



Growth and Competitiveness

Priorities for 2011

National Grain and Feed Association (NGFA)



About the NGFA

The National Grain and Feed Association (NGFA), established in 1896, is comprised of more than 1,000 companies that operate more than 7,000 facilities and handle more than 70 percent of U.S. grains and oilseeds throughout the 48 continental states and in more than 300 congressional districts. NGFA-member companies operate facilities that are key participants in the economies of approximately 1,000 U.S. counties. NGFA-member companies comprise all sectors of the industry, including country, terminal and export elevators; feed and feed ingredient manufacturers; cash grain and feed merchants; biofuels producers; and end-users of grain and grain products, including grain processors, flour millers and livestock and poultry integrators. Affiliated with the NGFA are 26 state and regional grain and feed associations. The NGFA has strategic alliances with the Pet Food Institute and North American Export Grain Association.

NGFA's 2011 Legislative Priorities

Farm Bill

The NGFA supports public policies that allow U.S. agricultural producers and agribusinesses to enhance income from the marketplace and do not distort planting and marketing decisions. The NGFA opposes discredited acreage-idling programs and other supply control measures that encourage foreign plantings, result in lost market share for U.S. agriculture, and undermine the global competitiveness of U.S. grains and oilseeds, processed commodities and meat products.

Concerning the next farm bill, the NGFA urges Congress to:

- **Redirect available conservation funding to working land conservation programs:** Land retirement remains a major thrust of the U.S. Department of Agriculture's conservation

programs, accounting for nearly half of conservation expenditures. The CRP, in particular, has contributed to reduced plantings of certain grains, particularly wheat, as well as undermined the economic viability of rural communities and the availability of land for young and tenant farmers. The NGFA supports placing a priority on working-land conservation programs, such as the Conservation Stewardship Program (CStP) and the Environmental Quality Incentives Program (EQIP). We also urge Congress to reduce the 32-million-acre statutory cap on the CRP; reevaluate and reduce the 25 percent county cap on CRP enrollments; and reiterate congressional intent that the cap represents a ceiling, and not a floor.

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- **Market-oriented farm income supports:** To the extent it provides a safety net for agricultural producers, the NGFA encourages Congress to utilize crop and/or revenue-assurance programs that are not market-distorting, are trade-compliant, and do not undermine U.S. agricultural growth and competitiveness.
- **Avoid constraints on contracting freedom:** U.S. agricultural markets are among the most transparent in the U.S. economy. The NGFA supports clarification of the 2008 farm law to preserve contract sanctity and opposes attempts to impose legislative restrictions on legitimate commercial activities between producers and agribusinesses. As such, the NGFA opposes attempts at the federal and state levels to enact legislation that would restrict dramatically what is permitted in cash contracting, including limiting the ability of contracting parties to freely negotiate to include arbitration clauses in pre-dispute contract agreements.
- **Support for agricultural export programs:** The NGFA supports continued authorization and funding for U.S. agricultural export and food-aid programs, such as P.L. 480, Food for Progress, and the McGovern-Dole International Food for Education and Child Nutrition Program, which develop and expand commercial markets for U.S. agricultural commodities in international markets and meet humanitarian needs.
- **Support for agricultural research:** The NGFA believes Congress should continue to place high priority on applied agricultural research that holds promise for expanding and/or improving the efficiency and competitiveness of U.S. agricultural production, as well as addressing plant and animal disease threats.

International Trade

The NGFA strongly supports trade as an engine of U.S. economic growth and job-creation. Further, trade is essential to U.S. agriculture, with exports representing up to one-third of total use of U.S. feed grains and 50 percent of total usage of U.S. wheat and soybeans – either as raw commodities or value-added products, such as meat and poultry. **Every \$1 billion in U.S. agricultural exports generates more than 8,000 jobs.**

The NGFA supports a proactive U.S. trade agenda focused on expanding market access and fostering the use of science-based health and safety rules to create additional market opportunities for U.S. grains, oilseeds and value-added exports. We specifically urge:

- **Prompt ratification of free trade agreements with South Korea, Colombia and Panama:** The NGFA urges Congress to ratify promptly the free trade agreements entered into with South Korea, Colombia and Panama.
 - **U.S.-Korea Free Trade Agreement,** once implemented, would result in nearly two-thirds of U.S. farm product exports becoming duty-free immediately, including corn, wheat, soybeans for crushing, corn gluten feed and meal, whey for feed use, cotton, and a broad range of high-value U.S. agricultural products. Other U.S. farm products would benefit from market-free access with new tariff-rate quotas, including soybeans and whey for food use, as well as barley. A zero tariff rate would be implemented for all U.S. pork exports by 2016. Significantly, the U.S.-South Korea accord also would reinforce the prohibition against sanitary and phytosanitary measures being used as trade barriers, and South Korea would recognize the equivalence of the U.S. food safety inspection system for meat and poultry exported to that country. All told, the accord is projected to result in an additional \$1.8 billion in annual U.S. agricultural exports.
 - **U.S.-Colombia Free Trade Agreement** would result in immediate duty-free imports of U.S. beef, wheat, soybeans, soybean

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meal, cotton, apples, pears, peaches cherries and many processed food products. Corn, poultry, and dairy products would benefit immediately from improved market access. Once fully implemented, the net benefit to U.S. agricultural exports is projected to total \$815 million annually. It also would reverse the current inequity that exists in the tariffs applied by each country toward the other, under which 90 percent of Colombian products already enter the United States tariff-free, while most U.S. agricultural and industrial exports to Colombia face tariffs ranging from 5 to 20 percent, as well as other import restrictions.

- **U.S.-Panama Free Trade Agreement** would grant immediate duty-free access to more than 63 percent of current U.S. farm exports to that country, including wheat, soybeans, soybean meal, crude soybean and corn oil, sorghum, barley, whey, high quality beef, mechanically deboned chicken, frozen whole turkeys and turkey breasts, pork variety meats, cotton, and many fruits, nuts and processed food products. The accord also would provide duty-free tariff rate quotas for U.S. corn, rice, dairy products, standard beef cuts and chicken leg quarters. Once fully implemented, U.S. agricultural exports are projected to increase by more than \$195 million annually. This accord also would correct the current disparity in which 99 percent of Panamanian agricultural exports enter the United States duty-free, while the average Panamanian tariff on U.S. agricultural imports is 15 percent (with many key U.S. agricultural exports facing

much stiffer rates amounting to as much as 90 percent on U.S. grains, 70 percent on U.S. meat products and 260 percent on U.S. chicken leg quarters).

- **Removal of trade and travel restrictions with Cuba:** The NGFA supports legislation that restores the “payment-of-cash-in-advance” policy to the commercial terms intended by Congress, thereby eliminating the need for payments for agricultural exports to Cuba to be routed through third-country banks. We also support removing all restrictions on U.S. citizens’ travel to Cuba; removal of the travel ban alone is projected to increase U.S. agricultural exports by more than \$360 million annually.
- **Completion of WTO Doha Development Round agricultural trade negotiations:** The NGFA strongly supports completing negotiations on a comprehensive global trade accord that results in: 1) elimination of export subsidies and non-competitive practices (such as export state trading enterprises and differential export taxes); 2) substantially reduced trade-distorting domestic supports; 3) commercially meaningful market access; and 4) reductions in the trade-distorting elements of trade remedy law.
- **Renewal of president’s trade promotion authority:** Renewal of the president’s trade promotion authority is imperative for a successful completion of the WTO Doha Round, as well as for restoring U.S. leadership on trade and pursuing additional beneficial bilateral and/or regional trade agreements.

U.S. Transportation Infrastructure

An effective transportation infrastructure is vital to enabling U.S. producers and agribusinesses to serve domestic and international markets. Investment in transportation infrastructure facilitates access to markets, increases farm income, reduces consumer prices and enhances consumer choice, and reduces farm input costs.

As the recognized national leader in representing the interests of shippers and receivers of bulk grains, feed, feed ingredients and grain-products, the NGFA continues its extensive activities on rail, barge and trucking issues.

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- **Rail:** The NGFA supports legislation that would: 1) refocus national rail transportation policy to provide a better balance between shipper and railroad interests; 2) address unreasonable practices by railroads at the federal Surface Transportation Board (STB) and expedite consideration of such complaints; 3) provide for economically reasonable reciprocal switching at railroad junction points; 4) provide meaningful access for shippers to contest unreasonable rail freight rates; 5) provide a process to challenge so-called “paper barriers” that restrict the ability of a purchaser or tenant railroad to interchange traffic with carriers other than the seller or landlord railroad; and 6) provide commercial or legal approaches to resolve disputes between carriers and shippers concerning the imposition of some accessorial charges and liabilities.

