

Environmental Regulations:

A Review of Milk Producer Experiences and Perspectives in Minnesota

Prepared for



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EXECUTIVE SUMMARY

Ongoing environmental concerns, particularly related to water quality, present numerous challenges for Minnesota dairy producers ranging from increasing regulation and reporting requirements to negative media attention. Regulatory developments in the past have resulted in varying levels of permit requirements and manure management changes. Current agency activities, such as the development of the Agricultural Water Quality Certification Program and new nutrient standards for surface waters, create an atmosphere of uncertainty for Minnesota dairy producers.

Minnesota Milk Producers Association (MMPA) commissioned this report in order to develop a greater understanding of the experiences and perspectives dairy farmers have toward environmental regulations in Minnesota. Farmer input was gathered through a series of focus groups held in three diverse regions across the state, coupled with telephone interviews conducted to insure broad geographic coverage. Additional interviews gathered input from consultants, who have become an integral part of regulatory interaction on many farms. This report provides a snapshot at this point in time of the regulations shaping Minnesota dairy farms today and influencing their plans for the future.

It is important and noteworthy that literally every dairy producer providing feedback expressed discontent with the current regulatory environment. Every participant offered at least one comment about regulatory overreach, inconsistent application of rules or inadequately trained agency staff.

It is equally important to note that most participants expressed a strong environmental ethic, a desire to do the right things in order to preserve their farm business for future generations and to maintain goodwill in their communities.

The action items that emerged from these comments can be summarized as follows:

- **Implement a training program specifically for agency staff members with whom dairy farmers interact.**
- **Expand basic and dairy-specific agricultural educational outreach to legislators and other rule makers.**
- **Expand educational outreach to dairy farmers to raise awareness of environmental issues.**
- **Expand efforts to help dairy farmers engage in stewardship messaging.**
- **Create an emergency response tool kit for dairy farmers.**

It is certainly true that MMPA Directors are themselves very much aware of the issues discussed here, both from their own experience and from their interactions with other farmers. MMPA staff members also have perspectives on environmental concerns based on their interactions with dairy farmers. Thus it is likely that most of the information gleaned from these conversations will reaffirm what was previously known, providing support for MMPA policy positions and programs that are already in place. But the candid input from this diverse group should also stimulate ideas for new steps MMPA might consider as it continues to serve the men and women who comprise Minnesota's dairy industry.

OVERVIEW

Minnesota feedlot rules date back to 1971, when rules requiring livestock producers to control runoff from feedlots and to properly use manure as a fertilizer were first enacted. Since then, feedlot rules have gone through many revisions resulting in a labyrinth of permitting, recordkeeping and regulatory requirements. Many of the most onerous rules were put into place during an era State Senator Steve Dille dubbed “the feedlot wars” that began in the late 1990’s and ended in 2006. Many livestock producers would suggest that the feedlot wars are still on and that the battlefield has simply shifted.

Depending on size and location of their farm operation, Minnesota dairy producers may interact with a county feedlot officer (CFO) or directly with the Minnesota Pollution Control Agency (MPCA). Those who expand or modernize their facilities also become familiar with local and state requirements for building permits, and many are subject to National Pollutant Discharge Elimination System (NPDES) permits or State Disposal System (SDS) permits. Others have entered open lot agreements. Most are required to implement varying degrees of manure management planning, recordkeeping and reporting.

Beyond basic feedlot and manure storage practices, rules now require such add-ons as clean water diversions, vegetative filter strip and silage leachate controls. In short, few dairy producers operate completely untouched by environmental regulations. Couple this with health and safety requirements and one might begin to wonder how dairy farmers find time to get chores done.

Feedlot rules and manure management requirements are generally not viewed as excessively burdensome to the extent that they align with good economic and stewardship principles. Other rules and requirements, particularly those involving expensive information-gathering for environmental review, often add cost without real benefit, either to the environment or to the producer. These added costs are especially difficult for smaller operations to absorb and have the unintended consequence of shaping the dairy industry in exactly the opposite manner from that sought by activists opposed to larger dairies. Several participants in this study cited examples of small dairies that planned modest expansions in order to remain economically viable, often when bringing the next generation into the operation. Their plans were stopped by the costs associated with environmental review. In some cases, expansion plans were scrapped and eventually the dairy exited the industry. In other cases, expansion plans were increased in order to spread costs over a larger number of cows.

Overall, the trend for more rules to be adopted and for rules to be applied to more producers as herd size thresholds are reduced is disconcerting to dairy producers. Many wonder, “At what point will regulations put me at a competitive disadvantage to producers in neighboring states (if they haven’t already)” and “where will it (the development of new rules) end?”

METHODS

Minnesota Agricultural Water Resource Center (MAWRC) provided facilitation for the focus groups and interviews conducted for this report. MAWRC brings a different experience and perspective to this project, best characterized as being generally aware of the feedlot regulations affecting dairy farmers without having been directly involved in what one participant described as “the fray.”

