



NGFA Announces 10 Percent Dues Reduction for Second Straight Year

For the second consecutive year, the NGFA is reducing membership dues by 10 percent across-the-board for 2009.

The action, approved this month by the NGFA's Board of Directors, reflects the NGFA's continued strong membership growth and financial condition. For member companies that were invoiced and already paid their dues assessment since Feb. 1, 2009, the NGFA will be sending checks rebating 10 percent of the total dues amount. Member companies that received their dues invoices – but have not paid yet – may subtract 10 percent from the invoiced amount. Future NGFA invoices for dues issued from Nov. 1 through Jan. 31, 2010, will include the 10 percent dues reduction itemized in the invoice.

“There are not many agricultural trade associations that can lay claim to membership growth in recent years, as consolidation continues in virtually all sectors,” said NGFA Chairman Tom Coyle, general manager of Chicago & Illinois River Marketing LLC, Chicago, Ill. “We're extremely proud of our membership growth, which combined with continued strong management to control costs and wise investments of funds – have made this dues reduction possible.”

Coyle noted that NGFA's membership now exceeds 1,050 companies – the largest number in a decade. During the 2008/09 membership recruitment year that culminated at the NGFA's March 2009 convention, 147 new member companies joined the NGFA – the most since 1987-88. He said an emphasis on fiscal responsibility through strong cost-control management, as well

as comparatively strong commodity prices, also have contributed to the NGFA's solid financial condition.

“The NGFA is truly an industry-driven organization, and is providing membership services that have real value,” he said. “Our members believe in the NGFA's mission, have a high regard for its industry and staff leadership, recognize the importance of supporting an organization working on their behalf on major policy issues important to the industry, and appreciate the fiscal responsibility with which the association is managed. That winning combination builds a strong loyalty among existing member companies and attracts new members that further enhance our grassroots strength.”

As reasons for its membership growth, Coyle cited access to the NGFA's unique trade rules and arbitration system and proactive representation of the industry's interests before Congress and federal agencies on such key legislative and regulatory issues as futures market performance; rail and waterway transportation; food and feed safety; agricultural and trade policy; and safety, health and environmental. He also cited the NGFA's timely news and communications to members, as well as education and training programs tailored to the industry's needs.

Coyle encouraged existing NGFA members to think about other businesses in the industry that could benefit from NGFA membership, noting that nonmember companies that join before

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CFTC Subcommittee Recommends December Implementation of Variable Storage Rate for CBOT Wheat Futures Contract

The Commodity Futures Trading Commission's (CFTC) Subcommittee on Convergence on Sept. 23 agreed to recommend that a variable storage rate concept currently being researched by the CME Group be implemented with the December CBOT wheat futures contract.

The NGFA, represented by Risk Management Committee Vice Chairman Matt Bruns, vice president, exports, Archer Daniels Midland Co., Decatur, Ill., was among groups voicing support for speedy implementation of a variable storage rate during the subcommittee's conference call.

The CFTC subcommittee was established earlier this year to examine reasons for the lack of convergence in agricultural commodity markets and potential solutions. During two previous conference calls, the group had come to the conclusion that the most troublesome lack of convergence has been with the CBOT wheat futures contract and that the variable storage rate should be the next contract enhancement implemented to help reestablish convergence. The Sept. 23 conference call was the culmination of the subcommittee's work, and will result in a report to the CFTC's Agricultural Advisory Committee, chaired by Commissioner Mike Dunn, which will consider the subcommittee's

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We'll Be Calling on You!

The NGFA's Board of Directors conducted its traditional fall meeting on Sept. 9-11, this time in our nation's capital.

During its meeting, the NGFA Board met with several top officials of the new Obama administration, the chairmen of the Commodity Futures Trading Commission and federal Surface Transportation Board, the chairman and ranking member of the House Agriculture Committee, and visited more than two dozen congressional offices to advocate the NGFA's policy positions on major issues important to the industry.

To be frank, some of the messages we heard were sobering. It's indeed a dramatically new policy environment!

Secretary of Agriculture Tom Vilsack previewed the U.S. Department of Agriculture's (USDA) new focus – the "Know Your Farmer, Know Your Food" initiative being headed by Deputy Secretary of Agriculture Kathleen Merrigan, a long-time organic agriculture advocate, that was announced the week after the NGFA Board meeting. Secretary Vilsack's stated intent is to make USDA an "Every Day in Every Way" department that "reconnects" consumers with where their food comes from and "rebuilds and revitalizes" rural America. But make no mistake. This is a significant philosophical and policy shift. The emphasis now is on fostering local and regional agricultural production/processing and direct farmer-to-consumer marketing approaches. A total of \$65 million was awarded to various projects in the first week. Since that initial announcement, we've witnessed another \$72 million-plus selectively allocated by USDA to smaller agricultural entities. Is the U.S. government getting even more involved in picking winners and losers in today's marketplace?

