



NGFA's Ag Transportation Symposium Set for May 12-13 in Kansas City!

If you ship or receive grain, feed or grain products by rail, barge or vessel, Kansas City, Mo., is the place to be **May 12-13!**

That's when and where the NGFA will host a comprehensive and authoritative **Agricultural Transportation Symposium** at the Intercontinental Hotel at Alameda Plaza. The symposium will be keynoted by **Michael Haverly**, chairman and chief executive officer of the Kansas City Southern Railway, Kansas City, Mo., who will provide his perspectives on the state of the rail industry. Federal Surface Transportation Board (STB) Chairman **Frank Mulvey** also has been invited. Other confirmed featured topics and all-star speakers include:

◆ **Bill Hudson**, principal/founder of The ProExporter Network, Olathe, Kan., who will examine the domestic and world market trends that will influence the volume and types of ag commodities and products that will compete for transportation availability in coming years, including a review of prospects for the biofuels industry.

◆ The financial industry's views concerning investment in the rail industry and its financial prospects, featuring **William Green**, executive director of Morgan Stanley, New York, N. Y.

◆ A session on resolving shipper-carrier disputes. Dispute-resolution forums to be discussed include the NGFA's Rail Arbitration and Mediation System; formal and informal dispute-resolution options available through the STB and other forums; and the alternative dispute resolution program with producers unveiled by the Burlington Northern Santa Fe (BNSF) Railway. Speakers will be: NGFA Transportation Counsel **Andrew Goldstein** of the Washington-based law firm of McCarthy, Sweeney and Harkaway; **Kevin Kaufman**, group vice president, BNSF Railway, Fort Worth, Texas; and NGFA Counsel for Public Affairs **Charles Delacruz**.

◆ The outlook for the barge industry, featuring **Rick Calhoun**, president of Cargo Carriers Inc., Minneapolis, Minn., and a representative of the **U.S. Army Corps of Engineers**.

◆ The forecast for ocean freight, featuring **Peter Sandler**, director of ocean freight strategy and business development, Louis Dreyfus, Corp., Wilton, Conn.

◆ An interactive panel discussion on rail policy issues, including the biggest challenges and opportunities facing the rail sector, the appropriate role for government regulation and oversight, capital investment requirements, and public/private solutions. Featured panelists will include **Paul Hammes**, vice president and general manager for agricultural products, Union Pacific Railroad Co., Omaha, Neb.

◆ The outlook and issues confronting private rail cars, from the perspectives of lessors, manufacturers and owners. Featured panelists are **Jeff Lytle**, CIT Rail; **Roger Wynkoop**, chief commercial officer, Trinity Railcar, Dallas, Texas; and **Darrell Wallace**, president of the North American Freight Car Association and vice president, Transportation Commodities Group for Bunge North America Inc., St. Louis, Mo.

Other confirmed featured speakers include **Bruce Blanton**, associate deputy administrator of the Transportation Services Division at the U.S. Department of Agriculture's Agricultural Marketing Service, Washington, D.C., who will discuss its new study on transportation; and **Mike Steenhoek**, executive director of the Soy Transportation Coalition, Urbandale, Iowa.

To register through the NGFA's website, [click here](#). For hotel reservations, contact the InterContinental Kansas City at the Plaza at 1-866-856-9217. Identify with the "National Grain and Feed Association" to obtain the special \$179 room rate. **Don't miss this outstanding symposium!**

NGFA Reelects Top Industry Officers



The NGFA's newly reelected officers are shown during the 113th annual convention at the Walt Disney World Swan Resort. Pictured are (from left): NGFA Second Vice Chairman David Hoogmoed; NGFA First Vice Chairman Hal Reed; NGFA Chairman Thomas Coyle; NGFA Immediate Past Chairman Ron Olson; and NGFA President Kendell Keith. See pages 6-12 for convention coverage.



USDA Drops Requirement that Federal- and State-Licensed Warehouses Maintain UGRSA Contract with CCC

The U.S. Department of Agriculture (USDA) announced April 7 that starting with the 2009 crop year, it generally will **not** require federal- and state-licensed warehouses to hold Uniform Grain and Rice Storage Agreement contracts with the Commodity Credit Corporation (CCC).

The policy change was announced in a USDA final rule containing provisions governing the marketing assistance loan and loan deficiency payment programs for the 2009 crop year, which took effect April 8.

Specifically, USDA said that as part of its “modernization” of farm program delivery services, it no longer will require the execution of the UGRSA contract by warehouses that either are federally or state-licensed – at least through the duration of the 2008 farm law (which expires with the 2012 crop year). There is a caveat in the regulatory text that state-licensed warehouses must be able to issue warehouse receipts, an attempt to avoid encompassing ethanol plants, feed manufacturers or other facilities that may be state-licensed, but typically are not licensed or inspected for their storage obligations. USDA officials told the NGFA that the policy change applies to commodities covered under the UGRSA, including grain, oilseeds, rice and pulses. It **excludes** cotton, peanuts and sugar. USDA said for peanuts, the 2008 farm law requires that facilities in which peanuts for marketing assistance loans are stored meet certain conditions set by USDA. In addition, USDA said there are no functioning state licensing programs in effect for sugar.

For both federal- and state-licensed warehouses, the USDA final rule states that CCC “may” reserve the right to continue to utilize CCC storage agreements for instances in which the warehouse is engaged in the long-term storage of commodities, such as existed previously for several years for warehouses storing wheat under the Bill Emerson Humanitarian Trust.

USDA officials told the NGFA that the policy change will result in CCC eventually canceling UGRSA contracts with all federally licensed grain and rice warehouses, as well as with grain warehouses in states that have functioning licensing and inspection systems in place. In about 24 states that do **not** have state licensing systems – mostly in Northeastern states, California and Arizona – USDA will continue to require warehouses to execute a storage contract with CCC as a condition for offering warehouse-stored marketing assistance loans to producers. USDA said federally licensed warehouse capacity – currently totaling slightly more than 4.4 billion bushels – represents more than half of the total 8.3-billion-bushel UGRSA capacity.

One conundrum still to be resolved by USDA is how to address the statutory requirement that state-licensed warehouses have a storage agreement with CCC to be eligible to grade grain for producers seeking quality-loss adjustments under the

federal crop insurance program operated by USDA’s Risk Management Agency (RMA). The NGFA had worked with State and Regional Grain and Feed Associations, as well as the Association of American Warehouse Control Officials, to secure this provision as part of the 2002 farm law. Specifically, that law, as well as RMA’s implementing regulations, require that deficiencies in grain quality under federal crop insurance be determined by: 1) a grain grader licensed under the U.S. Grain Standards Act (an official inspector) or U.S. Warehouse Act; 2) a grain grader licensed under state law and employed by a warehouse operator **who has a commodity storage agreement with CCC**; or 3) a grain grader not licensed under state law but **who has a commodity storage agreement with CCC** and is in compliance with state law regarding warehouses (*emphasis added*).

