



# NGFA

# Newsletter

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## Majority Leader Reid Nixes Bipartisan Senate Jobs Bill In Favor of Smaller Series of 'Targeted' Measures

### ...Senate Finance Committee Package Would Have Restored Biodiesel Tax Credit, Redefined Cellulosic Tax Credit...

The Senate Finance Committee today (Feb. 11) unveiled a draft \$80 billion, 361-page bipartisan jobs bill that had been under development for several weeks.

But prospects that the measure might be considered on the Senate floor when Congress reconvenes on Feb. 22 following next week's President's Day recess dimmed when Senate Majority Leader Harry Reid moved to replace it with a narrower, more targeted Democratic version. Reid argued that the bipartisan Finance Committee package conceded too much to Republican demands for broad tax cuts and contained other objectionable provisions.

Reid's version of the legislation extracts four of the provisions contained in the Senate Finance Committee draft into a smaller

bill, with a promise to consider additional tax measures later in the spring. The four provisions would address:

► **Tax Credits:** The bill would grant a \$1,000 income tax credit for 2011 for every new employee hired and retained for 52 weeks or longer. The bill also would exempt from Social Security payroll taxes every worker hired in 2010 that has been unemployed for 60 days or longer. The maximum value would be equal to 6.2 percent of wages up to the FICA cap of \$106,800.

► **Capital Expenditure Threshold Extension:** The bill would extend during 2010 the Section 179 expensing thresholds enacted for 2008 and 2009 that would enable taxpayers to elect

*(Continued on page 2)*

## New Study Finds Converting Farmland to Trees, Pasture Would Have Negligible Impact on Sequestering Carbon to Benefit Climate Change

A significant new study by the University of Minnesota has found that even under the most optimistic scenarios, converting farmland to trees or pasture would have a negligible impact on sequestering carbon – the principal tenet underlying congressional cap-and-trade climate-change legislation.

The study also found that conservation tillage practices have a minimal impact on sequestering carbon, determining that such practices are more likely to simply disburse carbon differently in the soil profile rather than to reduce actual carbon content in the atmosphere compared to conventional conservation practices. The study was initiated in late 2007 at the request of the Minnesota legislature after the Minnesota Climate Change Advisory Group proposed that land-based carbon sequestration account for 38 percent of the state's projected 2025 carbon emission reduction strategy.

The study, whose results were published in the late January edition of the journal *Frontiers in Ecology and the Environ-*

*ment*, found that achieving a 29 percent reduction in carbon emissions in the 11-state upper Midwestern region would conservatively require idling more than 66 percent of working cropland – more than 50 million hectares – into forests, grasslands or prairie pothole wetlands. That would constitute nearly 40 percent of all U.S. harvested cropland acres that account for 49 percent of the nation's total grain, oilseed and dry bean production, the study said, "a huge economic loss" that it noted would affect other sectors of the agricultural and food-processing industry dependent on those yields.

The study notes that even this level of carbon sequestration assumes that enhanced afforestation in the region would produce fully stocked stands of trees, which it said is unlikely given the presence of poor, wet or rocky soils, competition from dominant trees, disease and other conditions that limit the establishment and growth of trees. Thus, the study found that the actual level of carbon sequestered "probably would be considerably less"

*(Continued on page 7)*



*("Bipartisan Jobs Bill" continued from page 1)*

to write-off up to \$250,000 of certain capital expenditures – up to a total of \$800,000 over the three-year period, in lieu of depreciating those costs over time.

▶ **Highway Trust Fund:** The bill would extend highway and transit programs through calendar 2010, as well as transfer \$19.5 billion in interest forgone since 1998 from the general fund to the Highway Trust Fund. It also would halt annual payments the Highway Trust Fund currently makes to the General Fund as reimbursement for tax-exempt users of the highway program, such as state and local motor vehicle fleets and transit providers. The bill also would repeal an \$8.7 billion rescission of unobligated balances of contract authority under the highway fund, as called for under the 2005 highway law enacted by Congress.

▶ **Expand 'Build America Bonds':** This provision allows state and local governments to borrow at lower rates to finance infrastructure projects.

Meanwhile, the Senate Finance Committee bipartisan bill, spearheaded by Chairman Max Baucus, D-Mont., and Charles Grassley, R-Iowa, and dubbed the "Hiring Incentives to Restore Employment (HIRE) Act, contained the following additional significant provisions:

▶ **Extension of Biodiesel and Other Energy Tax Credits:** The bill would extend the \$1 per gallon biodiesel tax credit that expired at the end of 2009, as well as several other energy-related tax provisions. These include credits for home efficiency and alternative fuel vehicles, as well as for renewable diesel and other alternative fuels.

▶ **Extension of Other Expiring Tax Provisions:** The bill would extend several tax provisions that expired at the end of 2009, including the research and development credit; the 15-year recovery period for leasehold, restaurant and retail improvements; the new markets tax credit; the active finance exception under Subpart F of the tax code and the CFC look-through rules.

