



NGFA

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Agribusiness Groups Developing Expanded Industry Facility Security Guide

The NGFA is leading an effort involving four major national agribusiness organizations to develop an updated, expanded guide to further assist industry firms in conducting security risk assessments and developing risk-based facility security plans as part of the industry's ongoing, proactive efforts to protect the food and feed supply.

Initially developed by the NGFA in 2001 shortly after the Sept. 11 terrorist attacks, the guide will convey new information and provide, for the first time, an easy-to-use template that agricultural facilities can use as a framework to develop or revise existing facility security plans. The guide is intended for grain

elevators, feed and feed ingredient manufacturers, flour mills and other grain and oilseed processors in developing or modifying facility security plans to incorporate procedures that are effective, practical, risk-based and realistic based upon the type, characteristics and operation of individual facilities, as well as the geographic surroundings in which they exist.

The project is being spearheaded by a Joint Agroterrorism/Facility Security Committee that consists of representatives of member companies from the NGFA, North American Export Grain Association (NAEGA) and Grain Elevator and Processing

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National Academy of Sciences to Examine FDA Food Safety 'Gaps'

The National Academy of Sciences (NAS) has begun work on a congressionally mandated study to identify "gaps" that may exist in the Food and Drug Administration's (FDA) regulation and oversight of food and feed safety.

During a Dec. 22 meeting attended by the NGFA and other groups, officials of the NAS' National Research Council and Institute of Medicine said the 16-month study, scheduled to begin in January, will address the recommendations contained in FDA's Food Protection Plan, identifying gaps that still may exist and developing recommendations for filling those voids. NAS officials indicated that while the study will focus on human food safety, animal feed safety – particularly as it affects human consumption of foods of animal origin – also likely will be examined.

FDA's Food Protection Plan, issued in November 2007, identified three core elements of its future food and feed safety efforts – prevention, intervention and response – with most of the focus placed on developing a science and risk-based approach for prevention of food and feed safety hazards, starting at the point of production. Within the prevention element, FDA said it planned to require companies to implement food-defense measures to prevent intentional adulteration and announced its intent to develop hazard analysis and critical control point (HACCP) or equivalent-type regulations applicable to specific types of food or feed that have been linked to repeated instances of serious health problems or deaths in humans or animals. The

agency also called on Congress to grant it mandatory recall authority, as well as authority to accredit independent third parties to audit facilities willing to undergo voluntary certification for compliance with food and feed safety regulations as a way to allow FDA to better allocate its inspection resources. The agency recently issued a one-year progress report on implementation of its Food Protection Plan, which members receiving the *NGFA Newsletter* electronically may access by [clicking here](#).

Specifically, NAS officials said the report will:

- ▶ evaluate the FDA Food Protection Plan from the standpoint of previous reports emanating from the NAS, the FDA Science Board and the Government Accountability Office (the investigatory arm of Congress) that have contained recommendations for strengthening the agency's food safety efforts;
- ▶ identify strengths and weaknesses in the FDA Food Protection Plan, including factors that may limit its effectiveness, as well as identification of any needed revisions or additions; and
- ▶ identify and recommend enhancements to FDA's tools and capacity needed to implement a "comprehensive plan and assure a risk-based...system" to minimize food safety hazards. Among the areas to be explored, NAS officials said, were the

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adequacy of FDA's existing or needed regulatory tools; statutory authority; research programs; resources required for research, scientific and technical infrastructure, standards setting, inspection and enforcement; integration of FDA programs with other regulatory and public health agencies involved in food-safety surveillance, research and regulation; expansion of FDA's international presence and regulatory information exchange with foreign governments; and changes in organizational and leadership structures on food safety within the U.S. Department of Health and Human Services.

The NAS study was mandated by Congress in the 2008 appropriations act that funded the agency. NAS currently is in

the process of identifying 13 to 15 persons to serve on a committee that will conduct the study, and is seeking those with expertise in a wide array of fields, including public health, economics, food safety, trade, food law, risk assessment, epidemiology, immunology and other scientific disciplines.