The NGFA plans to meet with USDA officials next week to discuss implementation of the policy change. USDA in July 2006 had proposed to no longer require commercial grain, rice and peanut warehouses that are federally or state licensed to enter into UGRSA contracts. At that time, USDA had noted that the advent of the marketing assistance loan program – with its alternative loan repayment rates, loan deficiency payments and commodity certificates – had reduced dramatically the quantity of loan collateral forfeited into CCC’s ownership. That reduced CCC’s risk exposure and the need for the UGRSA contract.

USDA Sets Public Meetings on Farm Storage Facility Loans

The U.S. Department of Agriculture (USDA) has scheduled two public meetings – one on April 14 in Kansas City, Mo., and a second on April 15 in Cleveland, Ohio – to solicit comments on implementing an expansion of its farm storage facility loan program, mandated under the 2008 farm law.

Among other things, the farm law: 1) added hay and renewable biomass as commodities eligible for low-interest loan financing through the farm storage facility loan program; 2) extended the maximum loan term to 12 years; 3) increased the maximum loan amount to \$500,000; and 4) allowed for one partial loan disbursement and a final disbursement of the loan proceeds.

USDA said it is seeking input on: 1) defining the eligible types of storage structures for new commodities to be financed under the program; 2) how to handle portions of farm storage facility loan program structures not used to store eligible commodities; 3) defining the purpose of farm storage facility loan program facilities; and 4) further securing loans that have no resale collateral value in the event of loan defaults. Members receiving the *NGFA Newsletter* electronically may [click here](#) for more information.



USDA Retains Most 'Beneficial Interest' Requirements for Marketing Assistance Loans, LDPs

In its April 7 final rule implementing the farm loan programs for the 2009 crop year (see immediately preceding article), the U.S. Department of Agriculture (USDA) left intact most of the so-called "beneficial interest" rules that require producers to retain title and control of commodities pledged as collateral for marketing assistance loans and loan deficiency payments (LDPs).

However, in response to concerns voiced in previous years by the NGFA, USDA made an important clarification: A producer entering into deferred-price, forward- or price-later contracts will **not** be deemed to have relinquished beneficial interest until the commodity is applied in fulfillment of such contracts or the producer receives payment based upon performance under such contracts, whichever occurs first. Previously, USDA had interpreted that producers might lose beneficial interest at the time such contracts were entered into, even though grain

deliveries had not been applied against the contracts nor payment received by the producer.

USDA's final rule also includes another self-described "clarification" stating that delivery by producers of a commodity to a feed dealer, grain bank or ethanol plant will result in the loss of beneficial interest.

USDA to Adjust Loan Rates for Premiums, Discounts at Settlement: In one other change, USDA said that starting with the 2009 through 2012 crops, it no longer will adjust loan rates on warehouse-stored loans for grain quality premiums and discounts at the time the loan is issued – except for peanuts. Instead, such premiums and discounts for commodities other than peanuts will be assessed at loan settlement if the warehouse-stored commodity is forfeited to CCC or the farm-stored commodity is delivered to an authorized storage warehouse.



Fadden Named New Chair of Agroterrorism/Facility Security Committee



NGFA Chairman Tom Coyle has appointed **Judy Fadden**, global security manager for U.S. operations at General Mills Inc., Minneapolis, Minn., to be the new chair of the Joint Agroterrorism/Facility Security Committee.

She replaces **Jerry Cotter**, director of port operations for the Port of Corpus Christi Authority, Corpus Christi, Texas, who has announced plans to retire later this summer. Cotter, who was honored with a Chairman's Award during the NGFA's convention, has served as committee chair since its inception in June 2007 as a joint committee of the NGFA, North American Export Grain Association (NAEGA) and Grain Elevator and Processing Society (GEAPS). The committee spearheads the grain, feed and grain processing industry's efforts to proactively address legislative and regulatory issues related to facility security and food/feed defense, as well as to develop industry guidance on prudent practices. As such, it interacts extensively with the U.S. Department of Homeland Security, Food and Drug Administration, U.S. Department of Agriculture, FBI and other agencies on security-related matters.

Fadden has served on the joint committee since it was established, and also is active in NAEGA's alternative security plan for maritime facilities with the U.S. Coast Guard. She began her industry career with General Mills in 1977, and has been a security manager for the company since 1984. In that capacity, she has overall food defense responsibilities for General Mills' U.S. production and grain storage facilities. She also has expertise in developing food defense plans and regulatory compliance documentation for USDA, as well as the Maritime Transportation Security Act and DHS' chemical facility anti-terrorism standard. She also is involved extensively in workplace violence-prevention efforts, and conducts training throughout General Mills' U.S. operations. In addition, she organizes security plans for the company's major promotional events, such as the high-profile Pillsbury Bake-Off Contest.

Fadden serves as an advisory member of the General Mills' Food Security Council, and is a member of the American Society for Industrial Security's Food and Agriculture Security Council. She has an undergraduate degree in security management from the University of Minnesota, and is a graduate of the International Security Management Association Leadership Program at Georgetown University.



Waxman, Markey Release Draft Climate Change Legislation

The draft of a comprehensive energy bill that includes wide-ranging provisions intended to combat global warming – including an extensive carbon “cap-and-trade” system – was unveiled April 2 by House Energy and Commerce Committee Chairman Henry Waxman, D-Calif., and Rep. Edward Markey, D-Mass., who chairs the House Select Committee on Energy Independence and Global Warming.

The 648-page draft bill was released by the two chairman, along with a schedule under which the committee would consider and take action on the measure before the Memorial Day congressional recess.

The draft bill includes a market-based cap-and-trade system that would cover facilities that annually emit 25,000 tons or more of global-warming pollutants. Entities that emit less than 25,000 tons annually would be exempted. Those entities covered by the program would be required to have an “allowance” for every ton of pollution emitted. These allowances would be tradable, and the federal government would issue fewer and fewer allowances each year until reaching a goal in 2030 of an 83% reduction in global-warming pollutants compared to 2005 levels. The draft bill leaves open the details of how the allowances would be distributed by the government – either given away or auctioned.

In addition to allowances, those entities covered by the program also could purchase up to 2 billion tons worth of offsets from other sources. Five tons of offset credits would have to be submitted for every four tons of additional emissions. These programs are expected to have the most significant impact on electric utilities, oil companies, refineries and large industrial sources of pollution. The impact on energy sources is expected to be felt by all users of energy, as those costs get pushed back through the system.

The draft legislation does create a “strategic reserve” of allowances that the government could put on the market if prices rise beyond expected levels. The cash market for allowances and offsets would be regulated by the Federal Energy Regulatory Commission (FERC), with the derivatives market regulated by whatever agency is recommended by an interagency working group – possibly the Commodity Futures Trading Commission (CFTC).

Meanwhile, the “clean-energy” section of the draft bill focuses on promoting renewable energy primarily from wind, biomass, solar and geothermal sources. One provision would implement a renewable electricity requirement mandating that electricity providers use renewable sources for 6 percent of their energy output by 2012. Renewable sources would be required to represent 25 percent of energy output by 2025. A carbon capture and sequestration section is included in the bill, which is intended to allow for coal to continue to play a signifi-

cant role in providing energy. These programs are intended to capture the carbon before it is emitted into the air and inject it into the ground.