More USDA initiatives are on the way. Organic agriculture, farmers' markets and "people's gardens" are in vogue. Commercial agricultural production and marketing systems decidedly are not.

On Capitol Hill, we have some strong allies on key policy issues important to our industry. But they – and we – are facing some uphill battles. House Agriculture Committee

Chairman Collin Peterson, D-Minn., and ranking member Rep. Frank Lucas, R-Okla., continue to express varying degrees of concern/disapproval of the House-passed climate-change bill. That battle likely will be won or lost in the Senate, where Republicans and conservative Democrats hold greater sway. "Cap-and-trade" legislation that some have estimated could idle anywhere from 20 million to 70 million **additional** acres of productive farmland gets your attention.

Similarly, we're banking on the Senate to temper some of the excesses in the House-passed version of food and feed safety legislation, including costly user fees and an unprecedented granting of regulatory power to the Food and Drug Administration to mandate specific product-safety standards and product-tracing requirements. In addition to food/feed safety, the NGFA is playing a major leadership role for the industry on rail-competition legislation and congressional bills designed to curb "excessive speculation" in commodities markets. We're also playing a supportive role with the U.S. Chamber of Commerce and other national business groups on issues like the labor "card-check" bill and health insurance reform that might have

seemed "outside" our bailiwick just a few short years ago. But the outcomes on these issues, too, are critical to our members' business efficiency and bottom lines. The NGFA has developed

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Secretary of Agriculture Tom Vilsack (left) addresses the NGFA Board of Directors on Sept. 11 in Washington. Also pictured (from left seated) are NGFA President Kendell Keith; NGFA Chairman Tom Coyle, general manager, Chicago & Illinois River Marketing LLC, Chicago, Ill.; and NGFA Immediate Past Chairman and current Executive Committee Chairman Ron Olson, vice president, grain operations, General Mills Inc., Minneapolis, Minn



Calendar

- Dec. 6, 2009:** NGFA Country Elevator Committee
Hyatt Regency Crown Center, Kansas City, Mo
- Dec. 6-8, 2009:** NGFA Country Elevator/Feed Industry
Conference & Trade Show
Hyatt Regency Crown Center, Kansas City, Mo.
- Dec. 8, 2009:** NGFA Membership and Marketing Committee
Hyatt Regency Crown Center, Kansas City, Mo.
- Dec. 8-9, 2009:** NGFA Executive Committee
Hyatt Regency Crown Center, Kansas City, Mo.



Forum

by Kendell W. Keith
President
E-Mail: kkeith@ngfa.org

six concise policy papers on several key issues that I invite you to read and disseminate. They're posted on our website, and you can access them by [clicking here](#).

The challenges, of course, aren't just legislative. We have an activist Environmental Protection Agency and Occupational Safety and Health Administration (OSHA) that will be proposing new regulations on air permitting and combustible dust. And then there are the groups like the Humane Society of the United States that would just as soon see the United States halt modern-day animal agriculture production.

Clearly, as the NGFA Board correctly concluded, this new policy environment requires a rethinking of our strategies and a dramatically enhanced grassroots effort by our industry.

Your NGFA staff has never been more active in terms of government relations work, including legislative and regulatory outreach, and working with like-minded organizations to advance NGFA's policy goals. But we're going to be doing even more in the future. And the NGFA also will be considering carefully focused research on big-ticket issues, such as better quantifying the acreage-idling impacts of climate-change legislation.

But to be successful, we as an industry are going to have to make better use of one of our inherent political advantages – our strong grassroots network!

The NGFA now is at its highest membership levels in more than a decade – more than 1,000-member companies strong. We also have a great group of Affiliated State and Regional Grain and Feed Associations whose memberships comprise thousands of additional facilities in all major regions of the country.

I've been around long enough to remember the outpouring of industry comments to OSHA during its development of the grain-handling safety standard in the mid 1980s. NGFA members generated more than 2,000 individual letters to OSHA, pushing back hard against the agency's initial proposal that would have established arbitrary and extremely costly housekeeping and equipment standards. That outpouring of comments from the grain, feed and grain processing industry still ranks as the most ever received by OSHA on a single rulemaking, and it helped shape a better outcome.

The stakes were high then – an economic impact assessment conducted by the NGFA had estimated conservatively that OSHA's initially proposed grain-handling safety standard would have cost the industry more than \$1.5 billion over 10 years.

But I would submit that the stakes are much greater today, and cut to the core of NGFA's Mission Statement of fostering an efficient free-market environment and the production of an abundant, safe and high quality supply of grain, feed and feed ingredients for U.S. and world consumers.