NAS officials said they hoped to form the committee in time to conduct an initial meeting in mid- to late-January, during which a detailed plan will be developed to conduct the study. Tentative plans are to conduct a second public meeting in mid-March that would include a workshop on various food safety issues. A final report is scheduled to be issued during spring 2010.

Feed Regulators to Continue Discussions on Feed Safety Initiatives

The Association of American Feed Control Officials (AAFCO) – the professional organization of state and federal feed regulatory officials – is scheduled to resume discussions on several feed safety initiatives when convening for its mid-year meeting on Jan. 20-22 in Tucson, Ariz.

Several members from the NGFA's Feed Legislative and Regulatory Affairs Committee who serve as key industry advisers to various AAFCO committees will be participating in the meeting. The committee is chaired by Brad Gottula, quality assurance and plant manager for Quality Liquid Feeds, Dunlap, Iowa. NGFA Director of Feed Services David Fairfield and Randy Gordon, NGFA vice president for communications and government relations, also will be participating as industry advisers to AAFCO.

Feed safety initiatives expected to be a focus during the AAFCO meeting include:

▶ **AAFCO Verification Program for a Voluntary Hazard Analysis and Critical Control Point (HACCP) Plan:** It is likely that the AAFCO Board of Directors will assign the Feed Manufacturing Committee the task of reviewing a draft document developed through an AAFCO task force that attempts to establish a HACCP "standard" for the feed industry. The expressed goal of the "standard" is to enable the uniform adoption and provide a basis for equivalency for voluntary HACCP plans.

▶ **Non-Commercial Feed Model Bill:** A new stand-alone non-commercial feed model bill again will be discussed during the meeting. The model bill, if approved by the AAFCO membership, could be used by states that adopt it to expand feed safety regulation to feed manufactured on-farm. The non-commercial feed model bill is patterned after the Model Bill developed by AAFCO many years ago that applies to commercial feed products distributed in commerce by feed and feed ingredient manufacturers. The core of the non-commercial feed model bill is a section that addresses conditions

under which feed manufactured on-farm would be deemed to be adulterated, including if it bears or contains poisonous or deleterious substances that may render it injurious to human or animal health or that are considered unsafe within the meaning of the Federal Food, Drug and Cosmetic Act.

There are indications that action on this measure again will be delayed, as AAFCO may rely on the Food and Drug Administration to encompass on-farm manufactured feed as part of its Animal Feed Safety System rulemaking – expected to begin in mid-2009 – that would apply to all feed and feed ingredients, regardless of the source of manufacture.

FDA Likely to Propose Feed Safety Regulatory Changes in 2009:

In a related matter, the Food and Drug Administration (FDA) plans to propose changes to its regulations governing feed and feed ingredients by mid-2009. The proposed regulations emanate from FDA's Animal Feed Safety System (AFSS) initiative launched in September 2003, under which the agency is attempting to develop a comprehensive, risk-based regulatory framework that describes how animal feeds (individual ingredients and mixed feeds) should be manufactured, distributed and used to minimize risks to animals consuming the feed and humans consuming food products from animals. FDA has stated such a framework would apply to all sectors of the feed and feeding industries, including feed ingredient manufacturers, on-farm operations and transporters.

Two key areas expected to be addressed by FDA in its forthcoming proposed regulations include:

▶ **Limits for Animal Feed Contaminants:** Within the AFSS initiative, FDA has developed a risk-ranking model the agency can use to evaluate the relative risk a contaminant poses to animal and human health compared to those posed by other feed contaminants. FDA intends to use this information as it assesses the need to establish new or revised regulatory or guidance limits for contaminants that may be present in feed.

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◆ **Process Control for the Production of Feed Ingredients and Mixed Feed:** FDA says its regulations will embody the concept of process control, which it defines as "a systematic approach designed to ensure feed safety through the identification and use of appropriate controls during the manufacturing, packaging, storage and distribution of feed ingredients and mixed feed." FDA further states that "feed process control entails measures seeking to prevent, or eliminate or reduce, to an acceptable level, risks to animals and humans." It is anticipated that the forthcoming AFSS regulations will propose that feed facilities identify and implement steps to adequately control potential feed safety hazards within their operations. It also is anticipated that FDA will provide guidance to assist facilities in risk-based decision-making.

