NGFA Newsletter

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Members Elect Tom Coyle as New NGFA Industry Chairman

During the 112th annual convention, the NGFA membership elected **Thomas Coyle**, general manager of Chicago & Illinois River Marketing LLC, Chicago, Ill., as the NGFA's new industry chairman.

During the March 28 annual business meeting, the membership also elected **Hal Reed**, president of the Grain and Ethanol Group at The Andersons Inc., Maumee, Ohio, as new NGFA first vice chairman. Meanwhile, **David R. Hoogmoed**, vice president, feed, Land O'Lakes Purina Feed LLC, Shoreview, Minn., was elected as NGFA's new second vice chairman.

The NGFA's newly elected officers are shown following their election during the Association's 112th annual convention. Pictured are (from left): NGFA Second Vice Chairman David Hoogmoed, vice president, feed, Land O'Lakes Purina Feed LLC, Shoreview, Minn.; First Vice Chairman Hal Reed, president, Grain and Ethanol Group, The Andersons, Maumee, Ohio; Chairman Tom Coyle, general manager, Chicago & Illinois River Marketing LLC, Chicago, Ill.; Immediate Past Chairman Ron Olson, vice president, grain operations, General Mills Inc., Minneapolis, Minn.; and NGFA President Kendell W. Keith.

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. Coyle previously served two-year terms as first and second vice chairman, respectively. 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 grains, oilseeds and grain products. He also has served as an arbitrator within the NGFA's unique alternative-dispute resolution system.

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NGFA Accepts Invitation to April 22 CFTC Roundtable on Ag Markets

The NGFA has confirmed with the Commodity Futures Trading Commission (CFTC) its participation in an April 22 meeting designed to elicit input and recommendations on recent futures market conditions.

CFTC staff members told the NGFA on April 1 that the meeting will be structured as a roundtable discussion involving about 25 participants, including CFTC commissioners and staff members, representatives of various agricultural producer groups, representatives of agribusiness stakeholders, led by the NGFA, and several financial organizations, including the American Bankers Association, the Farm Credit Administration and the Kansas City Office of the Federal Reserve Board. The CFTC said the meeting will be open to the public, and that the agency will be arranging webcast and teleconferencing capabilities for large numbers of people to watch and listen to the proceedings live.

According to CFTC staff members, the day-long discussion will be divided into various topics of interest, such as convergence and financial issues, with discussion leaders assigned to lead consideration of each topic. CFTC officials said a more specific agenda listing participants, discussion leaders and topics should be available about two weeks prior to the meeting.

The NGFA's comments will center on problems confronting commercial grain hedgers as a result of the lack of convergence between cash and futures in agricultural futures markets. The NGFA also will emphasize the financial stress facing the industry as a result of hugely increased borrowing needs to meet margining requirements, caused in part by the influx of investment capital into agricultural futures markets. The NGFA's Risk Management Committee, with input from NGFA leadership, will be developing specific recommendations to present at the CFTC meeting that will be designed to enhance futures market and contract performance, as well as to ease the financial stress on commercial hedgers of grains and oilseeds.

by Todd Kemp
Director of Marketing/Treasurer
E-Mail: tkemp@ngfa.org

Markets, Financing, Funds Highlight Convention Sessions

The current market situation and financial implications for commercial grain hedgers were central themes throughout the NGFA's 112th annual convention, conducted March 26-28 in Scottsdale, Ariz.

Calling the NGFA convention "one of the most important conferences in the industry," CME Group Chief Operating Officer Bryan Durkin cited significant developments occurring in a variety of areas that are "creating new and powerful demands upon our markets," resulting in increased price volatility and demand for capital. Durkin said the CME Group was "reviewing ways in which we may deliver some form of relief" to ease the "credit crisis" in agricultural futures markets.

Durkin also announced that the CME Group was joining with the NGFA in urging the Commodity Futures Trading Commission (CFTC) to defer action on its proposal to expand federal speculative position limits until additional analysis is completed concerning the impact that increased limits may have on futures market performance. He also called on the CFTC to "act as soon as possible" to lift its prohibition on clearing of agricultural swaps products traded in the over-the-counter market. "We believe that lifting these restrictions will stimulate innovation in this sector that could help commercial firms better manage their price risk in the current challenging market environment," Durkin said.