The draft bill includes grants and loan guarantees to promote “advanced biofuels and other clean transportation fuels.” Car companies would be eligible for grants to refit plants to build electric vehicles.

The bill also has an “energy-efficiency” section that includes a program on improving the energy efficiency of buildings and appliances, but also would direct the U.S. Environmental Protection Agency (EPA) to set emissions standards for railroads and maritime vessels.

The final section of the draft bill is intended to smooth the significant transition of the economy that would be triggered by the bill’s other provisions. The measure specifically targets the competitiveness of domestic industries that may be affected adversely through higher energy costs. Those industries that are large energy users and trade commodities on a global scale could be eligible for rebates. Another provision would give the president the authority to charge importers for the carbon emitted in the products they are exporting to the United States if they originate from countries without a carbon emissions-reduction program.

Hearings Scheduled: Hearings on the discussion draft bill are scheduled to begin the week of April 20 in the House Energy and Commerce Committee’s Subcommittee on Energy and Environment, which is chaired by Markey. Subcommittee action on the bill is slated for the week of April 27. Once the subcommittee process has been completed, the bill will move the full committee the week of May 11, with final committee action scheduled to occur before May 22.

The NGFA is developing input into the process on a number of issues that are expected to affect the grain, feed, grain processing and grain exporting industry adversely. The NGFA’s focus is particularly on such issues as the impacts on U.S. agriculture’s global competitiveness, the costs of power and transportation, and potential incentives to earn carbon credits by replacing cropland acres with range or grassland.



Calendar

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

June 15, 2009: NGFA Executive Committee
Four Seasons, Toronto, Canada





Congress Approves Budget Resolutions Along Party Lines

Prior to departing for a two-week spring recess, the House and Senate on April 2 adopted their respective fiscal year 2010 budget resolutions, intended to serve as a blueprint that congressional appropriations committees ostensibly are to follow when devising spending plans for the fiscal year that begins Oct. 1.

The House resolution left farm programs authorized under the 2008 farm law intact, rejecting the administration's proposals to cap farm payments at \$250,000 per farmer (based on gross sales) and reduce Market Access Program (MAP) funding. The Senate budget resolution calls for additional cuts in crop insurance and other areas.

The approved budget tracks closely with the budget outline released by President Obama in February that proposed a \$3.7 trillion budget for fiscal year 2010. Few specific policy proposals were included in the resolution, in deference to the more detailed budget proposal Obama is expected to release this month. Congressional leaders have considered using the budget and appropriations process as a way to advance certain contentious policy proposals, since approval in the Senate using such a strategy would require only a simple majority – not the 60 votes required to cut off debate under normal parliamentary proce-

dures. However, such a provision was **not** included in the Senate version of the bill and has garnered widespread opposition for its potential to “short circuit” the regular order of Congress when considering such controversial and substantial legislation.

The Senate version does include a nonbinding, but symbolically important, amendment to exempt estates up to \$10 million from the estate tax. Estates larger than that would be taxed at a 35 percent rate. President Obama had proposed exempting estates up to \$7 million and taxing larger ones at a 45 percent rate compared to the \$2 million exemption and 55 percent rate slated to take effect in 2011.

In addition to the general policy priorities of education, healthcare and the environment, both budgets touted “fiscal sustainability,” with House leaders maintaining their bill would trim the budget deficit by 50 percent over four years – to \$586 billion by 2013. Meanwhile, the Senate asserts its bill would reduce the deficit to \$601 billion by 2012 and \$508 billion by 2014. The Congressional Budget Office (CBO) has estimated a record budget deficit in 2009 of \$1.67 trillion. When Congress reconvenes following the Easter/Passover recess, lawmakers will meet to reconcile the two versions.

House Ag Committee Conducts Food Safety Hearing

The House Agriculture Committee became the latest to conduct a hearing on food and feed safety when it convened on April 2 to focus principally on differences in approaches between the U.S. Department of Agriculture's Food Safety and Inspection System (FSIS) and the Food and Drug Administration (FDA).

During the hearing, witnesses noted FDA's lack of funding and its allegedly “reactive” approach that relies on taking action after a contamination incident occurs, comparing that to what they termed FSIS's “preventive” strategy for meat and poultry slaughter inspections.

Those testifying included two former federal food safety officials – Dr. Elsa Murano, currently president of Texas A&M University and formerly USDA's top food safety official, and former FSIS Administrator and FDA Deputy Commissioner Michael Taylor, currently research professor at the Department of Health Policy at George Washington University's School of Public Health.

Murano pointed to the high cost of operating FDA and FSIS under what she termed long-outdated laws. She also noted that unlike FSIS, which is required by law to implement daily inspections of meat and poultry products, most foods regulated by FDA are “not inspected daily and are not subjected to the degree of scrutiny they should.” Murano also warned against creating a single food safety agency, saying that merging FSIS into FDA –

the latter of which she termed “primarily a drug and medical device agency” – would “disturb the operations at FSIS and would require the creation of a culture of inspection and enforcement that has taken decades to develop at a time when we need to enhance, not disrupt, our food safety system.” Instead, Murano suggested that if FSIS has a better track record with inspection and recordkeeping, it might be advisable to wrest those responsibilities for all foods away from FDA.

Meanwhile, Taylor noted that FDA regulates 80 percent of the U.S. food supply and the vast majority of U.S. food and feed imports with a budget of \$650 million annually. FSIS, by comparison, regulates the remaining 20 percent of the food supply with a roughly \$1 billion annual budget. Neither, agency, he said, have the “tools to be successful.”

Both House Agriculture Committee Chairman Collin Peterson, D-Minn., and ranking member Frank Lucas, R-Okla., took a cautionary stance. Peterson cited “gaps in the system” that necessitate “some modernization and improvements,” while noting that “...our current food safety system and those entrusted to produce wholesome and safe products do a good job most of the time.” Lucas warned that each proposal should be examined to determine “whether it contributes to or reduces the ability of our farmers and ranchers to provide our consumers with the safest, most affordable and most abundant food supply in the history of the world.”





Convention Special

by Randall C. Gordon
V.P., Communications/Gov't Relations
E-Mail: rgordon@ngfa.org

NGFA Reelects Top Industry Officers

NGFA members reelected the organization's top industry officers at the 113th annual convention conducted March 29-31 at the Walt Disney World Swan Resort in Lake Buena Vista, Fla.

A total of 634 members and guests attended the convention.

Thomas Coyle, general manager of Chicago & Illinois River Marketing LLC, Chicago, Ill., was reelected chairman. Also reelected were **Hal Reed**, president of the Grain and Ethanol Group at The Andersons Inc., Maumee, Ohio, as first vice chairman; and **David R. Hoogmoed**, vice president, feed for Land O'Lakes Purina Feed LLC, Shoreview, Minn., as second vice chairman.

Coyle is the 62nd industry leader to serve at the helm of the NGFA. He also serves on the NGFA's Board of Directors and Executive Committee. From 1998-2006, he served as chairman of the NGFA's Risk Management Committee, which represents the interests of commercial hedgers and users of the nation's futures markets to offset risk when buying and selling grain, oilseeds and grain products. He also has served as an arbitrator within the NGFA's unique alternative-dispute resolution system.