The NGFA has established a task force to evaluate potential responses to the anticipated requirement that feed companies conduct an analysis of potential feed safety hazards and implement controls to limit risks to animal or human health.

Other Issues at AAFCO Meeting: AAFCO's January meeting agenda also includes committee meetings that will delve into the following issues:

◆ Developing guidance for the biofuels industry on feed regulations that apply to co-products from ethanol production, such as distillers grains.

◆ Proposals to adopt official feed term definitions for several feed ingredients, including dehulled, mechanically extracted soybean meal; modifications to existing feed ingredient definitions; adding "dietary starch" as a new feed term; and discussing a new feed term definition for "fractionate" with respect to distillers grain production.

◆ Consideration of whether and how to define a principal display panel on feed labels, and the kind of information that should be required thereon.

◆ Discussion of whether to require labels accompanying shipments of distillers grains to specify the level of sulfur present.

◆ An update from a task force that is examining whether and how to change the nutrient profiles and feeding protocols for pet food products.

◆ A review of the implementation of AAFCO's new Long-Range Strategic Plan, which includes a proposal to create a new executive director position for the organization to provide leadership for the projects it undertakes, interacting with FDA and industry, and coordinating committee activities.

◆ Further developing plans for AAFCO's commemoration of its 100th anniversary at its August 2009 annual meeting in Washington.

FDA Issues Draft Guidance on Revisions to BSE-Prevention Feed Rules

The Food and Drug Administration (FDA) on Nov. 25 issued a draft guidance for industry document designed primarily for use by renderers on how to comply with the agency's feed regulations [21 CFR 589.2001] designed to prevent the establishment or spread of bovine spongiform encephalopathy (BSE).

The changes to FDA's regulations, which take effect April 27, specifically prohibit the use of certain additional cattle materials in animal food or feed.

Although its contents principally apply to rendering operations, the guidance document also provides information related to tallow of interest to feed manufacturers. Specific guidance provided for tallow within the document includes:

◆ Tallow meeting the regulation's impurity standard of no more than 0.15 percent insoluble impurities may be used in feed intended for all animals, regardless of the tallow's origin.

◆ Tallow that is derived from prohibited materials and that contains more than 0.15 percent insoluble impurities is prohibited from use in all animal food and feed.

◆ Tallow that does not meet the 0.15 percent insoluble impurities standard is prohibited from use in ruminant feed, but may be used in feed for non-ruminant animals **if** the tallow is derived from documented sources free of cattle materials prohibited from use in animal food or feed.

◆ If tallow distributed does not meet the impurity standard, renderers are to label the product with the caution statement: "Do not feed to cattle or other ruminants."

◆ Under the BSE-prevention feed regulations, tallow means the rendered fat of cattle. All other fats and oils not derived from cattle are not subject to the regulations. These other materials, for example, would include, but not be limited to, fats and oils derived from poultry, pork, sheep, goats, equine, fish and vegetable-based sources. In addition, recovered cooking oils from restaurants and food processors are exempt, because any tallow present in them is from edible sources from which cattle materials prohibited from animal feed already have been removed under USDA inspection.

Members receiving the *NGFA Newsletter* electronically may [click here](#) to access the draft FDA guidance document.



Biotechnology

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Syngenta Completes FDA Consultation on New Biotech Corn

Syngenta on Dec. 22 announced that it had successfully completed the consultation process with the U.S. Food and Drug Administration (FDA) for its new Agrisure Viptera™ trait (MIR162 event), a biotechnology-enhanced corn designed to control a broad spectrum of lepidopteran corn pests, including corn earworm, Western bean cutworm, black cutworm and fall armyworm.

Completion of the FDA consultation follows November's approval of the product by the U.S. Environmental Protection Agency, which found it safe for the environment.

Pending completion of all remaining U.S. and "key global regulatory approvals, including import approvals," Syngenta projected that hybrids containing the new biotech corn trait will be available for commercial planting in spring 2010.

The trait only will be available stacked with either the Agrisure® 3000GT trait stack for control of European corn borer, corn rootworm and glyphosate or glufosinate herbicide tolerance, or the Agrisure GT/CB/LL stack for control of European corn borer with glyphosate and glufosinate herbicide tolerance.