He also cited pending changes to CBOT futures contracts, including increased storage charges for wheat starting with the July 2008 contract, and, pending CFTC approval, for corn and soybean contracts starting with the December and November 2008 contracts, respectively. He said changing the wheat delivery instrument from warehouse receipts to shipping certificates also will "provide warehouses with more flexibility to deliver wheat, and improve convergence in the wheat market." Similarly, Durkin said, proposed changes to increase load-out charges for corn and soybeans to more closely reflect commercial levels should enhance market performance.

Durkin also cited concerns over the growing involvement of index funds in CBOT futures markets, but said CFTC data indicate the percentage of open interest held by such funds "has remained relatively constant" as an aggregate. "Thus, while index positions are growing, positions by commercial and non-commercial participants have been growing as fast, if not faster, than the index funds, resulting in a market composition that has been remarkably consistent over the years."

The NGFA convention also showcased an **investment fund panel**, featuring Dan Raab, managing director, AIG Financial Products Corp., Wilton Conn., Rob Ellis, managing partner, Ridgefield Capital Asset Management, Ridgefield, Conn., and Eric Kolts, deputy administrator, Standard & Poors Index & Portfolio Services, New York, N.Y.

Raab outlined various reasons why investors are attracted to agricultural commodities as an asset class in which to invest. He described participation of fund investments in a wide range of commodities, including agriculture, and posited that investment capital's participation in ag markets was a factor, but not the sole factor, driving futures to ever-higher levels.

Ellis commented on the growing impact of investment capital in agricultural markets. He drew a distinction between "spec funds" that trade on commodity fundamentals or momentum versus index funds that are long-only in response to investor interest in owning commodities. Ellis also addressed the sheer volume of investment capital entering agricultural markets and the ability of investment capital to overwhelm these relatively small market segments. Ellis also faulted the CFTC's Commitment of Traders report for a "lack of transparency" in failing to provide a "true reflection" of how fund money is being invested in agricultural futures markets.

Kolts followed up with a review of numerous new investment funds that have entered commodity markets over the past two years. He also predicted that capital and new products would continue to seek out ownership of agricultural commodities.

Meanwhile, a heavily attended open forum on **innovative financing and risk management tools** hosted by the Risk Management Committee featured four representatives of lenders offering alternatives to exchange-traded futures. Each discussed their products and potential applications for commercial grain hedgers. Products included grain "repo" transactions, swaps, over-the-counter futures-equivalent products, and other alternative financing arrangements. One common thread running through all products discussed was that each transaction was designed to provide relief to commercial grain hedgers by relieving them of margining requirements. In light of the financial stresses placed on some commercial grain hedgers by the current market environment, the Risk Management Committee is seeking to help disseminate information about such alternative products.

by Christopher Holdgreve
Director of Legislative Affairs
E-Mail: choldgreve@ngfa.org

Farm Bill Negotiations Nearing Make-or-Break Stage

The on-again, off-again odyssey of the new farm bill appears to be on again, as Congress reconvened this week after a two-week spring recess and confronts an April 18 deadline for resolving major funding and policy issues.

Negotiations appear to have rebounded from the recent setback that witnessed Senate Finance Committee Chairman Max Baucus, D-Mont., describe a mid-March proposal as "dead on arrival" because it would provide only $2.2 billion in new funding for a permanent disaster-assistance program. "I won't vote for or help to fund any agreement that does not do disaster assistance right for our farmers in need," Baucus said in a written statement. He was joined in criticizing the possible budget plan at that time by Sen. Kent Conrad, D-N.D., who chairs the Senate Budget Committee and also is a member of the Senate Agriculture and Finance Committees. The sharply negative reactions to the draft plan came after Senate Agriculture Committee Chairman Tom Harkin, D-Iowa, unveiled a budget framework that would have provided an additional $10 billion in spending over 10 years for the farm bill in excess of the budget baseline of $610 billion over 10 years previously allocated by Congress. Subsequent negotiations appear likely to result in increased funding for the disaster-assistance provision in the bill to meet the concerns registered by Baucus and Conrad, who reportedly are insisting on at least $4 billion to $5 billion for such programs.