Chicago & Illinois River Marketing LLC, for which Coyle serves as general manager, is a wholly owned subsidiary of Nidera Handelscompagnie B.V. of The Netherlands. In this capacity, Coyle oversees the company's grain origination and marketing, as well as the operations of its two export facilities located in Illinois and Wisconsin, one of which is one of the largest delivery warehouses for CBOT futures contracts.

Nidera, established in 1920, is a leading international company serving customers in agro and bioenergy markets around the world.

Coyle began his grain industry career with the former Continental Grain Co. in 1976, where he eventually became vice president of origination for its North American Grain Division in Chicago. During his career with Continental Grain, he also worked as a facility manager, regional merchandiser, soybean trading manager, regional manager (in Minneapolis, Minn.), assistant general manager (Kansas City, Mo.), and as vice president of marketing and business development.

He is a graduate of DePaul University in Chicago, and received his masters in business administration from The University of Dayton (Ohio).

Reed Reelected First Vice Chairman: Reelected as the NGFA's first vice chairman, **Hal Reed** heads the Grain and Ethanol Group at The Andersons Inc., a diversified company founded in 1947. As such, he oversees the operations of 16 grain elevators with a combined storage capacity exceeding 90 million bushels. The Andersons' grain facilities handle more than 170 million bushels annually, primarily in Ohio, Michigan, Indiana and Illinois,

and merchandises substantial additional quantities of grains and oilseeds, primarily in the Eastern Corn Belt.

In addition to its Grain Division, Reed oversees The Andersons' investments in three ethanol plant LLCs (in Michigan, Indiana and Ohio), to which The Andersons provide management, operations and merchandising services. He also oversees The Andersons' investment in Lansing Trade Group LLC.

With the NGFA, Reed also serves as a member of the Executive Committee and Board of Directors.

He began his career at The Andersons in January 1980 as a certified public accountant. He subsequently held various accounting, operational and marketing positions within the company's Grain Division. He was named vice president and general manager of the Grain Division in 1998, and became division president in January 2001. He became president of the company's Grain and Ethanol Group in 2006.

An Ohio native, Reed is a graduate of Miami University in Oxford, Ohio, with an undergraduate degree in accounting. He received his masters in finance from The University of Toledo. He is active in the community, serving on several business and philanthropic boards.

Hoogmoed Reelected Second Vice Chairman: Reelected NGFA's second vice chairman, **David Hoogmoed** is a 29-year veteran of the feed industry. As feed vice president for Land O'Lakes Purina Feed LLC, he leads the company's national sales organization and is responsible for sales administration, training and strategic positioning. He also is responsible for the cooperative's retail development team and feed solutions group, the latter of which serves both private label and non-traditional distribution channels.

He began his career with Ralston Purina Co., St. Louis, Mo., and later served in top management with Purina Mills Inc. prior to its acquisition by Land O'Lakes in 2001. His previous responsibilities included serving as general manager, regional operations. He served within the leadership of Purina's research/marketing and species business unit. He is a graduate of Rutgers University, with an undergraduate degree in agricultural economics.

With the NGFA, Hoogmoed also serves as chairman of the Feed and Animal Agriculture Strategic Issues Committee, a unique forum in which senior-level managers from feed, feed ingredient and integrated livestock and poultry operations identify and develop strategies to address major domestic and international developments affecting the feed sector. Hoogmoed also is a member of the NGFA's Board of Directors and Executive Committee.

Kendell W. Keith, Washington, D.C., serves as the NGFA's president, the association's top executive staff officer.





Convention Special

by Randall C. Gordon
V.P., Communications/Gov't Relations
E-Mail: rgordon@ngfa.org

NGFA Elects Members to Board of Directors

NGFA members elected the following 15 industry leaders to serve three-year terms on its 62-member Board of Directors during the annual business meeting at the 113th annual convention conducted March 29-31 at the Walt Disney World Swan Resort in Lake Buena Vista, Fla.

- Gary Beachner** General Manager, Beachner Grain Inc., St. Paul, Kan.
- Joanne Brouillette** Managing Partner, Demeter LP, Fowler, Ind.
- Rick Browne** Senior Vice President, Grain, CHS Inc., Inver Grove Heights, Minn.
- Rick Calhoun** Vice President, Grain and Oilseed Supply Chain, Cargill Inc., Minneapolis, Minn.
- Joe Christopher** Senior Grain Manager, Crossroads Cooperative Association, Sidney, Neb.
- Irvin Clubine** General Manager, United Farmers Cooperative, George, Iowa
- Charles Colbert** Export Manager, Zen-noh Grain Corp., Mandeville, La.
- Larry Hammond** President, Advanced Agri Solutions Co-op Inc., Wapakoneta, Ohio
- Chuck Heuring** Merchandiser, Penny-Newman Grain Co. Inc., Fresno, Calif.
- Craig Huss** President, Transportation and Grain, Archer Daniels Midland Co., Decatur, Ill.
- Robert Jones** Senior Vice President, Agricultural Commodity Broker Group, Fortis Clearing Americas Ltd., Chicago, Ill.
- Art Loeffler** President/Treasurer, Star of the West Milling Co., Frankenmuth, Mich.
- Scott McWilliams** Vice President, Bartlett Co. LP, Kansas City, Mo.
- Bailey Ragan** General Manager, Bunge Grain, Bunge North America Inc., St. Louis, Mo.
- Craig Twomey** President, Twomey Co., Smithshire, Ill.

The NGFA membership also elected **Jack Heim**, General Manager and Treasurer for Walton Agri-Service Inc., Upper Sandusky, Ohio, to serve a two-year term on the NGFA Board.

NGFA Board Elects Members to Executive Committee

Members of the NGFA's Board of Directors subsequently elected the following 13 of its members to serve on the 18-member Executive Committee:

- Kevin Adams** President and Chief Executive Officer, CGB Enterprises Inc., Mandeville, La.
- Erik Anderson** President, Louis Dreyfus Commodities, Wilton, Conn.
- Rick Browne** Senior Vice President, Grain, CHS Inc., Inver Grove Heights, Minn.
- Rick Calhoun** Vice President, Grain and Oilseed Supply Chain, Cargill Inc., Minneapolis, Minn.
- Sharon Clark** Vice President, Transportation, Perdue Agribusiness Inc., Salisbury, Md.
- Paul DeBruce** Chief Executive Officer, DeBruce Grain Inc., Kansas City, Mo.
- Geoff Finch** Vice President, Operations, Wenger's Feed Mill Inc., Rheems, Pa.
- Scot Hillman** Chief Executive Officer, J.D. Heiskell & Co., Tulare, Calif.
- Craig Huss** President, Transportation and Grain, Archer Daniels Midland Co., Decatur, Ill.
- Greg Konsor** General Manager, Grain Operations, Gavilon Grain LLC, Omaha, Neb.
- Gary Olsen** Group Vice President, Grain, Ag Processing Inc., Omaha, Neb.
- Steve Nail** President and Chief Executive Officer, Farmers Grain Terminal Inc., Greenville, Miss.
- Bailey Ragan** General Manager, Bunge Grain, Bunge North America Inc., St. Louis, Mo.