Newsletter

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NGFA's 37th Annual Country Elevator and 12th Annual Feed Industry Conference ...A Pictorial Review of Conference Highlights...

More than 650 country elevator and feed mill managers, as well as their key employees, thronged to St. Louis, Mo., on Dec. 7-9 for the NGFA's Country Elevator and Feed Industry Conference, conducted at the Marriott Renaissance Grand Hotel.

They were treated to an outstanding array of speakers – many commented the best ever – on diverse topics vitally important to grain elevators, feed mills and integrated livestock and poultry operations. The event was topped off with a trade show featuring a record 88 exhibitors showcasing the latest products and services for the industry. PowerPoint presentations of the speakers are available on the NGFA's website at www.ngfa.org. Members receiving the *NGFA Newsletter* electronically may [click here](#) to access those files directly.

Mark your calendars now for the 2010 edition of this outstanding conference, scheduled for Dec. 6-8 in Kansas City, Mo., at the Hyatt Regency Crown Center.



Photo Courtesy of Grain Journal





NGFA Chairman Tom Coyle, general manager, Chicago & Illinois River Marketing LLC, Chicago, Ill., discusses the NGFA's priorities for 2009 as he welcomes conference participants.



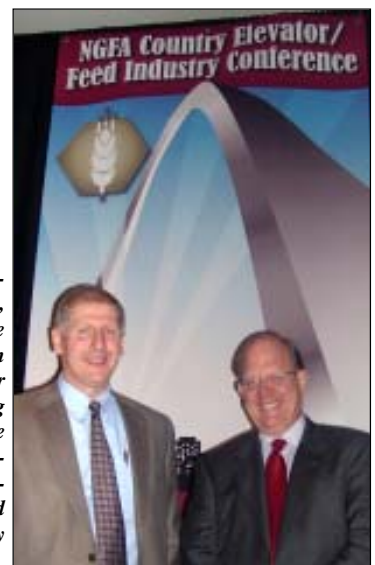
Scott Colbert, director of fixed income management and senior economist for Commerce bank of North America, St. Louis, Mo., provides a very informative address on the nation's economic and credit situations. Among other things, he projected a "deep and severe" recession by historical standards, and said that a modest recovery is not likely to begin until late 2009. The key drivers, he said, are the substantial decline in credit conditions, accelerated unemployment, falling home prices and the recent decline in equities. Deteriorating credit ratings, Colbert said, are creating a "massive headwind" that could persist for a decade.



An all-star panel discusses cash grain marketing strategies for 2009. Pictured are (from left): Dr. Darrel Good, professor, Department of Agricultural and Consumer Economics, University of Illinois, Champaign-Urbana, Ill.; Jim Hemminger, risk management specialist, TopThird Ag Marketing, Chicago, Ill.; Mike Rokala, risk consultant, John P. Stewart Associates, Minneapolis, Minn.; and Steve Hurst, chief executive officer, Merchants Group LLC, Chicago, Ill. Good also discussed potential underlying causes of the lack of convergence in CBOT wheat futures. Rokala advised managers to be conservative in offering delayed price contracts given market volatility and counterparty risk, and predicted that 30 to 40 percent of hedge funds could be out of business within four months.



Sara Wyant, publisher of Agri-Pulse Communications, St. Charles, Ill., provides perspectives on key Cabinet appointments and prospects for the incoming Obama administration, as well as the changing makeup of Congress and what it will mean to the grain and feed industry's legislative agenda.



David Sparks (left), regional manager, Commercial Agribusiness Group, CoBank, St. Louis, Mo., is shown with NGFA Country Elevator Committee Chairman Bryce Wells following his remarks on how country elevators can make the best case for securing needed capital for operating and hedging activities in 2009. Sparks' bottom line: There should be adequate credit available to country elevators and feed mills, but lenders will be demanding more information from their borrowers and focusing increasingly on the extent to which they are protecting against counterparty risk.