When it comes to the policy battles ahead – be they legislative or regulatory – we're going to be selective and ask for your help when the time is right and when you can have maximum impact. But we will be calling on you! If you don't currently have a familiarity with your members of Congress and their key staff members, let me suggest that right now is the time to start building those relationships, acquainting them with your business, and impressing upon them the vital role the U.S. grain, feed and grain processing industry plays in the U.S. economy and in feeding a growing world.

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



Newsletter

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Feb. 1, 2010 also will qualify for the 10 percent dues reduction. "If we can sustain steady membership growth, we have a chance to maintain reduced dues while still supporting a Washington-based organization that strongly supports the success of our business," he said.

NGFA President Kendell W. Keith noted that even with the second consecutive 10 percent dues reduction, the NGFA expects to experience a strong net revenue year that will enable it to continue expanding its high-quality membership services, while still controlling costs and maintaining strong ending-year financial reserves. "We're very pleased to be in a financial position to be able to return to our members a significant portion of their dues investment, particularly given continued tightness in capital markets," Keith said.

NGFA Membership and Marketing Committee Chair Mark Avery, publisher of *Grain Journal*, Decatur, Ill., encouraged NGFA-member companies receiving the rebate to consider using a portion of it as an investment in sending their key managers and employees to the NGFA's December Country Elevator/Feed Industry Conference in Kansas City, Mo., and to the NGFA's 114th annual convention in Hawaii in March.

Avery also invited additional non-NGFA members to consider NGFA membership in the coming year. "Given today's markets and public policy environment, there's never been a more important time for grain, feed and processing companies to be part of the organization that is making a positive difference for our industry," Avery said. "It's good to be part of an organization that offers such tremendous service and value to its members."



Senate Climate-Change Bill Expected to be Introduced Soon; Progress Likely Slow

The NGFA has learned that Senate Environment and Public Works Committee Chairman Barbara Boxer, D-Calif., and Senate Foreign Relations Committee Chairman John Kerry, D-Mass., plan as early as the week of Sept. 28 to introduce climate-change legislation that would establish a cap-and-trade approach designed to reduce greenhouse gas emissions.

The Boxer-Kerry bill is expected to track closely with the version of the House bill sponsored by Reps. Henry A. Waxman, D-Calif., and Edward Markey, D-Mass., that emerged from the House Energy and Commerce Committee. That version did not include the many substantive amendments offered by House Agriculture Committee Chairman Collin Peterson, D-Minn., prior to final House passage in an attempt to make the bill more palatable to farm interests. If introduced next week, hearings on the Senate bill could begin as early as the week of Oct. 5.

But other than hearings, action on the Senate bill is expected to be slow, as four other Senate committees also have jurisdiction over sections of the legislation and it is uncertain if sufficient support exists in the Senate Environment and Public Works Committee to approve the measure. New Senate Agriculture Committee Chairman Blanche Lincoln, D-Ark., is expected to exert heavy influence, and has expressed serious reservations about a

cap-and-trade system – calling the House-passed bill “deeply flawed” and a “nonstarter.” Other senators with agricultural and coal interests have expressed strong reservations, as well, citing concerns over costs and potential to negatively affect jobs. The Senate schedule also is working against a climate-change bill, with healthcare and financial regulatory reform legislation topping the policy agenda and most of the annual appropriations bills still awaiting action.

Treasury Department Cost Estimates: In a related development, the Treasury Department under pressure released some of its internal cost estimates of climate-change legislation and a cap-and-trade scheme. Officials were quick to note that the estimates were based on the White House version of climate-change legislation – not the version approved by the House. Not counting any potential credits, the Treasury Department estimated the cost would amount to \$3,522 per household per year, including cost increases for gasoline, heating oil, electricity and other energy usage. The Congressional Budget Office (CBO) had estimated that greenhouse gas reductions would cost the average family an estimated \$1,600 per year – however cost estimates have ranged wildly because of the difficulty of calculating costs and potential tax credits.

Hill Highlights

House Passes Three-Month Extension of Highway Bill: The House this week passed, by a 335-85 vote, a three-month extension of the existing surface transportation law, which funds highway construction projects, as well as other highway, transit and safety programs. The current law is scheduled to expire Sept. 30. The three-month extension contrasts sharply with the Obama administration-supported 18-month extension likely to be approved by the Senate. The administration has argued the additional time would allow Congress to wait until after the 2010 mid-term elections to consider reforms for funding highway projects, including a potential increase in the gas tax. House Transportation and Infrastructure Committee Chairman James Oberstar, D-Minn., instead has argued for an enactment of a six-year, \$500 billion highway reauthorization bill.