However, further analysis of the draft farm bill framework has shown it would cost closer to $10.85 billion over 10 years, and House and Senate Agriculture Committee leaders now are seeking ways to reduce about $800 million from a variety of program areas to make up the difference. House and Senate Agriculture Committee staff members are working nearly around the clock to allocate the funding and work through the policy provisions.

Among the budget reductions being explored is a $2.5 billion savings from the Conservation Reserve Program (CRP) that would result from reducing the statutory cap from the current 39.2 million acres to 32 million acres by 2010. Reports are that most of those savings would be redirected to the Conservation Security Program, which provides conservation funding for working farmlands, as well as wetlands and grassland reserve programs. Also being debated is a 1 percent cut in direct payments, although most major commodity groups – including the American Farm Bureau Federation – and Republicans are resisting such a move. Other farm groups are supporting a cut in direct payments, with the resulting $730 million in budget savings being used for either disaster assistance – the National Farmers Union's top priority – or "rebalancing" of commodity target prices and loan rates. Up to $1.68 billion in savings resulting from tighter farm program payment caps also is under consideration.

Despite these efforts, it remains unclear where the $10 billion in offsets will be derived. The Senate Finance and House Ways and Means Committees have been tasked with finding offsets acceptable to strong majorities in both the House and Senate, but to date no thorough accounting of offsets has been released. Recent commentary points to an offset plan perhaps being released very soon, which could break the log jam and begin the final negotiations towards a completed bill before the recently extended deadline of April 18.

Upon signing the most recent extension, President Bush said he would favor extending the 2002 farm law for an additional year if Congress is not close to an agreement by April 18.

Terpstra Nominated for Chief Ag Negotiator Post

President Bush on March 26 announced his intention to nominate **Ellen Terpstra** to be chief agricultural negotiator in the Office of the U.S. Trade Representative. The nomination requires confirmation by the Senate, and a confirmation hearing likely will be scheduled soon by the Senate Finance Committee, which has jurisdiction over trade issues.

Terpstra currently serves as deputy undersecretary for farm and foreign agricultural services at the U.S. Department of Agriculture. Prior to that, she served as administrator of USDA's Foreign Agricultural Service. Before joining the Bush administration, she served as president and chief executive officer for the USA Rice Federation, a Washington-based trade association.

If confirmed, Terpstra will be thrust into the malestrom of the World Trade Organization's Doha Round of multilateral trade negotiations, where resolving the stalemate over agriculture is one of the core obstacles to an accord. She also will be front-and-center for the Bush administration in urging congressional passage of several key bilateral trade accords, including the U.S.-Korea and U.S.-Colombia free trade agreements. She would replace current acting chief agricultural negotiator Joe Glauber, who also serves as USDA's chief economist and has been filling both roles since the departure in January of long-time USDA Chief Economist Keith Collins. Glauber had replaced Richard Crowder as the top USTR ag trade negotiator last year.

by Randall C. Gordon
V.P., Communications/
Gov't Relations

USDA Retains New UGRSA Rates at 2007-08 Levels

The U.S. Department of Agriculture (USDA) has informed the NGFA that it has frozen storage and handling rates under the Uniform Grain and Rice Storage Agreement (UGRSA) at previous-year levels for the new 2008-09 contract that took effect April 1.

USDA took the action after it said only about 10 percent of UGRSA warehouse operators submitted new rate offers that differed from those in effect for the 2007-08 UGRSA contract year. Of those approximately 200 warehouses submitting new rate requests, all but five requested increases. Of those requesting increases, the average storage rate increase being requested amounted to 6.5 cents per bushel per year, while the annual handling rate requested amounted to an increase of between 1 and 1.5 cents per bushel for both receiving and load-out.

Under its rate-renewal process, USDA automatically extends existing UGRSA rates for another year unless warehouse operators submit new rate offers or notify its Kansas City Commodity Office of their intent to discontinue the UGRSA contract. This is the second consecutive year USDA has frozen UGRSA rates at previous-year levels. Under USDA's rate-acceptance criteria, the maximum annual storage rate is set at 40 cents per bushel. The maximum handling rate is 21 cents per bushel (receiving and load out), provided that neither the receiving nor load-out charge exceeds 10.5 cents per bushel.

