Regulatory Dilemma

by **KINDRA GORDON,** *field editor*

"Alternative proteins are a topic I'm talking about more and more," said Mark Dopp, as he presented remarks to the National Cattlemen's Beef Association (NCBA) Agriculture & Food Policy Committee Feb. 2 in Phoenix, Ariz., during the 2018 Cattle Industry Convention.

Dopp, who is general counsel and senior vice president of regulatory and scientific affairs for the North American Meat Institute, explained the reason this topic is garnering attention is because the regulatory process for animal-based, lab-grown proteins coming into the marketplace is yet to be determined.

While there are currently no animal-based proteins on the market, they could be available by the end of the year, Dopp speculates.

At issue is which agency will have regulatory jurisdiction. Will it be the Food Safety and Inspection Service (FSIS) or the Food and Drug Administration (FDA)? Dopp notes that plant-based proteins — like Boca burgers — are regulated by FDA under the *Food, Drug and Cosmetic Act*, while the *Federal Meat Inspection Act* gives primary jurisdiction regarding meat and poultry to FSIS.

One key difference between the two agencies, according to Dopp, is that FSIS-regulated products must gain label approval from the USDA Secretary. While there is no label approval required of FDA-regulated products, the Federal Trade Commission (FTC) does have jurisdiction over advertising claims for these products.

Are they meat?

Thus, in determining which agency will oversee animal-based alternative proteins, the question to be answered is: Are alternative animal-based proteins considered meat?

NCBA sets policy regarding 'fake meat'

At the 2018 Cattle Industry Convention in early February in Phoenix, members of the National Cattlemen's Beef Association (NCBA) set policy in an effort to prevent misleading label claims on alternative protein products that are lab-grown.

Recognizing that many products are being falsely marketed as equivalent or substitutes for beef, the resolution notes that NCBA opposes "alternative proteins being permitted to use nomenclature associated with protein sourced from livestock production." It further states that NCBA supports "the definition of beef to only include products derived from actual livestock raised by cattle farmers and ranchers and harvested for human consumption."

In the coming months, NCBA staff will be waging a campaign on two fronts:

- Ensuring that product labels accurately describe the product and do not disparage beef.
- Working with the federal government to define clear regulatory jurisdiction over new products.

As alternative animal-based proteins — sometimes dubbed "fake meat" — gear up to enter the marketplace, the regulatory process for these products is yet to be determined.

Dopp shared that one statute dating back to 1906 defines meat as "part of the muscle … which is skeletal or which is found in the tongue, diaphragm, heart or esophagus." However, that definition does not align with what is in current federal code, which means today's administration will need to decide which agency will regulate the animal-based protein products.

Dopp does, however, believe lab-grown or lab-cultured animal-based proteins should fit in the meat byproduct or meat food product definition as it is currently defined in the statute. Currently, meat byproducts include items like pepperoni and luncheon meats.

"This gives guidance of who should have jurisdiction over these products if and when they enter commerce … It should be FSIS," he said. "Do I know that's going to be the case? No."

If FSIS were given regulatory oversight of animal-based alternative proteins, Dopp said several key questions will need to be addressed:

- Will the cells used have to come from an animal that passed antemortem inspection?
- Will the plant manufacturing the alternative animal-based protein product need a Hazard Analysis Critical Control Point (HACCP) plan, a Sanitation Standard Operating Procedure (SSOP), and federal inspection as is required of other animal food-processing facilities?
- What type of sampling regimen, if any, is appropriate?
- For labeling, will there be some kind of disclosure on the label?
- What about use of the term "clean meat?" Will that be allowed?

Dopp underscored that these issues will need to be evaluated to ensure fairness of new products with existing products in the marketplace. Regarding the term "clean meat," he added, "I'm pretty confident that term is not going to be permissible because it calls into question the integrity of the market — suggesting everything else is dirty."

Other issues

Dopp said additional issues raised by the alternative-protein production process include recognizing the environmental impact isn't necessarily lessened because a slaughter facility is being traded for a large manufacturing laboratory. Additionally, if alternative proteins displace meat production and consumption, there will be ramifications to other products, including leather, pet foods, pharmaceuticals, cosmetics and other coproducts.

On the other side of the coin, if animal-based alternative proteins are put under FDA jurisdiction, Dopp said it will likely be a quicker process to get them into the marketplace. However, he added, they will not be able to be referred to in any way as meat.

"If it's meat then how does it not end up under FSIS and USDA?" he pointed out.

Another question to consider under FDA jurisdiction: Might the lab-grown product be considered "bioengineered" under the GMO law?

Whatever happens, Dopp said, the critical point is this, "We need to make sure the playing field [of regulations] is level for everybody."

Editor's Note: *Kindra Gordon is a freelance writer and cattlewoman from Whitewood, S.D.*