The bill also includes several disaster-relief provisions. The \$1.5 billion agricultural disaster-assistance package – down from the \$2.19 billion originally sought – would provide disaster payments amounting to 90 percent of the annual direct payment for growers of farm program crops (grains, soybeans and cotton) in counties declared by the U.S. Department of Agriculture to be disaster areas in 2009. Producers would need to have sustained at least a 5 percent crop or quality loss to be eligible, and would be required to purchase federal crop insurance coverage for their 2010 crops in exchange. The latest version of the ag disaster-assistance provisions, developed by Senate Agriculture Committee Chairman Blanche Lincoln, D-Ark., and Sen. Thad Cochran, R-Miss., also would include \$150 million to assist producers of specialty crops, \$50 million for livestock producers, \$42

million for first-handlers of cottonseed and \$25 million for aquaculture. Another \$21 million would be earmarked to fund a sugar cane cooperative transportation project in Hawaii, home of Senate Appropriations Committee Chairman Daniel Inouye, D-Hawaii. Another \$75 million would be allocated for no-interest loans to poultry producers whose contracts with processor Pilgrim's Pride were terminated when it declared bankruptcy in December 2008.

▶ **Pension Funds:** The bill would provide temporary, "targeted" funding relief for single employer and multiemployer pension plans that sustained "significant losses" in asset value resulting from the market collapse in 2008.

▶ **Extension of Unemployment Insurance, COBRA Premium Assistance:** The bill would extend the current law's unemployment benefits, as well as the 65 percent COBRA premium subsidy for terminated workers through May 31.

Baucus and Grassley also said they were committed to timely congressional consideration of permanent estate and gift tax reform.

To partially offset the costs of these provisions, the Senate Finance Committee draft bill would attempt to generate \$46 billion over 10 years by:

▶ **Redefining Cellulosic Biofuel Tax Credit:** The bill would modify the current \$1.01 per gallon cellulosic biofuel producer tax credit to exclude fuels that: 1) contain more than 4 percent by weight of water and sediment in any combination; or 2) have an ash content exceeding 1 percent by weight.

▶ **Foreign Account Tax Revisions:** The bill would impose a 30 percent tax withholding on U.S. source payments to foreign financial institutions, foreign trusts and foreign corporations that do not disclose their U.S. account holders and owners to the Internal Revenue Service. It also would require taxpayers to disclose their foreign accounts on U.S. tax returns; increase the statute of limitations to six years for failing to report certain offshore transactions or income; clarify when a foreign trust is considered to have a U.S. beneficiary; and treat substitute dividend and dividend-equivalent payments to foreign persons as dividends for purposes of U.S. tax withholding.

▶ **Reducing Funding for Medicare Improvement Fund:** For fiscal 2014, the bill would reduce this fund used to make improvements in fee-for-service programs under Parts A and B of Medicare by \$12 billion.

▶ **Clarifying Economic Substance Doctrine:** This provision has been used by courts to deny tax benefits for transactions lacking "economic substance." The bill also would impose a 40 percent strict liability penalty on underpayments attributable to a transaction lacking "economic substance" unless it is disclosed, in which case the penalty would be 20 percent.



## Commerce Secretary Outlines Obama's National Export Initiative

Following up on President Obama's stated goal during his State of the Union Address to double U.S. exports in five years, Commerce Secretary Gary Locke used a Feb. 4 address to outline the administration's national export initiative.

But Locke's address contained no mention of any administration initiative to seek congressional ratification of the free trade agreements Colombia, Panama and South Korea. But in testimony at a House Budget Committee hearing on Feb. 3, Treasury Secretary Timothy F. Geithner said the administration "absolutely" planned to make passage of the three trade pacts part of the new export strategy this year.

Locke said the administration's strategy will focus on:

▶ A "more robust effort" to expand all forms of trade advocacy, "especially for small- and medium-sized enterprises." It will include "educating U.S. companies about opportunities overseas, directly connecting them with new customers and advocating more forcefully for their interests." Locke noted the administration's fiscal 2011 budget proposes an \$80 million increase for the Commerce Department's International Trade Administration – which would bring its funding to \$540 million annually. He said that would enable the agency to employ as many as 328 trade experts to serve as advocates for

U.S. companies, as well assist more than 23,000 clients and increase its focus in emerging "high-growth markets like China, India and Brazil." He also noted that the U.S. Department of Agriculture's proposed fiscal 2011 budget would allocate \$54 million for export promotion activities.

- ▶ Improving access to credit for small- and medium-sized businesses wanting to export. Locke said the Export-Import Bank, which provides credit to private banks unwilling or unable to loan, will increase its financing available to small- and medium-sized businesses from the current \$4 billion to \$6 billion during fiscal 2011. He said during the last three months, the Export-Import Bank has dispensed \$1 billion in financing to small businesses, adding 112 such new clients.
- ▶ Continuing "rigorous enforcement" of international trade laws to remove trade barriers to foreign markets.