U.S. Census Bureau Issues Reminder on Economic Census Forms

While the Feb. 12 deadline has passed, the U.S. Census Bureau is reminding businesses of the legal requirement to complete and submit the 2007 Economic Census forms as soon as possible.

Information contained in the census includes the number of employees, payroll, and types and value of goods and services provided during 2007. The agency said most businesses can complete the forms in about an hour. Submitted forms are confidential, and are not subject to the Freedom of Information Act or other public-disclosure laws. The economic census is conducted every five years to identify business trends and measure economic growth. Governments, businesses and individuals use economic census data for planning and market development. Data from the census also are used to update such figures as the gross domestic product.

Most NGFA-member companies required to submit the Economic Census form are considered to be within the "manufacturing" sector, which encompasses **animal feed, pet food, flour and other grain milled products, oilseed processing, dairy products, rendering, and meat and poultry processing**. Members receiving the ***NGFA Newsletter*** electronically may click here to access Census Bureau information on the Economic Census form that applies to manufacturers.

FDA to Establish Regulatory Presence in China

The Food and Drug Administration (FDA) has announced that it has received approval from the U.S. State Department to establish eight full-time permanent FDA personnel positions at U.S. diplomatic posts in the People's Republic of China.

Top FDA officials were in China in March negotiating with the Chinese government over the terms and conditions of the agency's presence in the country as part of the implementation of the joint memorandum of agreement entered into by the two countries on Dec. 11. As part of that accord, FDA plans to hire and locate FDA staff in China over the next 18 months. In addition, the agency plans to hire five local Chinese nationals to work with the new FDA staff at the U.S. Embassy in Beijing and U.S. consulate general offices in Shanghai and Guangzhou.

Under the memorandum of agreement between FDA and China, scheduled to be in force for five years, Chinese companies shipping specific designated food, feed and ingredients to the United States are required to register, undergo annual inspections and be certified by China's agricultural inspection agency that their products meet U.S. standards. The requirements will apply first to four categories of Chinese products that have "high import refusal rates" in the United States: 1) low-acid canned products or acidified foods; 2) pet food and pet treats of plant or animal origin; 3) food and feed ingredients (such as wheat gluten and rice protein); and 4) all aquaculture farming products other than molluskan shellfish.

Under the memorandum of agreement, the following factors are to be used in determining whether additional Chinese products warrant inclusion on the list: 1) the potential or actual (direct or indirect) risk posed to public health based upon product testing; 2) the rate of rejection of the product by the receiving country; and 3) the prevalence of fraudulent or deceptive labeling – or substitutions or additions of product – that reduces the ingredient's quality or artificially increases its value.

For more on the U.S.-China memorandum of agreement, see the Dec. 20 edition of the ***NGFA Newsletter*** (pages 10-11).

by Randall C. Gordon
V.P., Communications/
Gov't Relations

STB Declines to Reconsider Simplified Rate Case Rules

The federal Surface Transportation Board (STB) on March 19 issued a decision denying a request from the NGFA and other shippers to reconsider certain aspects of its so-called "simplified" rail rate guidelines.

The proceeding *[STB Ex Parte No. 646 (Sub-No. 1)]*, which began in 2003, involves the agency's establishment of different methods for challenging rates for medium- and small-sized rate disputes. In a complex, 112-page decision issued Sept. 5, the agency created a "simplified stand-alone cost" method for medium-sized rail rate disputes, and updated its so-called "three-benchmark" method that applies to smaller rail rate disputes. The cost methodology that is most complex and costly to use to challenge a rate – the so-called "stand-alone cost" (SAC) methodology – applies to large rate cases, such as those involving coal shipments. A second cost approach – a new "simplified stand-alone cost" (SSAC) methodology – applies to medium rate cases. Most importantly for the grain, feed and processing sector is the agency's third method – a "three-benchmark" (3-B) method – that applies to small rate cases.