House Judiciary Committee Approves Rail Antitrust Bill: The House Judiciary Committee on Sept. 16 approved its version (H.R. 233) of legislation that would repeal rail carriers’ longstanding antitrust exemptions. Among other things, the bill would require freight railroads to seek approval from the Justice Department for mergers, acquisitions and collective rate-making agreements. It also would allow states attorneys general and private parties to file antitrust suits in federal court. The House bill, sponsored by Rep. Tammy Baldwin, D-Wis., mirrors a companion bill sponsored by Sen. Herb Kohl, D-Wis., that

has been approved by the Senate Judiciary Committee. But Senate floor consideration is being delayed in anticipation of a broader rail reform bill being crafted by Senate Commerce, Science and Transportation Committee Chairman John D. (Jay) Rockefeller, D-W.Va.

Siddiqui Nominated Chief Ag Trade Negotiator: President Obama this week nominated **Islam A. (Isi) Siddiqui**, currently vice president for science and regulatory affairs at CropLife America, as chief agricultural trade negotiator at the U.S. Trade Representative’s Office. Siddiqui’s current responsibilities at CropLife focus on regulatory and international trade issues related to crop-protection chemicals. Previously, he also served as CropLife’s vice president for agricultural biotechnology and trade. From 1997-2001, Siddiqui worked at the U.S. Department of Agriculture during the Clinton administration, where he served stints as undersecretary and deputy undersecretary for marketing and regulatory programs, as well as senior trade adviser to then-Agriculture Secretary Dan Glickman. Before joining USDA, Siddiqui spent 28 years with the California Department of Food and Agriculture. He received an undergraduate degree in plant protection from Uttar Pradesh Agricultural University in Pantnagar, India, and master’s and doctorate degrees in plant pathology from the University of Illinois at Champaign-Urbana.





Federal Court Again Faults USDA in Challenge Against Biotech Sugar Beets

A federal district court on Sept. 21 granted a motion for summary judgment that challenged the decision by the U.S. Department of Agriculture (USDA) and its Animal and Plant Health Inspection Service (APHIS) to deregulate a variety of sugar beets genetically engineered to resist glyphosate (the active ingredient in the herbicide Roundup®).

Plaintiffs in the case [*Center for Food Safety, et al. v. Vilsack, et al., U.S. District Court for the Northern District of California, Case No. C 08-00484*] contended that APHIS failed to comply with the environmental and agricultural review requirements of the National Environmental Policy Act and the Plant Protection Act in deciding to deregulate the biotech-enhanced sugar beets. They alleged that APHIS initially had classified the genetically engineered Roundup Ready sugar beet variety (designated as “event H7-1”) as a “regulated article.”

Monsanto Co. and Betaseed Inc.’s parent company then filed a petition to have APHIS deregulate their genetically engineered Roundup Ready sugar beets as not presenting “a plant pest risk.” APHIS reached a finding of “no significant impact” on the environment from the “unconfined cultivation and agricultural use of event H7-1 and its progeny.” The agency subsequently concluded that it did not need to prepare an environmental impact statement (EIS), and unconditionally deregulated the Roundup Ready sugar beets.

In his decision, Judge Jeffrey White of the northern California federal district court noted that, in general, an agency’s decision not to prepare an EIS can be set aside only upon a showing that the decision was “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.” Judge White stated that the standard for determining the need to prepare an EIS is whether “the plaintiff has alleged facts, which, if true, show that the proposed project may significantly degrade some human environmental factor.” The judge elaborated that the plaintiff need only raise substantial questions about whether a project may have a significant effect, and an agency’s decision not to prepare an EIS will be considered unreasonable “if the agency fails to supply a convincing statement of reasons why potential effects are insignificant.”

Judge White ruled that in light of the circumstances – accepting that H7-1 may cross-pollinate with non-genetically engineered sugar beets and that sugar beet pollen can disperse up to 800 meters – the plaintiffs had demonstrated that deregulation may significantly affect the environment. The judge found that “the potential elimination of a farmer’s choice to grow non-genetically engineered crops, or a consumer’s choice to eat non-genetically engineered food, and an action that potentially

eliminates or reduces the availability of a particular plant has a significant effect on the human environment.” According to Judge White, APHIS’s reasons for concluding that the potential for transmission of the genetically engineered gene was not significant were not “convincing” and did not demonstrate the “hard look” that the law requires. Therefore, APHIS was ordered to prepare an EIS.

The impact of this decision – as either having more to do with procedure or with a perceived threat by Roundup Ready sugar beets – is subject to dispute. However, given the outcomes in earlier similar cases, it continues to appear that the courts will demand much greater scrutiny from APHIS in regulating biotech plant varieties, and that legal challenges against biotech plant varieties will receive closer attention.