Locke said the administration has created an "Export Promotion Cabinet" reporting to the president that consists of top leadership from the U.S. Departments of Commerce, State and Agriculture, as well as the Office of the U.S. Trade Representative, the Small Business Administration and the Export-Import Bank. Within six months, the interagency group, which is being chaired by Locke, is to present a "detailed plan" to Obama.



## Chris Holdgreve to Depart NGFA's Staff

The NGFA announced today that Director of Legislative Affairs **Christopher Holdgreve** will be departing the NGFA's staff following the March convention to become the executive director of "Excellence Through Stewardship" – an industry-coordinated initiative that promotes the global adoption of stewardship programs and quality-management systems for biotechnology-enhanced plant products.

Holdgreve joined the NGFA's staff in October 2002 after serving four years as assistant director for the Wheat Export Trade Education Committee (WETEC) in Washington, where he specialized in agricultural trade issues. On federal legislative matters, he worked extensively on agricultural policy, international trade and waterway infrastructure. He also spearheaded the NGFA's political action committee – Grain and Feed PAC. Holdgreve also worked extensively on agricultural biotechnology issues at the NGFA, where he interacted extensively with biotechnology providers in encouraging adoption of policies designed to minimize trade disruption through approvals of biotechnology-enhanced events by significant U.S. export markets prior to commercialization and international adoption of realistic and achievable thresholds for the adventitious presence of biotechnology-enhanced events in commercial shipments.

"Chris has done an outstanding job in his more than seven years of service at the NGFA, and we will miss him greatly," said NGFA President Kendell Keith. "He has tirelessly and conscientiously advocated the NGFA's policy positions to Congress and federal policymakers, and increased the visibility and stature of the NGFA on Capitol Hill. We wish him every success in this great new opportunity, and are fortunate that we'll continue to have the opportunity to work closely with him to foster the adoption of responsible biotechnology stewardship practices."

Keith said the NGFA would immediately begin a diligent search to fill the director of legislative affairs post.

Excellence Through Stewardship has developed plant biotechnology stewardship objectives, principles and management practices that its biotechnology-provider member companies agree to adopt and implement. The organization also develops guides on stewardship and quality-management systems that promote such practices for "responsible use" of plant biotechnology-derived products globally. Its programs also include a global stewardship audit process in which third-party audits are conducted of biotech-provider member companies to verify they are adhering to stewardship programs and quality-management systems.



## Obama Administration's Proposed Budget Slashes Funds for Inland Waterways

### ...Seeks Reductions in USDA Spending; More Funds for FDA Food/Feed Safety Activities...

President Obama's \$3.8 trillion federal budget proposal for fiscal year 2011 would significantly reduce funding for inland waterways construction, renovation and other civil works projects.

At the same time, the administration proposed about \$1 billion in reduced discretionary spending for the U.S. Department of Agriculture (USDA), but a 23 percent increase in the Food and Drug Administration's (FDA) budget – including an increased focus on food and feed safety. Meanwhile, the administration estimates the current 2010 fiscal year budget deficit will be a record \$1.56 trillion, representing 10.6 percent of gross domestic product.

Here's a summary of key portions of the fiscal year 2011 budget proposal – still subject to congressional hearings, review and enabling legislation before any of it takes effect – important to the grain, feed and processing industry:

**Waterways and Ports:** The administration's proposal would reduce funding for the U.S. Army Corps of Engineers' civil works budget by 10 percent – to \$4.939 billion, down from the current \$5.4 billion level. Of this funding, \$4.051 billion would be derived from general tax revenues, \$764.4 million from the harbor maintenance trust fund, \$82.3 million from the Inland Waterways Trust Fund and \$41 million from special recreation user fees. Significantly, only two new construction projects would be authorized: 1) \$19 million for ecosystem restoration for the Louisiana coastal area; and 2) \$10 million to reduce flood damage on the Lower Colorado River basin in Texas. Additional funding proposals include: 1) \$350,000 for Lock and Dam 27 in Granite City, Ill.; 2) \$136 million for Olmstead Lock and Dam on the Ohio River in Illinois; 3) \$2.868 million for the Kentucky lock near Gilbertsville, Ky.; 4) \$5.4 million for Markland Locks and Dam on the Ohio River between Indiana and Kentucky; 5) \$11.5 million for Emsworth Lock and Dam on the Ohio River in Pennsylvania; and 6) \$2 million for the lower Monongahela River in Pennsylvania. Members receiving the *NGFA Newsletter* electronically may [click here](#) to access a complete list of projects and proposed funding levels.

The agency's operations and maintenance budget would see a \$39 million reduction – to \$2.361 billion – while the construction account would decline \$300 million to \$1.69 billion. The investment account would be reduced to \$104 million, down \$58 million. In total, the Obama budget would fund work on 95 projects, including 49 flood and storm damage control activities; 25 commercial navigation projects; 17 ecosystem restoration projects and four hydropower plant replacements. Con-

gress, dating to the Clinton administration, typically has restored much, if not more, funding for the Corps through earmarks during the annual appropriations process.