Dr. Allan Gray (left), interim director and professor at Purdue University's Center for Food and Agricultural Business, West Lafayette, Ind., is shown with Country Elevator Committee member John Brammeier, Grain Division manager for Co-Alliance LLP, Danville, Ind., after presenting the results of Purdue's new survey of what large producer-customers want from feed mills, grain elevators and farm supply businesses. In a dynamic address, Gray discussed the factors that influence purchasing decisions of these key producers, as well as how they evaluate agribusinesses with which to do business. The study also provided indicators on whether row crop producers intend to expand or reduce the size of their operations.



Fascinating perspectives on the drivers that are causing an increased focus on food and feed safety, as well as how those factors will ripple down to country elevators and feed mills, were provided by Kevin Murphy (left), founder/owner of Food-Chain Communications LLC, Kansas City, Mo., and Dr. Craig Henry, senior vice president and chief operating officer for scientific and regulatory affairs at the Grocery Manufacturers Association, Washington, D.C.



Jacob Bylund, attorney for the Des Moines, Iowa-based law firm of Faegre and Benson LLP, provides tangible, meaningful ways that country elevator and feed mill managers can reduce counterparty risk in contractual relationships. Bylund shared a "Master Procurement Agreement" that grain buyers can consider using as a model when contracting with producers and other sellers.



NGFA Rail Shipper/Receiver Committee Chairman Dan Mack (right), vice president, transportation, CHS, St. Paul, Minn., and Thomas Brugman, section chief for the Surface Transportation Board's Rail Consumer Assistance Program, focus on rail issues during the conference's closing session. Mack stressed the need to focus on rail infrastructure given capacity constraints, while Brugman discussed the types of rail disputes that his office can mediate between shippers and carriers.



Key operations issues confronting grain elevator and feed mill managers in 2009, with a special emphasis on preventing engulfment incidents, was the focus of a panel consisting of (from left): George Pfandler, Grain Division safety director, Bunge North America, St. Louis, Mo.; NGFA Director of Regulatory Affairs Jess McCluer; Paul Luther, environmental, health and safety lead, Land O'Lakes Purina Feed LLC, St. Louis, Mo.; NGFA Director of Feed Services David Fairfield; and Kevin Danner, environmental, health and safety director for West Central Cooperative, Ralston, Iowa. Danner chairs the NGFA/GEAPS Joint Safety, Health and Environmental Quality Committee, while Luther chairs its Feed Subcommittee.



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Society (GEAPS). Representatives of the North American Millers' Association (NAMA) also are participating actively in the joint effort. The four organizations reviewed the latest draft of the guide during a meeting earlier this month in St. Louis, Mo., and set a goal of finalizing it during the spring of 2009. Once finalized, the groups will be collaborating to distribute and conduct educational sessions on it.

"There is no 'one-size-fits all' approach when it comes to conducting risk assessments or facility security, given the differing types of facilities, commodities handled or processed, and geographic surroundings in which plants operate," said Jerry Cotter, director of operations at the Port of Corpus Christi Authority, Corpus Christi, Texas, who chairs the Joint Agroterrorism/Facility Security Committee working on the project. "Our goal in developing this guide is to provide a menu of different approaches that can be used by individual facilities to evaluate or update their existing security plans, or develop a new plan so they don't have to start from scratch. We think it will be a useful foundation upon which they can build a risk-based approach to facility security."

Cotter emphasized that the industry is not aware of any credible threats to the food or feed supply from terrorist organizations. But he noted that there are several government regulations that require facilities to conduct risk assessments and implement security plans. Doing so also has business-related benefits, he said, and enhances the partnership with local law enforcement, emergency responders and other key government officials who are critically important contacts in the event of a weather-related natural disaster or other emergency.

