts. Outstanding debt is currently around 6.5 percent of personal income. The comptroller also has proposed a statutory limit on new borrowing that would bring the state into compliance with the 5 percent limit within 10 years. The Business Council urges the Legislature to give first passage to such a Constitutional amendment in 2006.

"As Comptroller Hevesi says, real debt reform would force tough choices, serious planning and clear identification of priorities," Ward said. "In other words, it would require our government leaders to govern."

The Council also supports a Constitutional limit on spending increases. Ward noted that Governor Cuomo and the Legislature created a temporary spending cap, in state law, in 1990. Measures to require balanced budgets, and an annual financial report to taxpayers, should also be on the agenda, he said. "Respected New Yorkers, in and outside of state government, have made other proposals for fiscal reform," Ward said. "We urge the Legislature and other state leaders to conduct a detailed and thoughtful review of such proposals.

"If such review starts now, there will be ample time to prepare Constitutional proposals for action by the Legislature in the coming session, so that second passage can occur in 2007," he added. "With no legislative action in 2006, any reforms requiring Constitutional change will likely not take effect before 2010. Thorough debate is essential. So is action."

CONTINUED FROM PAGE 3, CLONING....

Asked whether they feel "comfortable or uncomfortable with animal cloning," 66 percent of respondents said they were uncomfortable or strongly uncomfortable, while 24 percent said they were comfortable or strongly comfortable. Also, 43 percent felt that food from clones would be unsafe, with 28 percent feeling strongly about that. More than a third, 34 percent, had no opinion on the safety question.

In another recent poll, paid for by ViaGen Inc., a Texas cloning company, people were told that the FDA was likely to declare cloned food safe, then asked whether they'd buy it. With the question worded that way, 29 percent of respondents said they would; 34 percent said they would consider buying the food after they found out more; and 35 percent, the largest group, said they would "never buy" such food. Do we need milk from cloned cows? Let us know.

Its the LAW!

DID YOU KNOW?

New York State Agriculture and Markets Milk Control Law requires for identification of Trucks that no milk dealer shall operate a truck or other vehicle from which mil is delivered at retail or at wholesale in the State of NY, unless the name of such milk dealer appears conspicuously on the outside of such truck or vehicle in a place where it can be easily read! Part 30, par. 30.1.

QUESTION OF THE MONTH

Question: How should I pay an exempt white-collar employee who is on jury duty?

Answer: In NY State, section 519 of the NYS Judiciary law establishes the requirement that employers allow employees to serve as jurors, and for employers of 10 or more employees, to pay them the first \$40 of wages for the first three days of jury service.

Under the federal Fair Labor Standards Act, an exempt employee who works anytime in a workweek, including a week where an employee attends jury duty for part of the week, is entitled to a full week of pay.

If the exempt employee has a full week of jury duty and performs no work for the employer, then the exempt employee is not entitled to any pay from the employer except as cited above under NYS law.

Morrisville State College Receives Milk Quality Award

New York Ag Connection - 11/18/2005

Morrisville State College's milk has been given a thumbs up from Dairylea Cooperative, Inc. The college's dairy complex received a 2004-2005 Milk Quality Award for milk produced from June 2004 to June 2005. That means the college produces the highest quality milk on its 900-acre farm.

The award is based on criteria including milk that has low bacteria counts and low somatic cell counts, Mark Smith, dairy farm manager, said. But there are many other things that factor into the bottom line of producing high quality milk.

"It takes a lot to have the herd produce this quality milk," Smith said. "This award is shared by a team of people, including faculty and staff who take great pride in their work." Students are also an integral part of the operation.

"We have students doing many things at the dairy complex, including milking cows, and they can take pride in sharing this award," Smith said.

The college maintains a herd of 405 dairy cows; 242 are milking cows, and the other 163 are calves ranging in age from newborn to bred heifers that have not calved or milked yet and are under 24 months old, Smith said. Each milking cow averages approximately 22,000 pounds of milk per year.