Further, the NGFA continues to pursue accuracy and transparency in fuel surcharge-related information reported by railroads to facilitate proper monitoring and assessment of such charges. And it supports legislation that would provide tax benefits for investments in rail infrastructure capacity projects undertaken by

railroads and agricultural rail customers.

- **Inland Waterways:** The NGFA strongly supports the comprehensive Inland Waterways Capital Development Plan developed and approved by the U.S. Army Corps of Engineers’ Inland Waterways Users Board as a mechanism for funding construction of new locks on the Upper Mississippi and Illinois River Waterway system, as well as other inland waterways that are major transportation gateways for U.S. grain exports and farm input shipments.
- **Ocean:** The NGFA advocates enhancements to deep-draft harbors to facilitate U.S. export trade, including providing the U.S. Army Corps of Engineers with adequate revenues to maintain the navigation channel for the crucial export ports on the Lower Mississippi River.
- **Trucking:** The NGFA will work to retain, during congressional consideration of a new highway reauthorization bill, a provision that clarifies the intent of the original agricultural exemption of hours-of-service regulations under certain constraints.

Major NGFA Policy Priorities for 2011

Financial Regulatory Reform and Risk Management

The NGFA supported congressional efforts to enhance regulatory oversight to prevent another financial crisis, embodied in the intent of the Dodd-Frank financial regulatory reform law of 2010. In particular, the NGFA supported provisions of the law that improve market transparency and reporting requirements to the benefit of all market participants. Now that implementing rules are being written, the NGFA urges Congress and the implementing agencies to be cautious not to overregulate the financial sector at the risk of stifling creativity and new-product development.

In particular, the NGFA’s efforts during rulemaking implementing the new law are focused upon:

- **Convergence:** The NGFA has voiced strong concerns over the deteriorating relationship between cash and futures values in agricultural commodity markets, which were evident in the Chicago Board of Trade (CBOT) wheat futures contract, and, most recently, in the Kansas City Board of Trade (KCBT) wheat futures contract. The resulting lack of convergence contributed to volatility and uncertainty, imposed financial stress on commercial grain hedgers and limited marketing opportunities for producers. Convergence between cash and futures is a fundamental principle of U.S. futures markets and must be reestablished to serve commercial grain hedgers and their producer-customers. The

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NGFA supported changes made to the CBOT wheat contract by the CME Group, including implementation of a variable storage rate. The NGFA also provided recommendations to the KCBT concerning remedies to address the lack of performance of its wheat futures contract. The NGFA will monitor performance of these wheat contracts. Further, if the variable storage rate concept proves successful for CBOT wheat, the NGFA will consider whether to recommend that such a concept be implemented proactively for the CBOT corn and soybean contracts to forestall potential performance problems.

The NGFA believes strongly that vastly increased participation of investment capital in futures markets has been a major factor contributing to the wheat contract's lack of convergence. The NGFA advocates vigilant oversight by the CFTC to ensure that agricultural futures contracts are not overwhelmed by large volumes of investment capital. To date, the NGFA has not advocated limits on investment capital participation in agricultural futures; however, the NGFA does support maintaining current speculative position limits for agricultural commodities and products. The NGFA also has recommended that the

CFTC reexamine the process under which hedge exemptions are granted, and tighten exemptions granted by the CFTC to swap dealers.

- **Transparency:** The NGFA supported – and will work with the CFTC on implementing regulations mandated under – the Dodd-Frank law's requirements for detailed reporting and data disaggregation of futures market activity. Identification of index traders and swaps dealers active in agricultural futures markets in reporting by the CFTC will assist hedgers in making appropriate risk-management decisions. Increased transparency is important to the usefulness of agricultural markets. Making reporting regular and permanent would shed more light on speculative investment capital's participation in agricultural futures and related over-the-counter activity – helping the CFTC do its job – and in being able to truly judge the impact of speculative investment capital on agricultural futures markets. Improved transparency and reporting also would increase the usefulness of the CFTC's weekly Commitments of Traders report, which the grain, feed and grain processing industry relies upon to assess who is participating in markets, and at what levels.

Agricultural Biotechnology

The NGFA works to build consumer acceptance of the benefits agricultural biotechnology, while also advocating measures that provide appropriate legal, environmental and regulatory review prior to field trials and eventual commercialization of biotechnology-enhanced traits.