In addition, serving on the NGFA's Executive Committee by virtue of their office are:

- NGFA Chairman **Tom Coyle** General Manager, Chicago & Illinois River Marketing LLC, Chicago, Ill.
- NGFA First Vice Chairman **Hal Reed** President, Grain and Ethanol Group, The Andersons Inc., Maumee, Ohio
- NGFA Second Vice Chairman **David Hoogmoed** Vice President, Feed, Land O'Lakes Purina Feed LLC, Shoreview, Minn.
- Immediate Past Chairman **Ron Olson** Vice President, Grain Operations, General Mills Inc., Minneapolis, Minn.
- NGFA President **Kendell Keith**, Washington, D.C.





Convention Special

by Randall C. Gordon
V.P., Communications/Gov't Relations
E-Mail: rgordon@ngfa.org

NGFA's 113th Annual Convention – Pictorial Highlights

The NGFA's 113th annual convention brought 634 industry members and guests to the Walt Disney World Swan Resort in Lake Buena Vista, Fla., for an outstanding, timely and informative program. A beautiful resort setting, great weather, a family focused environment and – of course – Disney magic combined to make it a great NGFA convention. Speaker presentations are available on the convention section of the NGFA's website at www.ngfa.org. Mark your calendars now for a once-in-a-lifetime NGFA convention in 2010 – **March 3-5 at the Westin Maui Hotel in Hawaii!**



Convention keynoter Rep. Jerry Moran, R-Kan., a leader on two congressional committees of keen interest to NGFA members, discusses the major public policy issues to be addressed by Congress this year before a standing-room-only convention audience (below). Earlier, Moran had addressed and responded to questions during the NGFA GrainPAC breakfast (above).

Among other things, Moran predicted that it is unlikely that Congress will adopt legislation merging the Commodity Futures Trading Commission and Securities and Exchange Commission, and that the Cuba trade embargo will continue during the Obama administration. He stressed his concern over the proliferation of environmental regulation, saying it is becoming a hindrance to the performance of the U.S. economy. Moran also said he hopes Congress will “take a step back” in its consideration of carbon cap-and-trade legislation because of the current

fragility of the U.S. economy, and underscored the potential idling of productive U.S. farmland under such a scheme. He also announced that it is likely that the U.S. Department of Agriculture (USDA) will extend for another year about 40 percent of Conservation Reserve Program contracts expiring this year, and conduct a general signup in 2010. On food and feed safety, Moran expressed concerns about concentrating regulatory authority in the Food and Drug Administration by relocating the USDA's Food Safety and Inspection Service.

Moran is a senior member of the House Agriculture Committee, serving as ranking member of its General Farm Commodities and Risk Management Committee that has oversight of futures markets, crop insurance and farm programs. He also serves on the House Transportation and Infrastructure Committee.





Convention Special

by Randall C. Gordon
V.P., Communications/Gov't Relations
E-Mail: rgordon@ngfa.org

NGFA's 113th Annual Convention – Pictorial Highlights



James R. Young (left), chairman, president and chief executive officer of the Union Pacific Corp., predicted that Congress would enact legislation this year imposing additional regulation on rail carriers, but called for a balanced approach to avert a “drying up” of investment in rail carriers. Young said he believed changes needed to be made to provide additional protection for rail customers, “but we can’t go too far.” He said a “balanced” regulatory approach should provide stability, allow rail revenues that justify reinvestment in new equipment and infrastructure, provide a reasonable regulatory process for shippers and carriers, and take into consideration a rail carrier’s network structure, capital intensity and ongoing replacement and growth requirements. He also called demands by commuter rail on freight rail lines “a big deal” that could undermine efficiency, and said the federal government should build new rail rights-of-way if it wants to support commuter rail.

CME Group Vice Chairman Charles Carey told the NGFA convention that the exchange believes changes already made to its grain and oilseed contracts will enhance futures market performance and contribute to improved convergence in the CBOT wheat contract. He said the CME Group and NGFA share the same objectives of having an efficient futures market that provides useful risk-management tools for commercial hedgers.



Dennis Gartman, the widely read publisher of The Gartman Letter, predicted that the housing market will begin a turnaround later this year, with economic activity “picking up” toward the end of the year. He said he believes commodity values have “made most of their lows,” and that he was “getting bullish” on U.S. grains. Among the economic indicators he advised watching were weekly jobless claims and the Baltic freight index. He said his greatest fear was that Congress and the administration “would do something egregiously stupid” – raising taxes in a counterproductive and futile attempt to generate federal revenues. Gartman also said he was “bullish on stocks for the first time in a long time,” saying several were “stupidly undervalued.” “I want to own stocks in small banks and assets that hurt when they land on your feet,” he said.



Convention Special

by Randall C. Gordon
V.P., Communications/Gov't Relations
E-Mail: rgordon@ngfa.org

NGFA's 113th Annual Convention – Pictorial Highlights

Andrew Busch (right), global finance strategist for BMO Capital Markets, Chicago, Ill., said up to \$300 billion could be raised by the federal government under carbon cap-and-trade legislation likely to be considered by Congress, which he termed “the biggest bait-and-switch on the planet.” He said managing the fate of this legislation will be one of the biggest challenges facing U.S. businesses. Busch also predicted that housing prices will begin to stabilize in mid- to late-2009, and that lending will pick up in 2010. But he also predicted the Federal Deposit Insurance Corp. will be assuming the assets of “a lot more small and regional banks” once the U.S. Treasury Department completes its stress tests on their financial condition.



Andrew LaVigne (left), president and chief executive officer of the American Seed Trade Association, discusses the implications of agricultural biotechnology for the \$7 billion a year U.S. seed industry. He previewed input traits that are in the seed pipeline, including those that would enhance nitrogen efficiency, drought tolerance, additional disease resistance (such as soybean rust) and cold tolerance. LaVigne also discussed pending seed output traits, such as corn amylase, high-oleic oil soybeans, low-linolenic soybeans, enhanced feed efficiency, high fermentable starch and high available energy. He emphasized the importance of stewardship to the future development of biotechnology-enhanced traits.

Panelists Tom Fernandes (left), manager of operations for GreenHaven LLC, Atlanta, Ga., and Eric Kolts, a consultant and former product manager for the commodity index business at Standard & Poors, New York, N.Y., discuss the investment strategy of index funds in commodity assets. Fernandes said that grains and oilseeds historically outperform other commodities late during a recession, and predicted that large insurance companies and investment funds will be in the market to buy grain, agricultural facilities and farmland.

Kolts said that institutional investors still are involved in agricultural futures markets, albeit at reduced levels. He called grains and oilseeds an “accepted core asset class” that are viewed as “recession proof.” Kolts also said there is a “tremendous amount of investor” capital not yet in commodities, and predicted that could grow during the year. He also discussed the impact of potential federal legislation requiring exchange-clearing of over-the-counter instruments, as well as the imposition of speculative position limits on such trading.





Convention Special

by Randall C. Gordon
V.P., Communications/Gov't Relations
E-Mail: rgordon@ngfa.org

Chairman's Awards

The NGFA presented three NGFA Chairman's Awards during the convention to honor industry members for extraordinary service.