In its final rule, the STB accepted shippers' arguments to allow the challenging shipper to determine which of the three rate-complaint approaches to use – 3-B, SSAC or SAC – rather than classifying rail rate cases based upon a determination of the maximum value of the case. However, the approach selected by the shipper will cap the maximum rate relief available over the maximum five-year recoverable period, as follows:

- **3-B Method:** Maximum relief of up to $1 million over a five-year period, which is a significant increase over the STB's originally proposed $200,000 limit. The NGFA had argued that the agency's original proposal would make regulatory relief "virtually nonexistent" for shippers since it would outweigh the cost of bringing a rate challenge. Estimates are that the out-of-pocket cost (including the cost of retaining attorneys and other expertise) to pursue a rate challenge under the 3-B methodology will be in the $250,000 range. The STB is required to render a decision within eight months.
- **SSAC Method:** Maximum relief of $5 million over a five-year period, up from the $3.5 million originally proposed by the STB. Under the SSAC method, the analysis is to focus on whether the carrier is abusing its market power by charging more than required to earn a "reasonable" return on the replacement cost of the infrastructure used to serve the shipper filing the rate challenge. This methodology is significantly more complex, and the estimated out-of-pocket cost for retaining attorneys and cost experts to bring a rate challenge would be in the $1 million range. The STB maintains that its final decision simplifies and standardizes the factors used under this methodology in an effort to reduce the cost of bringing a case, but this approach continues to be very uncertain. The NGFA and other shipper groups had urged the STB to discard this method because of these factors.
- **Full SAC:** Unlimited potential relief. But the costs and complexity of pursuing a full stand-alone cost case at the STB are excessive, amounting to millions of dollars.

Problems Cited by Shippers: In their joint petition filed Oct. 12 asking the STB to reconsider the case, the NGFA and other shipper groups strongly supported the agency's decision to discard the "eligibility limits" approach that would have been based upon the maximum value of the case, and instead adopt the "limit-to-relief" approach, whereby a complainant may elect to use either the 3-B or SSAC procedures. However, the shipper groups argued that the relief caps set by the STB still are "substantially and unlawfully too low." As explained in detail in the joint petition, the shippers calculated that over a significant range of case values applicable to 3-B and SSAC cases ($1.750 million to $4 million) a shipper can "choose" to either: 1) forego up to three quarters of its potential relief and its right to a reasonable rate at the level produced by the STB's procedures; or 2) file a case with a risk factor that "does not even come close to justifying the risk that the complainant is undertaking." The shippers asserted that "this Hobson's choice is unlawful, arbitrary and capricious." The shippers also contended that the problem can be rectified easily by substantially increasing the relief caps for 3-B at $3 million and for SSAC cases at $10 million.

The Association of American Railroads and American Short Line and Regional Railroad Association opposed reconsideration of the procedures.

STB Ruling: In its decision denying reconsideration of its final rule, the STB maintained that most of the issues raised in the shipper petitions already had been reviewed and rejected by the agency during the original rulemaking. On the core issue concerning the reasonableness of rate relief available under the procedures, the STB maintained that the limits were "reasonable and proper at this time." But the STB said future modifications might be made, stating: "While these new guidelines reflect an important step forward in creating a workable structure for resolving rate disputes of all sizes, we anticipate that further steps will be needed as the application of the guidelines reveals unanticipated issues or shows that more or less simplification is warranted."

Carriers Challenging STB Rule in Court; DuPont Brings First Cases: During his address at the NGFA's 112th annual convention, STB Chairman Charles (Chip) Nottingham noted that rail carriers are challenging the agency's small rail rate proceeding in federal court, at the same time that DuPont Corp. has filed three separate rate complaints against the carriers using the new STB rules. Nottingham said he expected a decision on the DuPont cases to be issued in July.

by Randall C. Gordon
V.P., Communications/
Gov't Relations

Nottingham Anticipates Carriers Will File Legal Challenge Against STB's New Method for Determining RR Cost of Capital

During remarks at the NGFA's 112th annual convention, STB Chairman Charles (Chip) Nottingham said he expects rail carriers eventually to file a court challenge of the agency's final rules changing the methods used to determine the rail industry's cost of capital.

The agency's calculation of the rail sector's cost of capital influences a host of regulatory proceedings, including whether railroads are considered to be "revenue adequate" under the Staggers Rail Act of 1980 and therefore subject to rail rate challenges from shippers. The STB also uses the cost-of-capital figure in cases involving the reasonableness of a carrier's freight rate, feeder-line applications, rail line abandonment requests, compensation cases involving trackage rights and rail merger proposals.