- **Biotech-Enhanced Commodities with Different Functional Properties than Their Conventional Counterparts:** An emerging issue is the increasing number of biotech-enhanced traits in grain and oilseed crops that contain functional properties different from their conventional counterparts. Grain handlers' past experience with field releases of unauthorized biotech events is that production and marketing systems designed to channel production away

from unintended uses fail when subjected to prevailing zero-tolerance requirements. The NGFA is working with regulators, as well as technology providers and producers, to: 1) fully assess the potential risk of economic damage associated with the introduction of biotech crops possessing unique output characteristics; 2) make risk-based determinations regarding the appropriate government oversight and prudent production and marketing management that should apply to such traits; and 3) provide appropriate commercial assurance by technology providers to cover economic and market opportunity losses associated with the inappropriate introduction of such specialized traits in the general commodity stream.

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- **USDA APHIS Regulation:** In addition to appropriate regulation of functionally different biotech modifications to crops, the NGFA is urging the U.S. Department of Agriculture's Animal and Plant Health Inspection Service (APHIS) to implement changes to its current approach to regulating experimental-use permits granted for field trials of biotech-enhanced commodities. The NGFA will continue to advocate stringent regulatory oversight of plant-made pharmaceuticals and industrial products not authorized for use in food and feed. Further, the NGFA continues to encourage APHIS to recognize the economic damage that results if unauthorized biotech events enter domestic or export channels, given the zero tolerance that currently exists.
- **International Liability and Redress:** The NGFA continues to work through the International Grain Trade Coalition (IGTC) to address important commercial requirements related to international issues affecting global trade in grains, oilseeds, processed commodities, feed and feed ingredients, and food. The IGTC has been particularly active and effective in addressing issues arising from implementation of an international treaty on biosafety that establishes international rules and procedures governing liability and redress in the event biotechnology-enhanced traits present in commodity shipments are determined to have caused damage to the environment harmful to biodiversity of plant species.

Feed and Animal Agriculture

The NGFA has approximately 350-member companies with commercial feed milling operations and 35 firms with integrated livestock and poultry feeding operations. Through its industry-driven committees, the NGFA effectively addresses feed legislative and regulatory issues. It also interacts extensively with national organizations representing the livestock, poultry and meat industry, as well as the food and restaurant sectors, concerning feed safety and quality, animal agriculture, and agroterrorism-prevention and food-defense issues.

- **Food/Feed Safety Law and Regulations:** The NGFA was involved extensively during the development and enactment of major food/feed safety legislation in 2010-11. In collaboration with the American Farm Bureau Federation and American Meat Institute, the NGFA helped lead a broad-based consortium of more than 30 agricultural producer, agribusiness, livestock and meat groups in advocating that the legislation take a science- and risk-based approach. The NGFA specifically secured provisions in the legislation that:
 - Require the Food and Drug Administration (FDA), where appropriate, to differentiate between food intended for human consumption versus animal feed when developing any regulations or guidance.
 - Significantly improved its product-tracing and recordkeeping provisions that preserve the ability of grain elevators, feed and feed ingredient manufacturers, grain processors, exporters and others to receive, store, handle and ship raw agricultural commodities on a commingled basis.
 - Require that implementation of the legislation be consistent with the rules of the World Trade Organization, as well as other treaties or international agreements entered into by the United States, to safeguard against international trade disputes that could disrupt U.S. agricultural exports.
 - Provide a timely appeal process for facilities whose registrations are suspended by FDA based upon a "reasonable probability" that its products would cause serious adverse health consequences or death to humans or animals.

The NGFA will be providing extensive input to FDA in its implementation of the new law, particularly provisions requiring all facilities registered with the agency under

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the Bioterrorism Act to: 1) analyze hazards, implement controls to prevent those hazards from causing products to be adulterated or misbranded; 2) develop and implement written food/feed safety plans and food/feed defense plans; and 3) develop and implement a foreign supplier verification plan.

In addition to its extensive efforts on food/feed safety legislation and implementing regulations and guidance, the NGFA is immersed with FDA on other feed safety-related matters, including its development of a science- and risk-based Animal Feed Safety System regulatory initiative and a new compliance policy guide on *Salmonella*. The NGFA also works closely

with the Association of American Feed Control Officials and its development of model state feed regulations that promote the safe and effective use of animal feed, as well as uniformity among state feed laws.

- **Feed Safety and Quality Assurance:** The NGFA continues its proactive feed safety efforts through its Model Feed Quality Assurance program, developed in 1994 and updated continually to reflect new developments. In addition, the NGFA develops other educational programs and resource materials that provide guidance to promote regulatory compliance, as well as information on enhancing feed safety by identifying and addressing potential hazards.