Earlier Cases: Judge White in this recent case specifically cited a federal court decision in 2007 – referred to by some attorneys involved in the case as “precedent-setting” and a “turning point” in the regulation of biotech crops. In that 2007 case, Judge Charles Breyer, also of the U.S. District Court for the Northern District of California, vacated USDA’s decision to deregulate alfalfa genetically engineered to resist the Roundup herbicide (Roundup Ready alfalfa). [*Geertson Seed Farms, et al. v. Mike Johanns, et al., Case No. C 06-01075*]. As in the recent case, Judge Breyer required USDA to prepare a full environmental impact statement and reconsider the petition to deregulate the Roundup Ready alfalfa. In the interim, all future planting of Roundup Ready alfalfa was prohibited, and certain conditions were imposed on the handling of the crop already planted.

In a decision in a separate case issued earlier that year, Judge Henry Kennedy of the U.S. District Court for the District of Columbia ordered USDA to more closely scrutinize applications to plant experimental genetically engineered crops. [*International Center for Technology Assessment, et al. v. Mike Johanns, et al., Case No. 03-00020*]. This case concerned field tests of an experimental grass that was engineered genetically to withstand the Roundup weed killer. Kennedy’s opinion was significant not only because it required APHIS to reconsider the applications at issue in that case, but because the judge also more broadly ordered that other applications in the future be given greater scrutiny, consistent with this opinion.

In a previous case, involving field trials of corn and sugarcane crops engineered to produce pharmaceuticals, a federal judge in Hawaii similarly ruled that USDA had not assessed adequately the possible impacts of the trait on the environment and on endangered species. [*Center for Food Safety, et al. v. Mike Johanns, et al., Case No. 03-0062*].





EPA Issues Final Greenhouse Gas Reporting Rule

The U.S. Environmental Protection Agency (EPA) on Sept. 22 issued a final rule that, for the first time, will require large emitters of alleged heat-trapping greenhouse gas emissions to begin collecting data on such emissions starting Jan. 1 and submitting them to the agency under a new reporting system.

“This is a major step forward in our effort to address the greenhouse gases polluting our skies,” said EPA Administrator Lisa P. Jackson when announcing the final rule. “For the first time, we will begin collecting data from the largest facilities in this country, ones that account for approximately 85 percent of the total U.S. emissions. The American public, and industry itself, will finally gain critically important knowledge and with this information we can determine how best to reduce those emissions.” Jackson’s statement aligns with EPA’s previously stated purpose for the rule, which is to make greenhouse gas emission information available to the agency as it considers future climate-change policy decisions.

In general, EPA’s final rule establishes a threshold of 25,000 metric tons or more of carbon dioxide equivalent per year that triggers the reporting requirement. The reporting threshold is per-facility, except that certain suppliers of fossil fuels and industrial greenhouse gases, along with vehicle and engine manufacturers, will report at the corporate level. Facilities and suppliers are to begin collecting data on Jan. 1, with the first emissions reports due to EPA on March 31, 2011 for emissions that occurred during calendar year 2010.

Importantly, based upon the EPA methodology specified in the final rule that is to be used to determine carbon dioxide-equivalent emissions, the NGFA believes it is **very unlikely that facilities involved in grain handling or feed manufacturing will meet the 25,000-metric-ton reporting threshold**. However, many grain processing facilities, including fuel-ethanol producers, likely will exceed the reporting threshold and be required to

collect and submit emissions data to EPA.

The NGFA previously had provided extensive comments to EPA in response to its greenhouse gas reporting rule proposal published April 10. EPA’s final rule reflects several important changes recommended by the NGFA, including:

- ◆ Removing “food processing facilities,” which encompasses grain handlers, grain processors and feed manufacturers, as a specific facility category within the rule subject to additional reporting requirements. However, EPA states that in the future it, “will perform additional analysis and consider alternatives to data-collection procedures and methodologies” for such facilities.
- ◆ Decreasing – from five to three years – the record-retention time period for facilities required to submit reports. This corresponds to the record-retention timeframe associated with other EPA regulatory programs.
- ◆ Adding a mechanism under which facilities and suppliers that reduce their greenhouse gas emissions levels below the reporting threshold will be exempt from the reporting requirement. EPA initially proposed that once a facility was subject to the rule’s reporting requirement, such a facility would be required to continue to submit emission reports even if its emission levels fell below the reporting thresholds in subsequent years.
- ◆ Allowing facilities to self-certify reporting data that they submit to EPA, and not requiring third-party verification of such data.

Members receiving the *NGFA Newsletter* electronically may [click here](#) to access additional information about EPA’s greenhouse gas reporting rule.

GIPSA Considering Major Increase in Official Inspection Tonnage Fees

The NGFA has learned that the U.S. Department of Agriculture’s Grain Inspection, Packers and Stockyards Administration (GIPSA) is considering proposing later this fall a significant increase in tonnage-based user fees charged for facilities utilizing official grain inspection and weighing services, beginning in fiscal 2011.