Overall, the farm produces more than 5 million pounds or 625,000 gallons of milk per year. What isn't used on campus is sold through Dairylea Cooperative, Smith said.

In addition to the award, farmers receive a premium for producing a higher than acceptable milk product. The dairy management program provides advanced course work in dairy production and dairy business management and prepares students for careers as middle managers and owner-operators of profitable dairy farm businesses.

Council joins leaders in business, education in offering Web-based tools to help schools improve

The Business Council has joined the University at Albany and others in New York's business and education communities in unveiling a new Web-based system of tools designed to help schools improve. The new "toolkit" is being offered by a new collaborative effort called Just for the Kids-New York (JFTK-NY), which is affiliated with the National Center for Educational Accountability (NCEA). The toolkit is designed to help educators use data to raise student achievement.

The effort is also supported by State University of New York, IBM, State Farm Insurance, the Broad Foundation, and AT&T. JFTK-NY offers accurate, easy-to-understand student assessment data from all elementary and middle schools in the state. In addition, it includes results of a study of high-performing elementary schools, and it offers information on best practices that these schools have used in raising student achievement. Using publicly available data from the New York State Assessment System, the Just for the Kids-New York Web site shows not only how well each school is doing, but it compares each school to others facing equal or greater challenges and let's them see their "opportunity gap"—that is, the gap between their own performance and that of a similar school doing better.

The site also provides resources to help schools examine their own practices and learn what the best practices are in the high performing schools. It includes charts that let a school see its progress over three years, compared with "top comparable" schools as well as "best in state." The tools are available on the Just for the Kids Web site, which is free and requires no registration. The case studies of the high-performing

elementary schools are also available on the School of Education Web site. "Just For The Kids-New York takes school report cards to a new level of accessibility to parents and the general public. Along with displaying school achievement information in a powerful way it points schools and their communities in the right direction for increasing student achievement," said Ed Reinfurt, vice president of The Business Council of New York.

"We are very excited to bring this research-based program to New York, and believe it will bring about long-term, genuine solutions, rather than short-term responses," said Susan D. Phillips, dean of the University at Albany's School of Education and chair of JFTK-NY. "By establishing and making widely available the nation's best educational practices, it will become a constant source of valuable information and inspiration for all educators' school-improvement efforts."

Plans are under way to complete a best practices study of a sample of high and average performing middle schools during the 2006-07 academic year, and to complete a high school study.

The Web site is www.just4kids.org.

New York State Retail Milk Threshold Price Effective December 1, 2005

	<u>Gallon</u>	<u>Half Gallon</u>	<u>Quart</u>
Metro Region: (NYC & Counties Of Nassau, Suffolk, Rockland, Orange, Westchester, Putnam & Dutchess)	\$3.13	\$1.62	\$.84
Upstate Region: (Remaining Counties)	\$2.92	\$1.51	\$.79

Compared to the previous threshold, prices decreased \$0.17 a gallon, \$0.08 a half gallon and \$0.05 a quart in Metro NY and \$0.17 a gallon, \$0.08 an half gallon and \$0.04 a quart in Upstate NY. The increase reflects the underlying change in the Federal Order Class 1 price (3.5% butterfat) which decreased \$0.99 pre hundredweight (\$0.085/gallon) from last month. The threshold price is calculated by multiplying by two the total of two components, the minimum federal order price and the premium paid for Class 1 milk.

A retailer who sells above the threshold price may be in violation of the law unless such selling price is justified as not being unconscionably excessive. Such justification includes net invoice price paid for the milk item plus actual costs incurred in handling and selling that milk item.

The threshold price is calculated by multiplying by two the total of two components, the minimum federal order price and the premium paid for Class I milk. Please be advised that the threshold price is only changed if there is at least a \$0.02 per gallon (\$0.23/cwt) change in the underlying price for Class I (fluid) milk at 3.5% butterfat.

Plan now to attend our 2006 annual convention, Sept. 17-20 at the Willow Valley Resort, Lancaster PA! Take a look at their site, and out more at www.willowvalley.com