**USDA:** The USDA budget proposal would significantly increase funding for nutrition and feeding programs for the needy, as well as direct a record \$429 million for competitive agricultural research grants. It also would double – to \$34.5 million – funding for its foreign market development program. The national organic program also would see a 45 percent increase. Renewable energy projects would receive \$1 billion. The Food Safety and Inspection Service would receive \$1 billion in additional revenues for its food safety-related functions, derived primarily through two new user fees. The administration also again proposes to assess user fees to finance the Federal Grain Inspection Service's grain standardization activities – a proposal repeatedly rejected by Congress dating to the Reagan administration.

For cuts, the administration proposes reducing direct farm program payments from \$40,000 to \$30,000 per person, and lower adjusted gross income payment (AGI) limits to \$250,000 per person for farm and non-farm income over three years. Among other proposed budget reductions at USDA are: 1) a 20 percent cut in Market Access Program funding – to \$38 million; 2) an \$8 billion reduction over 10 years in federal crop insurance spending by reducing the reimbursement rates for crop insurance providers by renegotiating the Standard Reinsurance Agreement; 3) reductions in various conservation programs, including \$380 million in the Environmental Quality Incentives Program (EQIP), \$70 million in the Conservation Stewardship Program and \$35 million in the Wetlands Reserve Program; and 4) elimination of cotton and peanut storage payments.

**FDA:** The administration's proposed \$4.03 billion budget for FDA represents a 23 percent increase compared to its current \$3.28 billion funding level. Of the increase, \$601 million would come from proposed new user fees not yet enacted by Congress, including an anticipated \$220.2 million that would be generated by a fee on facilities required to register with FDA under the Bioterrorism Act – as contained in the House-passed version of food/feed safety legislation; a competing Senate bill contains no such fee – as well as fees for inspecting imports. FDA also is banking on \$13.928 million in user fees that would be generated by reinspecting facilities that fail a current good manufacturing practice inspection and another \$4.285 million from a new user fee assessed from those U.S. exports for which the agency issues export certifications; both would require congressional approval.





# On Capitol Hill

by *Randall C. Gordon* and *Christopher Holdgreve*  
V.P., Communications/ Gov't Relations Director of Legislative Affairs

In its budget proposal, FDA envisions spending:

- ▶ \$7.117 million in appropriated funds and \$75.674 million in user fees for setting new food/feed safety standards focused on preventing hazards, including beginning establishment of a “modern import safety program.”
- ▶ \$53.693 million in appropriated funds and \$119.47 million in user fees to strengthen surveillance and enforcement, encompassing projects to evaluate food/feed safety systems in foreign countries (including collecting 3,000 additional import samples for testing) and to improve risk analysis and research to target food/feed safety sampling and inspection priorities, which it said would include “high-priority commodities, such as seafood and animal feeds.” FDA said it also would use the funds to hire 94 additional inspectors to conduct nearly 2,000 more domestic facility inspections and nearly 200 additional foreign facility inspections, while also increasing funding for state sampling of feed and feed ingredients and establishing a system to electronically exchange data between FDA and the states. The agency also said the funds would be used to improve data collection and expansion of the National Antimicrobial Resistance Monitoring System (NARMS). Funding also would be used to

conduct audits of foreign country regulatory bodies and develop an updated inventory of foreign facilities shipping food, feed and feed ingredients to the United States.

- ▶ \$812,000 in budget authority and \$938,000 in user fees to expand laboratory capacity and conduct pilot studies with industry on enhancing so-called “track-and-trace” technology for tracing food and feed contamination incidents.

**Commodity Futures Trading Commission (CFTC):** The CFTC would see a 55 percent budget increase – from the current fiscal year level of \$168.8 million to \$261 million. But nearly half of the proposed increase would be contingent upon Congress approving comprehensive financial regulatory reform legislation – still far from a sure thing given divisions in the Senate. The House-passed bill and proposed Senate version would expand the CFTC’s market oversight responsibilities, necessitating the increased budget. Of the increase, \$47.2 million would be directed to the agency’s oversight of U.S. futures markets – a large part of which would be used to hire 95 additional full-time staff positions. The remainder of the increase – \$45 million – would depend on congressional approval of expanded responsibilities for the agency, such as new authority to regulate over-the-counter derivatives.



# Feed Facts

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## FDA to Deploy Risk-Based Computer System to Identify Riskier Imports

The Food and Drug Administration (FDA) by late this spring plans to deploy a new risk-based computer system at U.S. import ports that the agency said is capable of identifying imported food, agricultural products, feed ingredients and medicines that may pose a risk and warrant physical inspection.

FDA termed the new system – dubbed “PREDICT” (the Predictive Risk-Based Evaluation for Dynamic Import Compliance Targeting) – as a “sophisticated” information technology system developed specifically for its border inspection operations that will enable the agency “to monitor products at the port of entry more reliably and to target shipments for inspection that pose the greatest risk.” FDA Commissioner Margaret Hamburg, who announced the initiative in a Feb. 4 speech, said the PREDICT technology uses a variety of assessments to assign a risk-ranking to imported products. “It considers everything from whether a product is intrinsically risky – raw seafood falls into this category – to information we’ve acquired from previous examinations of shippers or producers,” Hamburg said. “We can even add information on things like floods, hot weather or market

conditions that suggest whether a particular shipment is at risk of being spoiled or shoddy....The riskiest items are the ones that our investigators will check first.”