NGFA Chairman Tom Coyle presents the NGFA Chairman's Award to Don Wenneker (right), director of procurement for Tate and Lyle Ingredients Inc., Decatur, Ill., in recognition of his outstanding service as chairman of the NGFA's Arbitration Appeals Panel. Wenneker also has served as a member of the NGFA Board of Directors and as an arbitrator on numerous cases.



Jerry Cotter (center), director of operations for the Port of Corpus Christi Authority, Corpus Christi, Texas, was honored with a Chairman's Award by the NGFA and North American Export Grain Association for his service to both organizations. Cotter served as the first chairman of the Joint Agroterrorism/Facility Security Committee, and was involved extensively in the development and maintenance of NAEGA's Alternative Security Plan for port facilities. He also served on the NAEGA and NGFA Boards of Directors. Cotter, who has been active in both organizations for the past 20 years, also was involved in grain grades and weights committees for both the NGFA and NAEGA after working at the U.S. Department of Agriculture's Federal Grain Inspection Service, where he helped lead the development of the cu-sum shiploading plan.



NGFA Chairman Tom Coyle presents the NGFA Chairman's Award to Risk Management Committee Chairman Rod Clark (right), in recognition of his leadership of the committee during an extremely busy two years of policy development to address futures market performance issues. Clark is vice president of CGB Diversified Services, Mt. Vernon, Ind.



Membership and Marketing Development Committee Chairman Mark Avery, publisher of Grain Journal, Decatur, Ill., is congratulated by Mickey after recognizing the winners of the NGFA's 2008-09 membership awards. A modern day record of 147 new member companies joined the NGFA during the year!



NGFA Chairman Tom Coyle greets Minnie during the closing banquet.



Convention Special

by Charles M Delacruz
Counsel for Public Affairs
E-Mail: cdelacruz@ngfa.org

NGFA Board Votes to Add Clarity to NGFA Trade Rules

At its March 31 meeting during the 113th annual convention, the NGFA's Board of Directors approved changes to clarify the NGFA Trade Rules based upon the Trade Rules Committee's recommendation that certain terms were misleading and unnecessary.

The changes resulted from questions posed by NGFA-member companies to the Trade Rules Committee concerning the interpretation of NGFA Grain Trade Rule 9, which states: "*Unless otherwise agreed, all unpriced contracts shall be priced within the day's price range at Buyer's option while futures markets are open and tradable. In no case shall pricing go beyond the requested date of shipment*" [Emphasis added.]

The Trade Rules Committee made – and the Board approved – the following determinations:

- ▶ It is a longstanding and fundamental concept that parties to a trade always are free by way of the terms of the contract to alter application of any or all of the NGFA Trade Rules.
- ▶ This principle is expressly stated in the preamble of each set of Trade Rules and in Arbitration Rule 3(c).
- ▶ Phrases like "*unless otherwise agreed*" in some provisions of the rules not only are unnecessary, but imply that a different standard applies for rules provisions that do not contain such terms.
- ▶ Similarly, phrases like "*In no case shall*" might indicate that parties to a trade cannot avoid application of those terms.

As a result, the Trade Rules Committee recommended – and the Board approved – the following changes to the Trade Rules:

- ▶ Grain Trade Rule 9 was amended to read: "*All unpriced contracts shall be priced within the day's price range at Buyer's option while futures markets are open and tradable. Pricing shall not go beyond the requested date of shipment....*"
- ▶ In addition to Grain Trade Rule 9, the following Trade Rules were amended to delete phrases identical or similar to "*Unless otherwise agreed...*" and "*In no case shall...*": Grain Trade Rules 6, 10, 13, 15-20, 22-23, 25, and 30; Feed Trade Rules 7-9, 18, 20, 26, and 28; Barge Trade Rule 8; Barge Freight Trading Rules 10-11; and Secondary Rail Freight Trading Rule 6.

In accordance with the NGFA Bylaws, these rules changes take effect April 30 – 30 days after the date adopted by the Board – and are subject to ratification by the general membership at the next annual business in March 2010. Importantly, however, these amendments are **not** intended to represent a substantive change in interpretation or application of the Trade Rules. Rather, these changes simply are intended to provide clarity and to confirm the long-standing principles that the parties to a trade are free to alter application of the NGFA Trade Rules in their con-

tracts.

Members Ratify Other Changes to NGFA Rules: During the March 31 annual business meeting during the convention, NGFA members also ratified changes previously adopted by the NGFA Board of Directors to the Trade Rules, Arbitration Rules and Rail Arbitration Rules. Those changes involved the following:

- ▶ **Amendment to NGFA Arbitration Rules.** The NGFA membership ratified an amendment to the NGFA Arbitration Rules that provides for appeal arbitrators to be appointed after briefs have been completed by the parties. Under the long-standing rules in non-appeal cases, arbitrators are named after all arguments are filed and they receive the case all at once after the appointments are official. However, under the prior rules for appeal cases, arbitrators were named and they received the record of the original case before the parties prepared the briefs and before the arbitrators' appointments were official. The amendment that makes the procedures for appeal cases consistent with those for non-appeal cases is designed to streamline and improve the arbitration process.
- ▶ **Amendment to NGFA Rail Arbitration Rules.** The NGFA membership ratified an amendment to the NGFA Rail Arbitration Rules that implements a different deadline by which the claim must be filed in Rail Arbitration cases, which provides some additional time for the claimant to seek disposition through the carrier's internal claim process before the NGFA Arbitration claim must be filed.
- ▶ **Amendment to NGFA Trade Rules.** The NGFA membership ratified: 1) amendments to NGFA Barge Trade Rules 9 and 10 regarding scheduled shortened sessions by the Chicago Board of Trade given how it had become trade practice to stop accepting barge applications at 1 p.m. on those days; 2) an amendment to NGFA Feed Trade Rule 28 that clarifies the meaning of "*arrival by rail*" in the NGFA Feed Trade Rules and makes it consistent with the NGFA Grain Trade Rules; and 3) amendments to NGFA Grain Trade Rule 30 and Feed Trade Rule 28 that provide for a generic definition for "*mechanical seals*" in both sets of those trading rules. These proposed new provisions were anticipated following the recent addition of "*mechanical seals*" as an "*article of trade*" for parties to include in their contracts – when applicable under Grain and Feed Trade Rule 1.

NGFA to Print New Edition of Trade Rules/Arbitration Rules

Booklet: The NGFA will be publishing a new edition of its popular NGFA Trade Rules and Arbitration Rules booklet, which should be available for purchase by early May. An announcement and order form will be distributed through the *NGFA Newsletter* and *NGFA E-Alert*. In addition, the NGFA during the week of April 13 will be posting an updated version of the NGFA Trade Rules and Arbitration Rules on its website at www.ngfa.org.



FDA Sets May 1 Public Meeting on 'Economically Motivated' Adulteration

The Food and Drug Administration (FDA) has scheduled a May 1 public meeting focusing on ways that FDA-regulated businesses – including food, feed and feed ingredient manufacturers – can “better predict and prevent economically motivated adulteration” of products, particularly those that pose the greatest risk to public health.