Among other things, the updated, expanded guide will include:

- ◆ A step-by-step approach for conducting a security risk assessment of all aspects of a facility's operation – from receiving to shipment of outbound products. Such risk assessments constitute a necessary precursor to developing a prudent, risk-based security plan, so that it focuses on real, rather than perceived, risks. The guide also will include a generic flow diagram of a grain elevator, feed mill and flour mill to assist in conducting a risk assessment.
- ◆ A menu of concepts that managers can consider incorporating into a new or existing facility security plan. The ideas presented will provide a risk-based approach for addressing the security of the physical facility and grounds; operating and personnel procedures; shipping and receiving procedures; and options for responding to emergencies or incidents.
- ◆ A first-of-its-kind template that will provide a framework that managers can use to develop or evaluate a facility security plan. The template will include draft examples of various risk-based policies, procedures and concepts conveyed in the guide that can be used, modified or expanded upon to reflect specific security measures appropriate for a given facility.
- ◆ An overview of federal laws and regulations pertaining to facility security, as well as links to websites containing additional useful information. The guide also will contain a glossary of commonly used facility security-related terms.

"We think this guide will serve as another useful tool for managers looking for risk-based, practical and cost-effective concepts that will further advance the security of agricultural facilities," Cotter said. "It also will be another positive contribution from the private sector as we continue our beneficial partnership with government in protecting the homeland."

DHS to Launch 'Voluntary' Private Sector Security Certification Program

The U.S. Department of Homeland Security (DHS) on Dec. 24 published a notice announcing its intent to develop a "voluntary" private sector preparedness accreditation and certification program, which it has dubbed "PS-Prep."

DHS said the program is designed to implement one of the "central recommendations" of the congressionally chartered 9/11 Commission (officially known as the "National Commission on Terrorist Attacks Upon the United States"). Among its numerous recommendations was one urging the agency to promote private sector preparedness standards that "establish a common set of criteria and terminology for preparedness, disaster management, emergency management and business continuity programs. The commission specifically advocated that DHS

promote a private preparedness standard developed by the American National Standards Institute (ANSI).

DHS said the purpose of its PS-Prep program is to "widely encourage private sector preparedness...by providing a mechanism for a private sector entity – a company, facility, not-for-profit corporation, hospital, stadium, university, etc. – to receive certification from an accredited third party that it is in conformity with one or more private sector preparedness standards adopted by DHS. While ostensibly "voluntary," DHS said it would encourage "all private sector entities to seriously consider seeking certification on appropriate standards adopted by DHS, once those standards become available." The agency said it would seek to "raise the level of private sector preparedness"

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through such means as: 1) establishing a system for DHS to adopt private-sector preparedness standards; 2) encouraging creation of such standards by the private sector; 3) developing a method for a private sector entity to obtain certification of conformity with a particular DHS-adopted private sector standard, and encouraging such certification; and 4) making preparedness standards adopted by DHS "more widely available."

DHS is requesting information and recommendations by Jan. 23 on existing private sector preparedness standards that should be considered for adoption by the agency. DHS's **Federal Register** notice states that it plans to consider – at the outset – adopting the ANSI National Fire Protection Association (NFPA) 1600 Standard on Disaster/Emergency Management and Business Continuity Programs (ANSI/NFPA 1600). DHS also proposes for public comment three broad "principles" it plans to use in selecting which additional private-sector preparedness standards to recognize and adopt. Those three principles are to: 1) widely encourage private sector implementation by maximizing

the number of private sector preparedness standards that DHS will consider adopting; 2) have the program be driven by the private sector; and 3) retain DHS's discretion to direct adoption at programs that meet needs identified by the agency.

Members receiving the **NGFA Newsletter** electronically may [click here](#) to access DHS's **Federal Register** notice.

Public Meetings Scheduled: Separately, DHS announced that its Federal Emergency Management Agency (FEMA) would schedule two public meetings – the first on Jan. 13 from 9 a.m. to 2:30 p.m. at the U.S. Chamber of Commerce in Washington – to "provide an open forum" for discussions with DHS officials on the elements of the PS-Prep Program. The NGFA and several members of its Joint Agroterrorism/Facility Security Committee are planning to attend to represent the industry's interests.

DHS said a second meeting would be scheduled for February, at a date and location still to be determined.

Farm Program Enrollment Begins; USDA Issues Payment Limit Rules

Enrollment in the 2009 farm program's direct and countercyclical payment program began Dec. 22, and will continue until June 1, the U.S. Department of Agriculture (USDA) announced on Dec. 19.

Under the 2008 farm law, eligible producers are allowed to receive advance direct payments amounting to 22 percent of the total amount for each commodity associated with the base acres and payment yields established for the farm. USDA is to begin issuing advance direct payments this month.