Thus far, Hamburg said, the PREDICT system has been pilot-tested at the port of Los Angeles and currently is being deployed in New York. Once the system is in place, she said FDA inspectors still will examine only a small percentage of imported products, “but they’ll be using better intelligence to decide which shipments to check.” By automatically flagging the potentially riskiest shipments, she said, the system also will assign lower risk scores to “more innocuous materials that can be cleared through FDA inspection rapidly....Carefully labeled products with good histories will be held up for shorter periods, which is better for everyone.

“Massive change will be required for FDA to be able to keep up with a globalized economy,” Hamburg said, noting that the agency’s import inspections are conducted by fewer than 500 inspectors. “...[I]t is simply not possible for FDA to inspect our





way to safety. To assure the safety of imported products and fulfill our public health mission in a global age, FDA must adopt a new approach...that takes into account the entire supply chain and its complexity and that will address product safety by preventing problems at every point along the global supply chain from the raw ingredients through production and distribution – all the way to U.S. consumers.” She noted that supply chain “best practices” need to become “standard practices throughout industry,” and that the agency will be working with U.S. companies to “set standards for technologies and other approaches that can help them strengthen the safety of their supply chains.”

In addition to PREDICT, she noted that to meet this challenge, FDA had established permanent offices in Beijing, Shanghai and Guangzhou, China; in New Delhi and Mumbai, India; in San Jose, Costa Rica; Mexico City; and Santiago, Chile. An additional FDA office is to open soon in Amman, Jordan. “These offices will enable us to have a regional presence around the world – a home base from which to undertake a range of important activities,” including oversight and regulatory-capacity building, Hamburg said. She also said FDA now has more than 30

agreements with foreign countries to share inspection reports and other non-public information for use in decision-making about the safety of foreign products.

During her speech to the Center for Strategic and International Studies, Hamburg cited past product-safety incidents involving imported ingredients containing melamine and related compounds, the poisonous industrial chemical diethylene glycol (DEG) in toothpaste and economically motivated adulteration. FDA regulated products currently are imported from more than 150 countries, with more than 130,000 importers of record, and from more than 300,000 foreign facilities. FDA projects that in 2010, nearly 20 million imported shipments of food, drugs, medical devices and cosmetics will arrive at U.S. ports of entry, up from 6 million a decade ago.

Members receiving the *NGFA Newsletter* electronically may [click here](#) to access a copy of Hamburg’s speech from FDA’s website.

## USDA Shelves National Animal I.D.; Opts for State-Based Approach

The U.S. Department of Agriculture on Feb. 5 announced it was shelving its plan to implement a national animal identification system and instead will develop what it termed a “new, flexible” framework for disease traceability that will feature a less costly state- and tribal-nation based approach focused on animals that move in interstate commerce.

Secretary of Agriculture Tom Vilsack said that under the new approach, USDA will develop through notice-and-comment rulemaking a set of animal disease traceability standards that are “defined, measurable and well-documented.” States and tribal nations then will determine which animal-identification methods – ranging from branding and metal ear tags, to systems developed by specific species groups, to more sophisticated means, such as radio-frequency identification systems – work best to achieve such traceability. USDA is to maintain a list of official identification devices authorized for use on animals shipped in interstate commerce. In deference to confidentiality concerns expressed by livestock producers about the federal government retaining a database of animal identification database, Vilsack said the states and tribal nations will maintain animal disease traceability information that USDA will be able to access during animal health outbreaks or incidents.

In making the announcement during an address at the National Association of State Departments of Agriculture, Vilsack said that since the new approach will focus only on animals moving in interstate commerce, small producers who raise and market livestock within a state will not be affected. He also said USDA’s intent is to provide technical assis-

tance and funding to states and tribal nations to develop animal disease traceability approaches. Vilsack said USDA also would provide access to the information technology and tags developed by USDA as part of its now-defunct national animal identification system, on which it has expended \$120 million thus far while attracting participation from only 36 percent of estimated producers.

USDA made the decision after conducting 15 separate public meetings and receiving what it termed “thousands of comments” from states, industry groups and individual producers. Concerns over confidentiality, liability, cost, privacy and infringement on religious beliefs were registered, USDA said, as were concerns that the national animal identification system was skewed to benefit large-scale producers and unnecessary because of existing animal identification systems.

Vilsack said USDA will convene a forum in March with animal health leaders from states and tribal nations to begin discussions on ways to achieve the new framework. He also said USDA will reestablish its Advisory Committee on Animal Health this summer to provide input on regulations for animal disease traceability plan’s minimum standards, which the department projects proposing during the winter of 2011 with a 90-day comment period. The advisory committee also will address specific issues, such as confidentiality and liability considerations associated with the new framework. Members receiving the *NGFA Newsletter* electronically may [click here](#) to access a USDA fact sheet on the new animal disease traceability approach.