The meeting is scheduled for 9 a.m. to 5 p.m. at the headquarters of FDA's Center for Food Safety and Applied Nutrition, located at 5100 Paint Branch Parkway in College Park, Md. In an April 6 *Federal Register* notice, FDA tentatively defined “economically motivated adulteration” as the “fraudulent, intentional substitution or addition of a substance in a product for the purpose of increasing the apparent value of the product or reducing the cost of its production, i.e., for economic gain.” FDA said this would include intentional dilution of a product to the extent that it poses a health risk, as well as the addition or substitution of substances as a way to mask its dilution of the product. FDA had announced its intent to conduct a public meeting at the Feb. 25 meeting of its Science Board.

In its announcement, accessible by [clicking here](#), FDA posed six broad questions on which it would like to obtain comments:

- ▶ **General Questions:** Including the kind of information U.S. regulators should seek, and from which sources, to help predict and prevent economically motivated adulteration, as well as steps industry, trade organizations and foreign government regulators are taking to predict and prevent such adulteration.
- ▶ **Attributes of Products/Ingredients Susceptible to Economically Motivated Adulteration:** Including information on food and

feed products marketed based upon the measured content of certain properties, such as protein, starch, fat or sugar content.

- ▶ **Marketing Environment:** Including information on changes in the marketing, sourcing and distribution environment; prices; import and export trends; and the supply of components/ingredients of source materials for products.
- ▶ **Detection Methods:** Including current analytical equipment and methods to detect such adulterants, and whether there are other appropriate analytical methods or equipment that could be used instead of, or in combination with, existing methods or equipment to improve detection.
- ▶ **Systems Used to Track or Verify Components/Ingredients from Their Source.**
- ▶ **Particular Types of Industries or Supply Chains Particularly Vulnerable to, or Secure from, such Adulteration.**

The NGFA's Feed and Animal Agriculture Strategic Issues Committee and Feed Legislative and Regulatory Affairs Committee, among others, will be evaluating the FDA request, and preparing the NGFA's response. The agency is seeking comments by Aug. 1, which are to be submitted to: Division of Dockets Management (HFA-305), Food and Drug Administration, 5630 Fishers Lane, Room 1061, Rockville, Md., 20852, or electronically to: www.regulations.gov.

Members receiving the *NGFA Newsletter* electronically may [click here](#) to obtain FDA's notice, which contains information on the meeting and additional questions the agency is posing.

FDA Seeks Comment on Delaying BSE-Prevention Feed Rule Changes

The Food and Drug Administration (FDA) today announced officially in the *Federal Register* that it is seeking comments on its intent to delay by 60 days – to June 26 – the current April 27 effective date of its April 2008 final rule banning the use of brain and spinal cord from cattle 30 months or older.

FDA's notice, available by [clicking here](#), provides a seven-day public comment period, ending April 16. The agency said it has “become aware that some affected persons, particularly those in the rendering industry, are experiencing difficulties modifying their operations to comply with the new requirements...and, therefore, may not be in full compliance” by the originally scheduled April 27 effective date of the new rules.

The final rule is designed to further enhance existing U.S. feed regulations that ban the feeding of certain mammalian material to cattle and other ruminants to prevent the establishment or spread of bovine spongiform encephalopathy (BSE).

If and when implemented, the feed rule changes are expected to have a minimal impact on commercial feed manufacturers, with the principal compliance burden falling on the rendering sector. Despite misinformation that continues to be disseminated by another trade association, FDA officials have repeatedly told the NGFA and stated publicly that there is no requirement in the final rule for feed manufacturers to clean out storage tanks containing animal fats to purge tallow residue that may not meet the new feed rule's purity standard of not more than 0.15 percent insoluble impurities in feed intended for any species, regardless of the tallow's origin. FDA officials also have stated that bins used to store meat and bone meal do not need to be cleaned out to comply with the new rule, so long as the product being used on or after the eventual implementation date has had the brain and spinal cord removed if derived from cattle 30 months or older.



FDA to Propose Allowing GRAS Notification for Feed Ingredients

The Food and Drug Administration's Center for Veterinary Medicine (FDA/CVM) currently is drafting a *Federal Register* notice that would allow animal feed ingredients to gain approval for use in feed through a generally recognized as safe (GRAS) notification process.

FDA/CVM officials told the NGFA that, although some details associated with the GRAS process are not final yet, the agency intends to launch a pilot program for the feed ingredient-approval process by late summer. In anticipation of this expected timeframe, the agency has established a feed ingredient safety team that will review GRAS notification letters submitted under the new program.

The opportunity for ingredients to gain GRAS approval for use in animal feed is based upon a proposed rule issued by FDA in 1997 that established the GRAS notification process. Although the agency has not published a final GRAS rule yet, FDA's Center for Food Safety and Applied Nutrition (CFSAN) in 1998 began accepting GRAS notices for human food ingredients. Under the CFSAN program, a substance to be added to food is subject to premarket approval by FDA unless its use is generally recognized as safe by qualified experts. The program provides a notification procedure whereby any person may notify FDA of a determination by that person that a particular use of a food ingredient is GRAS. Upon receipt, CFSAN then evaluates whether the notice provides a sufficient basis for a GRAS determination, and replies to the notifier by letter. In the letter, CFSAN indicates either that it does not question the basis for the notifier's GRAS determination, or that it concludes that the notice does not provide sufficient information to substantiate the GRAS claim. Since 1998, CFSAN has received more than 280 notification letters related to human food ingredients for review through its GRAS program.

Given the pending *Federal Register* notice, the feed industry by late summer would have a GRAS process similar to that used within CFSAN available to it for gaining approval of ingredients for use in animal feed. FDA/CVM officials have indicated that persons seeking GRAS approval for animal feed ingredients will be instructed to submit notices that contain detailed information about the identity and intended use of the ingredient. Such information may include chemical properties and specifications, details about the ingredient's manufacturing process, data pertaining to exposure to the ingredient and its cumulative effects, and other pertinent safety data, such as evaluations concerning possible tissue residues in food-producing animals. In addition, all information provided to substantiate a GRAS claim for an animal feed ingredient is to be generally available to, and accepted by, qualified experts.

Further, under the GRAS notification program and the food additive law of 1958, an ingredient also may be considered GRAS if it commonly has been used in animal feed prior to 1958 and has a demonstrated history that indicates it is safe for its intended use in animal feed.

One significant detail associated with the GRAS notification program for animal feed ingredients that remains pending is whether feed ingredients approved through the GRAS process will be listed in the *Official Publication* published by the Association of American Feed Control Officials (AAFCO). The AAFCO *Official Publication* contains a comprehensive listing of ingredients authorized for use in commercial feed in the United States, and is recognized by the FDA. FDA/CVM officials have told the NGFA that the agency and AAFCO currently are discussing this issue.

FDA Issues Revised Guidance on Veterinary Feed Directive Feeds

The Food and Drug Administration's Center for Veterinary Medicine (FDA/CVM) made several important changes when issuing a revised guidance document on March 26 that provides updated information and interpretations concerning animal drugs regulated under the agency's Veterinary Feed Directive (VFD) rules.