MMPA staff provided a list of dairy farmers representing a wide spectrum of herd size and geographic distribution, but all of whom were of a size that would have likely necessitated some level of interaction with a regulatory or permitting agency. MMPA staff also made initial contacts to invite producers into the process.

Interviews were conducted either individually or in small groups. Interviews and focus groups began with a brief overview of the process. Participants were assured that all responses would be summarized without attribution to a particular individual, affording them at least some ability to speak candidly. Participants were asked to provide input based on their experience to address the following key questions:

1. What environmental regulations/requirements currently affect your dairy operation?
2. How has your dairy operation changed in response to these regulations/requirements?
3. What do you see in the future relative to environmental regulations/requirements?
4. As a dairy producer, what changes would you make to environmental regulations/requirements?

SUMMARY OF PARTICIPANT RESPONSES

PEOPLE MATTER

Most concerns involved lack of experience, agricultural knowledge and continuity of County Feedlot Officers (CFOs), Minnesota Pollution Control Agency (MPCA) staff and Natural Resource Conservation Service (NRCS) staff.

“We have a revolving door in our County Feedlot Officer. It seems like we are constantly training someone. And if there is a change while you are in the permit process, it is basically like starting over.”

Several participants, even those expressing concerns about agency staff and CFOs, also stated that they have worked with some agency staff and CFOs who were very helpful. And not all frustration with the process was directed at CFOs and agency staff, as three participants noted that preparation and understanding of the process on the part of the farmer can also contribute to complications.

“The permit process is something most farmers only do once or twice in their life, so it’s hard to get good at it.”

Participant responses often referred to trust issues:

“MPCA doesn’t seem to trust agronomists and vice versa.”

“Keep a log and document all conversations you have with officials.”

AGENCY REPORTING REQUIREMENTS

Most respondents voiced frustration with MPCA and NRCS manure management plan reporting requirements, noting that a single report suitable for both agencies would be preferred. Two participants wondered whether anyone actually looks at the paperwork they submit, and one respondent's qualified response suggested that the solution should not be to give additional, unrequired information to either agency.

"I can understand that each agency is trying to carry out different rules, so they need different information, and I don't want to provide more information than they need, but couldn't they at least get together and develop a simpler report form?"

INCONSISTENCY OF RULES AND THEIR ENFORCEMENT

Some participants expressed concerns with the rules themselves:

"Ag scientists and agronomists need to be involved in the rule making. Too much of it doesn't make sense."

Other participants expressed concerns with inconsistent application or implementation of rules:

"The regulations make some sense, but they aren't applied uniformly."

Dairy farmers are strongly interested in achieving long term sustainability through a combination of efficient production and resource protection. The exact combination of the two as viewed on each farm is influenced by many factors including how they address regulations. While all participants expressed a strong stewardship value, many also expressed frustration.

The perceived increased scrutiny many farmers feel is directed toward them produces a heightened sensitivity regarding environmental rules and a where-will-this-end fear. While all dairy farmers are regulated and attempt to do the best they can, the rules require more of larger operators (over 1,000 animal units) than they do of smaller operators. But even smaller operators express concern that at some point they may be required to document and report on practices more like larger operators are required to do currently.

The variable rules and their application presents two challenges for MMPA. First, there is an opportunity to provide producers with the best current available science to help guide them to make appropriate management decisions, recognizing that stewardship is not size-dependent even though it looks different on each farm. Second, MMPA should continue to work with rule-making agencies to minimize the extent to which rules drive management, thereby maximizing flexibility in meeting environmental goals on their farms. Producers agree that education and knowledge are more effective than rules and regulations at improving farm management.

INADEQUATELY FUNDED ASSISTANCE PROGRAMS

Several participants cited the lack of available EQIP (Environmental Quality Incentives Program) funding, particularly for manure storage projects.

“It would sure be nice if there was more EQIP funding available for manure storage. Some people suggest that we should foot the whole cost ourselves, but the reality is that we wouldn’t need that much storage if not for their rules. As a banker, they look at manure storage as a negative, not an asset.”

Producers also voiced concern that not only do the government rules dictate how much storage is needed, NRCS engineering plans result in significantly higher costs.

“The NRCS cost share for manure storage barely covers the over-engineering they require.”

Producers acknowledge that MMPA has been a clear and consistent voice with NRCS, calling for both adequate funding and practical engineering of projects.

CONCERNS WITH ENVIRONMENTAL REVIEW PROCESS

Participants of all sizes noted that the environmental review process is especially difficult for smaller farms, citing numerous examples of dairy farms being forced out of business due to high costs to comply with the process or forced to expand their business to spread those costs over more cows.

“Regulations are killing the little farmers. The big ones have staff devoted to the paperwork or work with a consultant, the small ones are left to deal with the issues alone.”