During a recent meeting with representatives of the NGFA and North American Export Grain Association (NAEGA), GIPSA officials said the agency’s existing tonnage user fees will

not generate sufficient revenues, starting in fiscal year 2011, to cover program costs while maintaining the agency’s three-month operating reserve. Based upon current projections, the funds generated by the tonnage user fee will decrease from an annual surplus of \$2.7 million in fiscal 2008 to an annual deficit exceeding \$2 million for fiscal 2009. At the end of fiscal 2009, GIPSA currently projects that more than \$4.5 million will remain in the grain inspection operating reserve, down from more than \$6.2 million at the end of fiscal 2008.

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As a result, the agency said it is considering revising its fee schedule governing the official sampling, inspection, weighing and certification of grain by increasing certain fees – including the tonnage user fee – charged for the services. The increase in the national average tonnage user fee could exceed 50 percent, based upon GIPSA calculations. The tonnage user fee is in addition to the hourly rate paid by exporters for official personnel to be on site to perform the actual inspection and weighing services. The potential fee increases, GIPSA representatives said, are attributable to projected declines in export tonnage subject to official inspections and cost increases incurred by the agency for employee salaries and benefits, estimated annual cost-of-living adjustments, the cost of replacing aging official grain inspection equipment, and the need to fund efficiency improvements in issuing official certificates and overall program management.

The tonnage user fees assessed by GIPSA are based primarily upon export tonnage projections over a five-year period. The previous method used to determine those projections was based upon USDA's long-term export projections, and focused more on trends that minimized variability. As a result, fiscal 1996 fees were based upon projections for 85 million metric tons (m.m.t.) of exported grain, while the fiscal 2005 fee assumed 80 m.m.t. in exports. The fiscal 2011 rule will utilize a new calculation based upon official grain inspection data, USDA World Agricultural Supply and Demand Estimates and a 95 percent confidence variability.

As a result, GIPSA is considering calculating tonnage user fees for fiscal years 2011 to 2015 (which begins Oct. 1, 2010) based upon export inspections ranging from 69 m.m.t. to 79 m.m.t. per year. For example, the current tonnage user fee for facilities operating in New Orleans, La., is 6-cents per m.m.t., and is based upon an estimate of 71.5 m.m.t. in export tonnage per year. Under the change being considered by GIPSA, the tonnage user fee in New Orleans would increase to 12.3-cents per m.m.t. based upon a projected export figure of 69 m.m.t., or 11.7-cents per m.m.t. based on 73 m.m.t. per year.

In addition, GIPSA projects hourly service fees will increase 3 percent per year between fiscal 2011 to 2015 to cover employee cost-of-living adjustments. In addition, GIPSA currently is calculating the differences in cost-per-metric-ton for vessel loadings in Portland, Ore., (which is serviced by federal employees) versus Washington state (served by a delegated state agency).

NGFA's Anticipated Response: Based upon these proposed figures, the NGFA is considering urging GIPSA to make small increases in tonnage user fees over a period of several years, if needed, rather than one large increase within a single year. In addition, the NGFA plans to urge GIPSA to base its fee schedule on a higher than 95 percent confidence variability of 69 m.m.t. in export tonnage.

OSHA Updates PPE Standards to Reference Consensus Standards

The Occupational Safety and Health Administration (OSHA) on Sept. 9 issued a final rule revising the personal protective equipment (PPE) sections of its general industry, shipyard employment, longshoring and marine terminal standards to reflect recent editions of the applicable national consensus standards that incorporate advances in technology.

The final rule, which affects PPE standards concerning requirements for eye and face, head and foot protection, takes effect Oct. 9.

"Workers exposed to occupational hazards requiring head, foot or eye and face protection will now be provided protection based on a standard that reflects state-of-the-art technology and materials," said Acting Assistant Secretary of Labor for OSHA Jordan Barab. "This final rule is another step in OSHA's efforts to update or remove references to outdated national consensus and industry standards."

In 2007, OSHA proposed replacing references to outdated

consensus standards with the requirement that PPE must conform to good design standards. The NGFA and Grain Elevator and Processing Society (GEAPS) submitted joint comments supporting OSHA's approach to revise the standards. The final rule incorporates NGFA/GEAPS' recommendations by acknowledging that employers may comply with their obligations under the rule by using PPE constructed in accordance with standards developed through the American National Standards Institute and American Society for Testing and Materials International.

OSHA now requires that PPE be safely designed and constructed for the tasks performed. In the Sept. 9 *Federal Register* notice in which the agency announced its final rule, OSHA deleted editions of the national consensus standards that PPE must meet if purchased before a specified date. Other amendments to the PPE standard include a requirement that filter lenses and plates in eye-protective equipment meet a test for transmission of radiant energy, such as light or infrared. Members receiving the *NGFA Newsletter* electronically may [click here](#) to access OSHA's *Federal Register* notice.