("Converting Farmland Study" continued from page 1)

than projected and would require even greater conversion of cropland to achieve a 29 percent emission offset.

**Second Scenario:** The study also examined the impact on carbon emissions if a less-draconian 10 percent of existing farmland in the 11-state region was converted to forests and grasslands – still more than double the land currently enrolled in the region under the U.S. Department of Agriculture's Conservation Reserve Program. Under even the most optimistic scenario, the study found that "taking (this) enormous amount of agricultural land out of production... would, at best, mitigate only 4.7 percent of current carbon dioxide emissions" in the region.

"Any scenario that removes large areas of agricultural land from production will greatly reduce global food supplies, which already are insufficient to meet worldwide needs and would most likely be countered by a corresponding conversion of forest or other high-carbon-stock ecosystems elsewhere in the world into agricultural production," the study concludes. "Deforestation still is occurring in various parts of the world, and further 'leakage' would more than negate any net carbon emission reductions obtained...."

The authors of the University of Minnesota study said the 11 states of the Upper Midwest – Indiana, Illinois, Iowa, Kansas, Michigan, Minnesota, North Dakota, Nebraska, Ohio, South Dakota and Wisconsin – represent a "best case" for carbon sequestration because the region is used intensively for agriculture, has "relatively modest" carbon dioxide emissions, and a "high" potential for terrestrial sequestration of carbon to offset current carbon emissions. The region represents nearly 73 percent of U.S. farmland and 58 percent of harvested U.S. cropland, as well as 23 percent of the nation's carbon emissions from fossil fuels, 20 percent of the U.S. population and 19 percent of total U.S. land mass – roughly comparable to the combined area of France, Germany, Spain and Italy.

**Impact of Conservation Tillage on Carbon Sequestration Minimal:** The study also has bad news for legislators who believe producers should be entitled as part of a climate-change bill to carbon credits for utilizing conservation tillage practices. Even utilizing the optimistic and "highly uncertain" mean carbon sequestration rate for conservation tillage, the study found that using such practices would sequester the equivalent of only 2 percent of 2004 carbon emissions on harvested cropland in the 11-state Upper Midwest

region. That suggests "previous projections of carbon mitigation resulting from conservation tillage have been overly optimistic," the study concluded.

The University of Minnesota study noted that previous estimates of the positive impacts of conservation tillage in offsetting total carbon emissions were based "on much higher carbon sequestration rates... than currently believed to be true and on the conversion of more than 75 percent of all cropland in the United States to no-till by 2020." Similarly high estimates were based on computer models that predicted higher carbon sequestration rates for conservation tillage based upon optimistically high plant material return to soil than occurs in conventional tillage, the study said.

**Conclusion:** The University of Minnesota study concluded by urging policymakers to develop "accurate and realistic" regional estimates of the potential for carbon sequestration, as well as its capacity to mitigate current carbon emissions and their possible impacts on world food supply, regional economies and land-use activities. "Otherwise, overestimation of potential benefits from terrestrial carbon sequestration, such as those highlighted in this study, could potentially divert the attention of policymakers from other, more feasible, realistic and cost-effective greenhouse gas mitigation strategies," it cautioned.



## Calendar

**March 3-5, 2010:** NGFA 114th Annual Convention  
Westin Maui, Lahaina, Maui, Hawaii

**March 3, 2010:** NGFA Waterborne Commerce Committee  
NGFA Membership & Marketing Committee  
NGFA Country Elevator Committee  
NGFA Trade Rules Committee  
NGFA Grain Grades & Weights Committee  
NGFA Rail Shipper/Receiver Committee  
NGFA Risk Management Committee  
NGFA International Trade/Agricultural Policy Committee  
NGFA Joint Agroterrorism/Facility Security Committee  
NGFA Biofuels Committee

**March 4, 2010:** NGFA Rail Arbitration Rules Committee  
NGFA Biotechnology Committee

**March 5, 2010:** NGFA Feed Legislative & Regulatory Affairs/  
Feed Manufacturing & Technology Joint Committee  
NGFA Finance & Administration Committee





## EPA's Decision on Renewable Fuels Standard Averts Requirement for Biofuels Manufacturers to Maintain Records on Feedstock Suppliers

The Obama administration's Feb. 3 announcement that corn-based ethanol and soy-based biodiesel qualify as eligible biofuels under the renewable fuels standard contained another welcome ruling for biofuels manufacturers – they will not be required to keep specific records and reports of the domestic feedstock suppliers from which they derive renewable biomass.

The Energy Independence and Security Act of 2007 that established new specific annual volume standards for various biofuels changed the definition of renewable fuel to require that it be made from feedstocks that qualify as "renewable biomass." In so doing, the law limited the types of biomass that qualify, as well as the types of land from which it can be harvested.