The irony of this unintended consequence is that activists who sought more stringent environmental review rules were attempting to discourage what they defined as “large” dairies. These same activists decry the conversion of alfalfa and pasture to corn and soybeans with no realization that this too is an unintended consequence of their actions. Their anti-dairy activism drove many dairy families out of business, which in turn reduced the need for alfalfa and pasture, which left these acres in search of an alternative use, which in many cases was indeed corn and soybeans. This is not an indication that row-crops cannot be grown in a sustainable way, but does hint at the growing recognition, especially in those regions of the state where dairy is still prevalent, that cows are good for the land.

CONCERNS FOR FUTURE REGULATIONS

Participants described any expansion of regulations as unnecessary and potentially burdensome, to the point of forcing producers out of business. Air quality rules and water availability were cited most often by larger producers. Further limits on winter manure spreading were most often cited by small to medium sized producers. Controls on runoff from feed storage areas were cited as possibly affecting producers of all sizes.

ACTION RECOMMENDATIONS

Participants offered several very specific recommendations, most of which MMPA is already doing to some degree.

Implement a training program specifically for agency staff members that interact with dairy farmers.

“Someone needs to design a training program for agency staff.”

“Every new CFO should have some basic ag training as one of the first things they do.”

A training program could be developed in partnership with agencies. Agencies should also be encouraged to hire staff with agricultural training. A participant also suggested that MMPA consider a recognition program in which farmers nominate an agency staff member for providing good service as an effort to train through positive reinforcement.

Expand basic and dairy-specific agricultural educational outreach to legislators and other rule makers.

“Those who make the rules should understand what they are doing. Do legislators know what they are approving? Maybe we need to get more of them (legislators) out on farms and show them what is happening.”

Outreach to legislators could provide partnership opportunities across all of agriculture on general issues and across the dairy sector on specific issues. Respondents recognize that MMPA is already actively engaged in educating policymakers, but suggest that even more is required.

Some respondents were very willing to be directly involved in these efforts, but some prefer to not speak out for fear of retribution from agency staff. These producers are especially supportive of MMPA efforts on their behalf.

Expand educational outreach to dairy farmers to raise awareness of environmental issues.

“Education for farmers- not everyone knows all the rules, not everyone knows all there is to know about every aspect of their farming operation- things are changing so fast.”

Outreach to farmers again provides partnership opportunities across all of agriculture on general issues and across the dairy sector on specific issues. Education should address both basic regulatory compliance issues and good production practices. While dairy farmers express a strong stewardship ethic and care for the land and animals under their management, there is also a widely held belief that collectively, “we” (dairy farmers in general) can do better, and that the solution is in education and helping farmers understand the connection between their practices and the environment—not in another government agency program.

This educational challenge provides an opportunity for MMPA and MAWRC to collaborate. MAWRC is currently developing an environmental education program as a web-based tool to make farmers aware of environmental pressures, evaluate and acknowledge the things they are already doing to address these pressures, and to challenge them to learn and do more. This program will be available by August 2013.

Expand efforts to help dairy farmers engage in stewardship messaging.

Most participants recognize that efforts to increase regulation are usually associated with fears or concerns brought by activists based more on emotion than fact. While participants are generally aware and appreciate current MMPA efforts to portray dairy farmers in a positive light, they also recognize the need to do even more to respond to what they perceive as an unrelenting barrage of criticism. Several respondents voiced willingness to be part of outreach efforts, but need coordination and assistance from MMPA in developing message points.

MMPA should consider expanding its current stewardship messaging toolkit, either specific to dairy or in partnership with other agricultural organizations, or some combination of both. Expansion and focus of current programs should provide media training, public speaking coaching and awareness of stewardship issues. MMPA is perceived by many producers as a leading organization in these efforts currently, but those same producers believe that even more is needed.

Create an emergency response tool kit for dairy farmers

Several producers called for a targeted education program to help dairy farmers understand the regulatory process and be prepared for the worst. This tool kit should include an overview of the permit process, reporting requirements, public meeting planning, interacting with regulators and dealing with citizen complaints. This recommendation seems to stem from resignation that the MPCA process is not likely to change anytime soon and that all farmers should have at least a basic emergency response plan for responding to a notice of complaint.

Based on participant feedback, this action recommendation appears to represent the single most significant new direction for MMPA. MDA and MPCA have publications available that summarize feedlot rules, which can be found at:

<http://www.pca.state.mn.us/index.php/topics/feedlots/feedlot-publications.html>, for MPCA, and
<http://www.mda.state.mn.us/animals/livestock.aspx>, and
<http://www.mda.state.mn.us/animals/feedlots.aspx>, for MDA.

These webpages should be added as Industry Links on the MMPA website and made available in other educational formats as well. This tool kit also provides an opportunity to work with other MAWRC groups on broader educational programs.

POSTLUDE

In the words of one study group participant-

“What’s the solution? Exactly what we are doing here. But we need to expand the conversation. The conversation should include farmers, environmentalists, legislators—we’re all in this together.”