EPA Urged to Regulate CAFOs under the Clean Air Act

The Humane Society of the United States (HSUS) and eight other environmental and public health groups on Sept. 21 filed a petition with the U.S. Environmental Protection Agency (EPA) urging the agency to apply certain provisions of the Clean Air Act to concentrated animal feeding operations (CAFOs).

As acknowledged in their petition, the “vital interest” of the HSUS-led coalition transcends reducing alleged emissions of pollutants to improve human health and reduce the effects of climate change, but also to “reduce suffering in farm animals” and “protect habitats for wildlife.”

In their 70-page petition, the groups urged EPA to use its authority under the Clean Air Act to list CAFOs as a “category of stationary sources” that “cause or contribute significantly to air pollution which may reasonably be anticipated to endanger public health or welfare.” A “stationary source” is defined under the law as “any building, structure, facility or installation which emits or may emit an air pollutant.” The petition further urges that EPA promulgate standards of performance for new CAFOs, and prescribe regulations for state performance standards for existing CAFOs.

The HSUS and other petitioners claimed that “increased waste

and emissions associated with this [CAFO] production method result in air pollution that contributes to climate change, causes serious public health concerns and harms the environment.” Specifically, the petitioners contended that “factory farms” contribute “significantly” to anthropogenic emissions of methane, nitrous oxide, hydrogen sulfide, and ammonia. The petitioners argued that the direct sources of such emissions from CAFOs include the decomposition process for animal manure and urea, as well as “particulate matter” from dry manure, bedding and feed materials, biological matter (i.e. animal dander and feathers) and unpaved dirt lots.

The petition seeks reversal of EPA’s current view that CAFOs are not required to meet standards under the Clean Air Act for testing, performance or emissions. Other parties involved in the petition are the: Association of Irrigated Residents; Center on Race, Poverty and the Environment; Clean Air Task Force; Dairy Education Alliance; El Comité para el Bienestar de Earlimart; Environmental Integrity Project; Friends of the Earth; and Waterkeeper Alliance.

Members receiving the *NGFA Newsletter* electronically may [click here](#) to access the 70-page petition.

FDA Develops New Method for Detecting Residues of 13 Different Antibiotics in Distillers Grains

The Food and Drug Administration on Sept. 15 published a scientific paper in which it announced it has developed a method for screening, determining and confirming the presence of 13 different antibiotics in distillers grains.

FDA’s Center for Veterinary Medicine (FDA/CVM) has indicated it may consider undertaking a second national sampling plan later this year to detect the presence and prevalence of residues of various antibiotics in distillers grain products that result from their use in fuel-ethanol production. Antibiotics are used as a processing aid by some fuel-ethanol producers during the fermentation process to kill and control bacteria that can negatively affect the amount of alcohol yielded from corn, thereby enhancing fuel-ethanol production.

FDA/CVM in January 2009 announced the results of an initial nationwide sampling of distillers products manufactured from fuel-ethanol production, in which it detected antibiotic residues in more than 50 percent of the samples analyzed, some at elevated levels. FDA/CVM has emphasized that no antibiotic residues currently are allowed in distillers grains intended for use as a feed ingredient.

FDA/CVM, however, has informed Phibro Animal Health Corp., the manufacturer of a virginiamycin-based processing aid known as Lactrol®, that the agency plans to exercise

enforcement discretion concerning that product so long as the company is pursuing a food-additive petition in an intentional manner seeking FDA approval of the product. FDA/CVM in November 1993 had issued a “letter-of-no-objection” in which the agency allowed residues of up to 0.5 parts per million of virginiamycin in distillers grain products. But the agency in early 2008 said it was reconsidering its regulatory stance because of concerns over the degree to which the use of antimicrobials in food-producing animals may contribute to the build-up of resistance to antibiotics in humans that undermine their effectiveness in treating human illness.

The scientific paper published by FDA/CVM, developed by two scientists at the agency’s Office of Research, involves the use of liquid chromatography and ion-trap tandem mass spectrometry in detecting the presence of the following antibiotics in distillers grains: streptomycin, ampicillin, tetracyclines (oxytetracycline, tetracycline, chlortetracycline), bacitracin A, erythromycin, tylosin, chloramphenicol, clarithromycin, penicillin G, virginiamycin M1 and monensin. The analytical method’s quantitative range was assessed at a level of 0.1 to 1 p.p.m., depending upon the compound. The analytical method was tested in distillers dried grains, wet distillers grains and corn syrup residue, according to FDA, with comparable accuracy in results.





Make Use of NGFA Feed Quality Assurance Distance Learning/Education Courses Now!

The NGFA reminds members that its **Feed Quality Assurance Distance Learning/Education Courses** now are available to assist companies in meeting their employee training and educational needs.

The courses are based upon the NGFA's first-of-its-kind **Model Feed Quality Assurance Program**, which since 1994 has served as a resource on how to develop, implement and enhance feed quality assurance practices at hundreds of feedmills.