Average Crop Revenue Election (ACRE) Program: Producers eligible for the direct and countercyclical payment programs also are eligible to enroll, starting in the spring, in the new average crop revenue election (ACRE) program. In a significant change from its earlier stance, USDA decided to base the ACRE program payment rate on 2007 and 2008 crop-year market prices, rather than its previously announced intent to use the lower market prices that existed in 2006 and 2007. USDA said producers may first enroll in the direct and countercyclical program, elect to receive advance direct payments and then later modify their enrollment to include the ACRE program; or they may wait and elect to enroll in direct and countercyclical and ACRE programs at the same time next spring.

The optional ACRE revenue program operates in lieu of price-based countercyclical payments. A farm's payment is based on a

revenue guarantee calculated using a five-year average state yield and the most recent two-year national price for each eligible commodity. An ACRE payment would be issued when both the state and the farm have incurred a revenue loss. The payment is based on 83.3 percent (85 percent in 2012) of the farm's planted acres multiplied by the difference between the state ACRE guarantee and the state revenue, multiplied by the ratio of the farm's yield divided by the state's expected yield. The total number of planted acres for which a producer may receive ACRE payments may not exceed the total base of the farm.

Farm operators choosing to participate in ACRE relinquish their access to countercyclical payments, and have their direct payments reduced by 20 percent and their marketing assistance loan rates reduced by 30 percent. Further, the decision to enroll in the ACRE program is irrevocable, and must be agreed to by the farm owner and all producers on the farm. Once enrolled, the farm is to remain enrolled through the 2012 crop year.

Enrollment: USDA is encouraging producers to utilize its new eDCP automated website to enroll in the direct and countercyclical payment program, which can be accessed at www.fsa.usda.gov/dcp.

Direct and maximum countercyclical payment rates for 2009 crops are shown in the accompanying table on page 9.

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Commodity	Units	Target Price	Direct Payment Rate	Loan Rate	Minimum Effective Price	Maximum Counter-Cyclical Payment Rate
Wheat	\$/bu.	\$3.92	\$0.52	\$2.75	\$3.27	\$0.65
Corn	\$/bu.	2.63	0.28	1.95	2.23	0.40
Grain Sorghum	\$/bu.	2.57	0.35	1.95	2.30	0.27
Barley	\$/bu.	2.24	0.24	1.85	2.09	0.15
Oats	\$/bu.	1.44	0.024	1.33	1.354	0.086
Upland Cotton	\$/lb.	0.7125	0.0667	0.5200	0.5867	0.1258
Rice, Long Grain	\$/cwt.	10.50	2.35	6.50	8.85	1.65
Rice, Medium Grain*	\$/cwt.	10.50	2.35	6.50	8.85	1.65
Soybeans	\$/bu.	5.80	0.44	5.00	5.44	0.36
Other Oilseeds	\$/cwt.	10.10	0.80	9.30	10.10	0.00
Dry Peas	\$/cwt.	8.32	0.00	5.40	5.40	2.92
Lentils	\$/cwt.	12.81	0.00	11.28	11.28	1.53
Small Chickpeas	\$/cwt.	10.36	0.00	7.43	7.43	2.93
Large Chickpeas	\$/cwt.	12.81	0.00	11.28	11.28	1.53
Peanuts	\$/short ton	495.00	36.00	355.00	391.00	104.00

► **Direct Attribution Rules:** Program payments are limited by direct attribution to individuals or entities. A legal entity is defined as an entity created under federal or state law that owns land or an agricultural commodity, product or livestock. Through direct attribution, payment limits are based upon the total payments received by the individual, both

Payment Limit Regulations: Meanwhile, in a related development, USDA on Dec. 19 announced that it soon would publish interim final regulations implementing the new payment limits enacted as part of the 2008 farm law.