When publishing the revised renewable fuels standard (RFS2), the Environmental Protection Agency (EPA) determined that for agriculturally based feedstocks produced domestically (which encompass planted crops and crop residues), renewable fuel producers will be deemed to be in compliance with the feedstock recordkeeping requirements based upon the agency's own aggregate-compliance determination. For non-agricultural feedstocks, which include planted trees, tree residues, animal waste and byproducts, and other materials, EPA said renewable fuel manufacturers can comply with specific recordkeeping and reporting requirements for their individual facilities by collecting and maintaining appropriate records from their feedstock suppliers attesting that their feedstocks comply with the new renewable biomass requirement. Alternatively, the agency said renewable fuel producers using these non-agricultural feedstocks may form a consortium to finance an independent third party to conduct annual renewable biomass quality-assurance surveys based upon an EPA-approved plan.

For agriculturally based feedstocks, EPA said it would reevaluate agricultural land data each year; if the baseline level of approved agricultural land is exceeded, it said the individual recordkeeping and reporting requirements already being imposed on non-agricultural feedstocks also would be required for agriculturally based feedstocks.

**Corn Ethanol, Soy-Based Biodiesel:** EPA said that based on new methodology used to calculate lifecycle greenhouse gas emissions (including indirect land-use impacts) – a calculation required under the congressionally passed law – resulted in both corn-based ethanol and soy-based biodiesel qualifying as eligible renewable fuels under the new standard. EPA Administrator Lisa Jackson said the improved greenhouse-gas footprint for conventional biofuels resulted from revisions EPA made to its model to

incorporate updated crop-yield estimates, the use of animal feed co-products (distillers grains) and the inclusion of 120 additional countries into the estimate of international carbon emissions.

Specifically, the agency said:

- ▶ Ethanol produced from corn starch at a new (or expanded capacity from an existing) natural gas-fired facility using advanced efficient technologies will comply with the law's requirement to achieve at least a 20 percent reduction in greenhouse gas emissions required to qualify as a renewable fuel. These typically are ethanol facilities on which construction began after Dec. 19, 2007. Likewise, EPA said biobutanol from corn starch complies with the 20 percent threshold.
- ▶ Ethanol derived from sugarcane meets the 50 percent greenhouse gas-reduction threshold required to qualify as an advanced biofuel.
- ▶ Biodiesel produced from soy oil and renewable diesel from waste oils, animal fats and greases complies with the 50 percent greenhouse gas-reduction threshold required to qualify as a biomass-based diesel fuel.
- ▶ Cellulosic ethanol and cellulosic diesel based on currently modeled pathways comply with the 60 percent greenhouse gas-reduction threshold applicable to cellulosic biofuels.

### Modification of Renewable Fuel Volume Standards for Cellulosic:

For the first time, EPA set volume standards for the specific categories of renewable fuels. The biggest downward adjustment from the levels mandated by Congress in the 2007 law was for cellulosic biofuels, where EPA set a 6.5 million gallon volume requirement for 2010 compared to the congressional goal of 100 million gallons. Because the level EPA believes is attainable is substantially less than the congressional mandate, EPA said it will offer cellulosic credits amounting to \$1.56 per gallon for biofuels manufacturers if needed to make the 6.5 million gallon agency requirement.

EPA also combined the 2010 biomass-based diesel requirement of 65 million gallons with the 2009 requirement of 500 million gallons to require a combined two-year requirement of 1.15 billion gallons by the end of the 2010 compliance year.

Despite these changes, EPA said the law's mandate of the United States producing 12.95 billion gallons of renewable fuels in 2010 would be met.





## OSHA Proposes Adding Ergonomics to OSHA 300 Injury/Illness Reporting Log

The Occupational Safety and Health Administration (OSHA) is proposing to restore a column in the OSHA 300 injury illness and log that would require employers to report work-related musculoskeletal disorders (MSDs).

In the Jan. 29 *Federal Register*, the agency announced it was proposing to overturn the Bush administration's June 2003 decision **not** to include a separate column on the OSHA 300 log for reporting MSDs because it found such reporting would not substantially improve national injury statistics since such data already were being compiled by the Bureau of Labor Statistics (BLS). Those BLS data, OSHA found at that time, included information on days the employee is away from work, the number and incidence rate of such disorders and detailed information on the nature of MSD injuries and illnesses. The Bush administration's OSHA also had found that such reporting would not benefit employers or employees because the column would not provide additional information useful in identifying possible causes or methods to prevent MSD injuries. The NGFA had cited the same arguments in urging OSHA not to change the reporting form at that time.

**OSHA's Changing Position:** But the Obama administration's OSHA rejected those conclusions, saying that requiring such reporting would "improve the accuracy and completeness of national occupational injury and illness statistics; provide valuable and industry-specific information to assist OSHA in effectively targeting its inspection, outreach, guidance and enforcement efforts to address workplace MSDs; and provide useful establishment-level information that will help both employers and employees readily identify" such incidents. While OSHA "stressed" in its proposal that the requirement to report MSDs would not require employers to implement controls to prevent or control employee exposure to such hazards, the agency repeatedly stated that collection of such data would be used to target inspections and potentially in developing standards. Thus far, OSHA only has issued MSD guidelines for four industry sectors – nursing homes, poultry processing plants, grocery stores and shipyards.