Now, the NGFA is offering the contents of this comprehensive program in a new web-based distance learning format. The recently completed six-course program is designed for use by feed mill managers in training existing and new mill operators, as well as other personnel (such as administrative and sales staff), on feed safety regulatory requirements and feed quality assurance practices.

The six program courses – each approximately 45 minutes long – address the following topics: 1) FDA's current good manufacturing practice (CGMP) regulations; 2) purchasing and receiving of grains and feed ingredients; 3) feed manufacturing (grinding, mixing and packaging); 4) feed pelleting operations; 5) finished feed control, product complaints, investigations and recalls; and 6) hazard analysis and critical control point (HACCP) plans. The

program includes several key features that enhance the training and educational value of the courses, including:

- ▶ Each course is structured in a stand-alone format so it may be taken independently from others. Participants have the flexibility to take those courses that have specific applicability to their own operations and job functions and responsibilities.
- ▶ The courses are delivered completely via the internet in a self-paced format that allows participants to complete the training program on their own time schedule. The courses are open for enrollment at all times, providing managers the opportunity to enroll employees at appropriate times, such as immediately after hiring or after a job re-assignment.
- ▶ Each course has an electronic resource section library containing documents related to the course content that are available for download and use as reference materials.

NGFA members receiving the *NGFA Newsletter* electronically may [click here](#) to access pricing and additional information about the courses. NGFA Director of Feed Services David Fairfield is pleased to respond to questions on the course content and how to enroll. He may be reached at dfairfield@ngfa.org, or at 712-243-4035.

NGFA Co-Sponsors K-State Feed HACCP Short Course

Together with Kansas State University's Department of Grain Science and Industry, the NGFA is co-sponsoring a Feed HACCP Short Course on Oct. 5-8.

The course will provide participants with an interactive educational opportunity to learn how to develop and implement a hazard analysis and critical control point (HACCP) plan for all types of feed manufacturing facilities. K-State has been offering the short courses in cooperation with industry trade associations since 1976. The courses are taught by a team of K-State faculty and the feed and allied industries, and provide comprehensive training on all aspects of feed manufacturing. NGFA Director of Feed Services David Fairfield, one of the featured industry faculty members, will be discussing the U.S. regulatory framework for food/feed safety.

The Feed HACCP Short Course, which will be conducted in Manhattan, Kan., is designed for a wide variety of personnel involved with the safety of feed products, including feed mill supervisors and managers, quality assurance personnel, and ingredient purchasers. Topics for the course include an overview of HACCP in the feed industry, current feed industry regulations, HACCP prerequisite programs, hazard identification and risk analysis, and the seven HACCP principles. The \$475-per person registration fee includes all short course handout materials, breakfasts and lunches, refreshments and one dinner.

Members receiving the *NGFA Newsletter* electronically may [click here](#) to access a flyer that provides more information about the course. To register or to obtain further information, please contact Anita McDiffett at 785-532-4080, or by email at almgret@ksu.edu.





("Variable Storage Rate" continued from page 1)

recommendation. The CFTC Agricultural Advisory Committee is expected to meet soon, perhaps as early as mid-October, to expedite consideration. Bruns also serves as the NGFA's representative to the CFTC Ag Advisory Committee.

Under the variable storage rate concept, storage (premium) charges assessed by grain elevators approved by the CME Group as locations for physical delivery would expand or contract based upon the carry in the market that is implied by futures market spreads. Under the proposal being considered, an increase in the storage rate would be triggered if futures market spreads reached 80 percent or more of full carry. Similarly, a decrease in storage rates would be triggered if futures market spreads declined to 50 percent of full carry. The maximum that storage rates could increase or decrease would be about 3 cents per bushel per **contract** month – thus, five potential changes during a calendar year. There would be no cap on how high the storage rate could increase over time, while there would be a 5-cents-per bushel-per-month floor on storage rate.

The NGFA has voiced support to the CME Group and to the CFTC for quick implementation of the variable storage rate. In a Sept. 3 letter responding to a CME Group invitation for comments on the concept, the NGFA stated that "...the variable storage rate is the next logical step to enhance performance of the contract." The letter also urged "...that the CME Group...propose and push for regulatory approval of a December 2009 implementation date."

One practical reason cited by the NGFA for implementing the concept with the December CBOT wheat futures contract was that absent such action, the current seasonal storage rate for the wheat contract would decline from about 8 cents per bushel per month to about 5 cents per bushel per month in December, a move the NGFA has contended would be in the wrong direction and not well received by the industry or regulators. Implementation of the variable storage rate in place of the seasonal storage rate, effective in December, with an increase likely to be indicated by the full-carry formula, would at least have the effect of maintaining the storage rate at the current 8-cents-per-bushel level.



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

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