Of most importance to feed manufacturers, the agency clarified that it is the responsibility of veterinarians to properly fill out and submit the VFD, and now will allow VFD orders to be transmitted electronically to feed mills.

Created under the authority of the Animal Drug Availability Act of 1996, FDA/CVM on Dec. 8, 2000 published its final rule implementing the VFD provisions that specify requirements for the use of certain animal drugs. VFD drugs are animal drugs intended for use in or on animal feed, and are

limited to those drugs approved for use under the professional supervision of a licensed veterinarian in the course of the vet's professional practice, where a valid veterinarian-client-patient relationship exists. The VFD is a written statement issued by a licensed veterinarian authorizing a client to obtain and use a VFD drug to treat the client's animals.

To date, FDA/CVM has approved or conditionally approved two animal drugs for use under the VFD provisions. The drug tilmicosin is approved for use in the control of swine respiratory diseases, and the drug florfenicol is approved for use in the control of swine respiratory diseases and for control of certain bacterial diseases in aquaculture. Florfenicol also conditionally is approved for control of mortality in catfish due to columnaris disease

(Continued on page 15)



Feed Facts

by David A. Fairfield
Director of Feed Services
E-Mail: dfairfield@ngfa.org

("VFD Guidance" continued from page 14)

The March 26 FDA/CVM guidance document, entitled "Guidance for Industry – Veterinary Feed Directive 120," replaces a previous version published by the agency on June 26, 2007. It contains the following significant revisions:

- ▶ The agency clarified that a VFD order may be transmitted by facsimile or other electronic means, including the use of the Internet. As examples, FDA/CVM states that transmitting the VFD by electronic means could include using the Internet to transmit the image of a paper VFD order, such as e-mailing a scanned VFD document. In such instances when the electronic means used to transmit the VFD order does not comply with the agency's regulations pertaining to electronic records and electronic signatures (21 CFR, Part 11), the veterinarian is to provide the feed distributor the original signed VFD within five working days after transmitting the facsimile or electronic order. **Importantly**, the guidance also reiterates FDA/CVM's position that **VFD orders by telephone are not allowed.**
- ▶ FDA/CVM states that in instances when VFD orders are

transmitted by electronic means that do comply with 21 CFR, Part 11 (referred to by the agency as eVFD orders), such orders already bear an authorized electronic signature of the issuing veterinarian and, as such, are considered to be the "original signed VFD." Hence, there is no requirement by veterinarians issuing eVFD orders to further provide the feed distributor with the "original signed VFD" within five working days thereafter.

- ▶ An interpretation by the agency that it is the responsibility of the veterinarian if the VFD or eVFD order is not properly filled out or distributed. The revised guidance states that the veterinarian is required to give the original VFD order to the feed distributor (directly or through the client), and to give a copy of the VFD to the client. Hence, it is the veterinarian's obligation to ensure that the original VFD order is distributed to the feed distributor within the required timeframe.

Members receiving the *NGFA Newsletter* electronically may obtain a copy of the revised FDA/CVM guidance document by [clicking here.](#)



Rails, Rivers and Roads

by Charlie Delacruz
Counsel for Public Affairs
E-Mail: cdelacruz@ngfa.org

Appeals Court Hears Oral Arguments on Challenge of STB Small Rail Rate Case Decision

A U.S. appeals court on April 7 heard oral arguments in the major court case in which the NGFA and other shipper organizations are challenging the federal Surface Transportation Board's (STB) revised regulations for bringing small rail rate cases – those involving rate-relief claims of less than \$5 million.

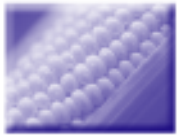
Congress directed the STB when passing the Interstate Commerce Commission Termination Act in 1995 to establish a simplified and expedited method for resolving comparatively smaller freight rail rate challenges (cases in which a full stand-alone cost rate case presentation is prohibitively expensive given the value of the case). Subsequent rules developed by the STB ostensibly to implement this provision have resulted in very few rail rate challenges being filed. After repeated attempts by shipper groups to have the agency revise its rules, the STB issued a final decision in 2007 that created a tiered approach that provides a simplified method for resolving cases based upon a maximum rate relief available over a five-year period of \$5 million.

In their briefs and in oral arguments presented before the U.S. Court of Appeals for the District of Columbia Circuit, the shipper organizations maintained that the STB's final rules, even after

being modified, still are too restrictive and prevent broad ranges of potential small rail rate disputes from being considered by the agency. The NGFA and other shipper groups contend that the cost to bring a rate challenge for small claims still is not reasonably related to the potential payoff across the majority of rail movements for small shipments. The shippers are asking that the appellate court remand the final regulations back to the STB for reconsideration on these grounds. Rail carriers also have challenged the STB's final regulations, alleging that they provide too much opportunity for shippers to file rate challenges with the agency.

The three judges on the panel from the federal appellate court – Judges Judith W. Rogers, David S. Tatel and Thomas B. Griffith – posed some tough questions for the three attorneys representing the shipper-petitioners, railroad-petitioners and STB. Of significant discussion was whether the agency had adequately and reasonably addressed the shipper's concerns that the rate-relief cap for a simplified proceeding was too low to provide effective rate relief for rail movements for small shipments.

A decision by the appellate court is expected by mid-year.



APHIS to Conduct April 29-30 Public Meeting on Proposed Changes to Biotech Regulations

The U.S. Department of Agriculture's Animal and Plant Health Inspection Service (APHIS) has announced that it will conduct a public meeting on April 29-30 as part of its ongoing effort to finalize revisions of its biotechnology regulations.

The agency said the meeting is designed to obtain additional feedback on several key areas that generated significant public interest during the initial comment period on the proposed regulatory changes. Specific areas cited in the announcement include the scope of the proposed regulations, incorporation of noxious weed provisions of the Plant Protection Act and the proposed streamlined procedure for the authorization of certain genetically engineered organisms.

Under the U.S. government's "coordinated regulatory framework" for agricultural biotechnology, APHIS is responsible for regulating biotech-enhanced plants and has been involved in rewriting its regulations for several years. The agency's regulations cover the importation, interstate movement and environmental release of certain genetically modified organisms.

The APHIS-proposed revisions, which are detailed and wide-ranging, are intended to meet the current and future demands of the technology underlying agricultural biotechnology and the global marketplace. The proposed changes include a new permitting process; an expanded and clarified regulatory scope; a strengthening of compliance and enforcement actions; and a codifying of a policy governing the low-level, unintentional release of unauthorized biotech traits.

The public meeting will be conducted at USDA's Center in Riverdale, Md., located at 2700 River Road, in Conference Room B. The sessions are scheduled to run from 9 a.m. to 5 p.m. on both April 29 and 30. Additional information and instructions on how to register are to be provided on the agency's website in the near future, which can be accessed by [clicking here](#).

APHIS also has extended the public comment period on its proposed changes by an additional 60 days after the public meeting. The new deadline for public comment will be June 29. APHIS said it then either will release a revised proposed rule or issue a final rule.



National Grain and Feed Association
1250 Eye St., N.W., Suite 1003
Washington, D.C. 20005-3922

TIME SENSITIVE