Grain Warehousing

The NGFA is working collaboratively with USDA to revise and update the Uniform Grain and Rice Storage Agreement (UGRSA) contract currently entered into between warehouse operators and USDA's Commodity Credit Corporation (CCC) by facilities seeking to offer farm program services to producers or to store CCC-owned commodities. The NGFA previously strongly opposed initial attempts by USDA to delete virtually all substantive provisions of the UGRSA contract that pertain to financial standards (including minimum net worth and submission of annual financial statements for review by CCC);

recordkeeping; insurance; appropriate warehouse practices; and other key provisions.

The NGFA also continues to take a leadership role in defending USDA's exclusive jurisdiction – upheld previously by the courts – to regulate federally licensed grain warehouses, including for producer grain-payable activities. The NGFA will continue to oppose any attempts to legislatively change the U.S. Warehouse Act to shift to states the exclusive authority to regulate such merchandising activities at federally licensed grain warehouses.

Grain Inspection and Weighing

The NGFA will continue to advocate policies that maintain the viability and value of the U.S. official inspection and weighing system of grain-quality measurement addressed primarily in the U.S. Grain Standards Act.

- **Funding GIPSA Inspection, Weighing and Standardization Activities:** The NGFA will continue to work with GIPSA as it modifies its hourly rates and export user fees. Currently, GIPSA has sufficient funds to cover its next two years of operation, but will need to change those rates based upon the current fees and a projected decline in exported tonnage. The NGFA has

encouraged the agency to impose incremental increases in user fees, if necessary, over a period of several years rather than one large change within a single year.

In addition, the NGFA opposes proposals to impose user fees for maintaining the U.S. grain standards, as this governmental function benefits a wide range of users – including farmers and consumers. Further, such a user fee would represent an inequitable tax on bulk grain exports, thereby further reducing U.S. competitiveness in commodities subject to official inspections.

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Safety, Health and Environmental

- **Temporary/Permanent Storage and New Source Performance Standards for Grain Elevators:** The NGFA opposes efforts by the U.S. Environmental Protection Agency (EPA) to change the long-standing USDA definition of temporary storage in an effort to subject such storage to costly Clean Air Act permitting fees. The NGFA is working with five other grain-processing organizations to interact with EPA on this issue during its review of the new source performance standards (NSPS) for grain elevators [40 CFR 60 Subpart DD]. The NGFA is co-chairing the effort with the National Oilseed Processors Association, while the North American Millers Association, Corn Refiners Association, National Council of Farmers Cooperative and USA Rice Federation also are participating in the joint effort.
- **Combustible Dust:** The NGFA will continue to be involved extensively as the Occupational Safety and Health Administration (OSHA) develops regulatory proposals designed to promulgate a general industry standard and initiates a national emphasis program on combustible dusts. The grain-handling industry already is covered by an OSHA standard that took effect in 1988 that addresses combustible dusts in grain-handling facilities. The NGFA submitted a joint statement to OSHA that included a detailed description of the NGFA's

previous research and education efforts to prevent grain dust fires and explosions, as well as a summary of the significant decline in the number and severity of explosions since the OSHA Grain Handling Facilities Standard [29 CFR 1910.272] was promulgated.

The NGFA also will monitor an OSHA-issued combustible dust national emphasis program that includes the wet corn milling [*Standard Industrial Classification (SIC) Code 2046*] and flour and other grain mill product (*SIC Code 2041*) industries.

- **Sweep Augers:** In the aftermath of OSHA's issuance on Dec. 24, 2009 of a sweep auger letter of interpretation, the current uncertainty on what type of equipment can be used and types of procedures that are acceptable to remove grain from bins has caused major concern within the grain handling industry. The overall impact on the industry could be in the hundreds of millions of dollars if grain handling facilities are required to either replace or modify both augers and grain bins based upon the interpretive letter. In an effort to secure safe but reasonable operating conditions for the industry, the NGFA is working to convince OSHA not to impose onerous and unworkable restrictions on the operation of sweep augers inside grain bins.

Conclusion

The NGFA has an active committee structure with industry expertise on all aspects of the grain, feed and processing industry. It also administers the oldest commercial arbitration system in North America. And its Trade Rules are recognized widely as reflecting the industry's standard practices for trade in grains, oilseeds, feed and feed ingredients, as well as barges and barge freight, and are incorporated by reference into the vast majority of U.S. commercial grain, feed and feed ingredient contracts.

Please contact the NGFA concerning any of the aforementioned priority issues and subject areas.

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