The changes, which take effect for the 2009 crop year, include the following:

► **Adjusted Gross Income Limit:** For farm commodity and disaster-assistance programs, the farm law reduced the payment limit for adjusted gross income (AGI) from \$2.5 million from all sources to a three-year average non-farm AGI of \$500,000. That means that a person or entity will be ineligible for farm program payments if the non-farm AGI exceeds \$500,000. In addition, under the new regulations being issued by USDA, an individual or entity will be required to have a three-year average AGI less than or equal to \$750,000 per year from farm income to qualify for direct payments.

The 2008 farm law expanded the definition of income derived from farming, ranching and forestry operations to include, among other things, such items as the packing, storing and transporting of agricultural commodities; production of livestock products; farm-based production of renewable bioenergy; and in some instances, the providing of operational inputs to farmers, ranchers and foresters.

For conservation programs, the average non-farm AGI limitation is \$1 million or less for eligibility. However, an individual or entity who has non-farm AGI in excess of \$1 million remains eligible for conservation programs if 66.66 percent or more of the total AGI is derived from farming, ranching and forestry operations. In addition, the AGI limit for conservation programs may be waived on a case-by-case basis by USDA if it is determined that environmentally sensitive land of "special significance" would be protected.

directly and indirectly. Qualifying spouses are eligible to be considered separate persons for payment limitation purposes, rather than being automatically combined under one limit.

► **'Actively Engaged in Farming' Rules:** Individuals and entities are required to be "actively engaged in farming" to be eligible for payments and other farm program benefits. To be considered "actively engaged in farming," the individual or entity will be required to make "significant contributions" to the farming operation of: 1) capital, equipment, land or a combination thereof; and 2) personal labor or active personal management, or a combination of both.

Under previous rules in effect since 1988, not every member of an entity had to contribute active personal labor or management to the farming operation. USDA's interim final rule requires each partner, stockholder, or member with an ownership interest to make a "regular, substantial and documented" contribution of active personal labor or active personal management to the farming operation. USDA's interim final rule also requires such activity to be separate and distinct from any other member's contribution.

Under the interim final rule, the addition of individuals or entities to an existing operation to qualify for additional payments is more restrictive than under previous regulations. The prior rule, in effect since 1988, allowed an unlimited number of new legal entities to qualify for farm program payments if there was at least a 20 percent increase in the new cropland added to the farming operation. USDA's new rule changes the 20-percent increase requirement from cropland to base acres, and only allows for the addition of one new person to the operation for purposes of payments. However, USDA said, based upon the magnitude and complexity of the change in farming operations, state Farm Service Agency offices will have the authority to approve additional persons or legal entities for payment in the farming operation.





EPA Issues Revised New Source Review Improvement Rule

The U.S. Environmental Protection Agency (EPA) on Dec. 19 issued final revisions changing the requirements of the major new source review programs, including point source determinations (PSD) pertaining to the treatment of fugitive emissions.

For the grain, feed and processing industry, the primary impact of the changes, which **take effect Jan. 20**, will be on grain and oilseed processing facilities, since only “major sources” of fugitive emissions will be affected. The changes require that fugitive emissions be included in determining whether a physical or operational change to a facility results in a major modification only for sources in the source categories that have been designated through the Clean Air Act. This rule also elaborates on guiding principles for determining fugitive emissions for the purposes of new source review and Title V permitting. Fugitive emissions are defined as emissions that could not reasonably pass through a stack, chimney, vent or other functionally equivalent opening. This includes volatile organic compounds leaking from pipes or fittings.

The EPA final rule affects **only** facilities already considered to be major sources under the new source review **or** PSD. A facility is considered a major source if it annually emits more than 100 tons of coarse particulate matter (PM-10). Most “stand-alone” grain elevators are not considered major sources, and thus will not be affected by the new rule. Further, only a small number of grain elevators covered by the new source review and also considered to be a major source will be affected by the new permitting requirements. By contrast, however, many grain and oilseed processing facilities are considered major sources and will be affected.



Calendar

Jan. 11-12, 2009: NGFA Executive Committee
Loews Ventana Canyon Resort, Tucson, Ariz.

March 29-31, 2009: 113th Annual NGFA Convention
Westin Swan Hotel, Walt Disney World, Orlando, Fla.

May 12-13, 2009: NGFA Ag Transportation Symposium
Intercontinental Hotel, Kansas City, Mo.



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