The STB currently is seeking comments by April 14 on whether it should add a second modeling approach to its new methodology, originally issued on Jan. 17 *[STB Ex Parte No. 664]*. In that decision, the STB changed its method for calculating a key component of railroads' cost of capital: the cost of equity. The NGFA supported the STB's decision, calling it a "needed and welcome step" in comments filed with the agency in both September and October 2007.

While committed to reexamining some aspects of its final decision, Nottingham said during his address at the NGFA's convention that he fully expected that the railroads would pursue legal action against the agency because the new methodology would result in a number of carriers being classified as "revenue adequate" given current markets and profitability levels. Nottingham noted that rail carriers previously had viewed the methodology used to calculate their cost of capital as "untouchable." He said that the new methodology would put shippers "in a much more favorable position" to challenge unreasonable rail practices, and was part of what he termed a "strong reform agenda" designed to make the STB more accessible to shippers challenging unreasonable rail rates.

Rail Common-Carrier Obligations: During his presentations at the NGFA convention, Nottingham also referenced the STB's April 24 public hearing on railroads' common-carrier obligations, and encouraged shippers to remain involved in the STB's process of reviewing some of the more important aspects of rail policies embodied in current law. The common-carrier obligation currently requires railroads to provide transportation service upon reasonable request. The STB said its public hearing will "seek to highlight the importance of the common-carrier obligation, provide a better understanding of it, and assist the agency in its monitoring and compliance work."

In his convention remarks, Nottingham said the common-carrier obligation "cuts to the core" of rail service issues and called it a "huge concern" to the STB.

Nottingham commended the NGFA for its strong role in representing agricultural and agricultural product shippers in proceedings before the STB.

STB Rail Consumer Assistance Program: Nottingham also encouraged shippers to make use of the STB's Rail Consumer Assistance Program to resolve service-related complaints with rail carriers. He noted that the STB had created the program in November 2000 to provide informal, no-cost assistance from the agency's staff to facilitate private-sector resolution of any type of service-related compliant. It is administered by the STB's Office of Compliance and Consumer Assistance (OCCA). Shippers can request that the information provided be kept confidential, Nottingham said, although he noted that allowing the STB staff to intercede directly with the carrier may facilitate prompt consideration of the compliant. The STB staff endeavors to handle complaints received through the program directly with the involved railroad, "usually within four hours of receipt."

The STB encourages shippers to fill out and submit a one-page, web-based "Rail Consumer Assistance" form to provide a complete description of the complaint. That form may be accessed by clicking here. Shippers also may contact the STB's OCCA toll-free at 1-866-254-1792, by fax at 1-202-245-0462, or by direct email at railconsumer@stb.dot.gov.

NGFA Declares Opening Mid-Miss.

Pursuant to NGFA Barge Freight Trading Rule 18(l), the NGFA declared that the mid-Mississippi River opened for navigation as of 7 a.m. on March 24.

NGFA Barge Freight Trading Rule 18(l) states: "The Dubuque and South (Mid-Mississippi) opening commences the first 07:00 hours of the first business day after the first tow originating at or below Winfield, Mo., reaches Dubuque, Iowa. Said tow shall include at least one empty dry cargo covered barge suitable for loading. The Mid-Miss opening shall be determined by a majority vote of a three-person committee appointed by the NGFA chairman and shall be announced by publishing the committees' confirmation of the opening on the NGFA web site."

As set forth in the rule, the three-person committee appointed by the NGFA chairman determined that the Mid-Mississippi River was open after the David Fields reached Dubuque at 11:20 p.m. on March 23 with at least one empty dry cargo covered barge suitable for loading. Serving on the NGFA committee are: Laurie Hiler, chairperson, manager/owner of Seneca Transportation LLC, Clayton, Mo.; Brant Harper, manager - Marine Department, Bunge North America Inc., St. Louis, Mo.; and John Trampas, manager of grain freight sales, Ingram Barge Co., Nashville, Tenn.

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

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Chicago & Illinois River Marketing LLC, for which Coyle serves as general manager, is a wholly owned subsidiary of Nidera Holdings 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 the largest delivery warehouse for CBOT futures contracts.