OSHA said requiring employers to report MSDs on the OSHA 300 log would allow BLS to collect and annually report the total number and rate of MSDs, both nationally and in specific industry sectors, not just the figures for cases that result in days away from work as currently is done. This would allow BLS to better analyze "the magnitude of the MSD problem and trends over time..." OSHA said. That, in turn, would assist the agency "and other safety and health policymakers in understanding... and making informed decisions on policies concerning workplace MSDs."

OSHA said it believes MSDs represent significantly more occupational illnesses than other categories currently listed on the OSHA 300 log, such as skin disorders, respiratory conditions, poisonings and hearing loss. The agency also said restoring the MSD column on the OSHA 300 log is necessary because of what it termed "underreporting" of ergonomic-related injuries by employers. OSHA cited reports of alleged practices by employers in recording fewer MSD-related employee injury cases as days away from the workplace by allegedly scheduling employees for weekend surgery and then assigning them to restricted work the next Monday. "OSHA is concerned that employers are increasingly using restricted work, job transfers and medical treatment or surgeries without lost work time to bring employees back to work more quickly and to avoid recording MSDs as cases with days away from work," the agency said. OSHA said that in 2007, 43 percent of all injury and illness cases involved restricted work or job transfers, compared to 36 percent a decade earlier.

OSHA proposes to define MSDs the same as it did in an initial January 2001 proposed rule; that is, as "disorders of the muscles, nerves, tendons, ligaments, joints, cartilage and spinal discs, except those caused by slips, trips, falls, motor vehicle accidents or other similar accidents." The agency also said it would be removing language from its current Recordkeeping Compliance Directive that states "minor musculoskeletal discomfort" is not recordable; OSHA said it was concerned this phrase may be "misinterpreted" to include MSD "pain and other subjective symptoms that are truly indicative of injury or illness" under the recordkeeping regulations.

In addition to asking whether it should restore the MSD column to the OSHA 300 log, the agency's proposal included a series of questions requesting information on: 1) Current employer practices regarding recording, tracking and analyzing workplace MSDs; 2) ways that employers, employees, researchers and others use MSD data that would be recorded on the OSHA 300 log; 3) the extent to which employers are using restricted work and job transfer instead of time-away-from-work for managing MSDs, and how such practices are affecting reporting of such incidents; 4) whether restoring the MSD column will pose additional costs to employers; and 5) whether other definitions of MSDs would be more effective.

**NGFA to Submit Comments:** The NGFA's Safety, Health and Environmental Quality Committee reviewed the OSHA proposal during a recent meeting, and will be developing the association's comments. Comments on the OSHA proposal are due by March 15, and the agency has scheduled a day-long public meeting on the proposal for March 9 in Washington. Members receiving the *NGFA Newsletter* electronically may [click here](#) to access the OSHA proposal.





## February Frenzy! Begins

### ...Label Applies Equally to Washington Weather and NGFA Recruiting!...

The Washington, D.C., region has been inundated with two major snowstorms during the past week, setting off frenzied shopping at grocery and hardware stores.

Likewise, the 2010 version of *February Frenzy!*, the NGFA's annual end-of-year recruiting initiative, is resulting in a blizzard of new NGFA-member firms.

The 2009-10 membership recruiting year ends as the NGFA annual convention begins on March 3. And despite D.C.'s record-setting winter, *February Frenzy!* is off to a hot start!

### A Goal and a Challenge for Recruiters

**The Goal:** As usual, the NGFA Membership and Marketing Committee has set an ambitious goal. This year: 100 new member companies! With our new-member count currently at 64 new firms, we need those new members to fall at a fast and furious pace.

Current Membership Statistics:

- ▶ New Members: 64
- ▶ Non-renewals: 30

**The Challenge: Take 15!** Just 15 minutes per week can make a real impact. Pick up the phone (or fire up the keyboard) and invite a prospect to join. Then report back to NGFA Director of Marketing/Treasurer Todd Kemp at [tkemp@ngfa.org](mailto:tkemp@ngfa.org) or (202) 289-0873 about your contact, and we will follow up with information. Simple, easy, quick. **Why not try it today?**

**Membership Competition Standings:** The list of successful recruiters on the NGFA Leaderboard, which tracks the standings in our annual recruiting competition, is getting longer and longer! Leading recruiters will get big prizes at the NGFA convention, and all successful recruiters qualify for the \$1,000 Nootbaar Prize drawing!

Currently leading the pack is **Terry Knutsen** of Ag First Cooperative, followed by **Steve Strege** of the North Dakota Grain Dealers Association and **Scotty McCoy** of White Commercial Corp. **Craig Kilian** of Watonwan Farm Service Co. debuts on this week's Leaderboard by vaulting into fourth place! To view the full NGFA Leaderboard, [click here](#).



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