Nidera, established in 1920, is a leading international company serving customers in agro and bioenergy markets around the world. It is headquartered in Rotterdam, the Netherlands, with principal subsidiaries located across Europe and the Former Soviet Union, as well as Singapore and the United States. In addition, in Argentina, Nidera operates a network of export grain elevators and processing plants, and is extensively involved in agricultural inputs, such as seed, crop nutrition and crop-protection products.

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 Elected New First Vice Chairman: Elected as the NGFA's new first vice chairman, **Hal Reed** heads the Grain and Ethanol Group at The Andersons Inc. (ANDE), a diversified company founded in 1947. As such, he oversees the operations of 13 grain elevators with a combined storage capacity exceeding 85 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 (one each 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 previously served a two-year term as second vice chairman, and 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 Elected New Second Vice Chairman: NGFA's new second vice chairman, **David Hoogmoed**, is a 28-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 also 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. The committee also interacts with animal agriculture and species organizations to maintain and enhance the economic viability of U.S. animal agriculture production. And it interfaces with the grocery and retail food industry, which influences feed and food-animal production practices.

Hoogmoed also is a member of the NGFA's Board of Directors and Executive Committee.

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

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

NGFA's 112th Annual Convention – Pictorial Highlights

The NGFA's 112th annual convention received high marks from an overflow crowd of 679 industry members and guests at the Westin Kierland Resort in Scottsdale, Ariz. An outstanding, timely and informative program, a beautiful resort setting and bountiful networking opportunities combined to make it one of the best NGFA conventions ever! **Speaker presentations now are available on the convention section of the NGFA website home page at www.ngfa.org**. Mark your calendars now for what promises to be a memorable 113th annual convention, March 29-31 at the Westin Swan Hotel at Walt Disney World, Orlando, Fla.

Convention keynoter Patricia Woertz, chairman, chief executive officer and president of Archer Daniels Midland Co., Decatur, Ill., cited innovation, investment and partnership as the three "critical paths" if agriculture is to meet the "enormous opportunity…to develop sustainable and responsible solutions to the world's growing needs." She also cited four major world trends – the need for more food, more energy, the desire for energy security and environmental improvement – as drivers of a "new golden age of agriculture." Woertz also commended the NGFA for "the terrific work" it does, its "strong leadership on important agricultural policy issues" and its work to educate members on innovative financing and risk-management strategies.

Land O'Lakes Purina Feed LLC President Fernando Palacios delivers a dynamic, captivating address on the "dizzying series of developments" affecting the market and regulatory environment confronting the commercial feed industry, and the implications it will have on both the feed industry and its suppliers. During the 21st century, Palacios said the industry will need to further reduce costs, improve turns and reduce inventories, better manage risk, provide "exceptional quality," deliver "superior service" and "demonstrate social responsibility" to the environment, employees and communities in which the industry operates. This, he added, will require a process of "continual improvement and simplicity in everything we do," a strong customer orientation, a "total commitment" to organizational excellence, and a "demonstrated passion for quality."

An all-star panel of investment fund advisers consisted of (from left) Dan Raab, managing director, AIG Financial Products Corp., Wilton, Conn., Rob Ellis, managing partner, Ridgefield Capital Asset Management, Ridgefield, Conn., and Eric Kolts, deputy administrator, Standard & Poors Index and Portfolio Services, New York, N.Y. *[See page 2 for a report on their remarks.]*

CME Group Chief Operating Officer Bryan Durkin cited the NGFA convention as "one of the most important conferences in the industry" because of the "level and diversification of talent that attends year-after-year," the "caliber of the program itself" and "the tremendous opportunity to share information." *[See page 2 for a report on his remarks.]*

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

NGFA's 112th Annual Convention – Pictorial Highlights

Hall of Fame Broadcaster Orion Samuelson of WGN Radio/TV and the Tribune Radio Network urges NGFA members to do all they can to encourage producers to develop and stick with a marketing plan.

Surface Transportation Board Chairman Charles ("Chip) Nottingham commends the NGFA for its leadership in representing shippers on rail transportation issues during his convention address. [See page 6 for a report on his remarks.]

Chris Standlee, executive vice president, Abengoa Bioenergy Trading, Chesterfield, Mo., and current chairman of the Renewable Fuels Association, discusses the technological advancements in biofuels production.

NGFA President Kendell W. Keith (right) congratulates NGFA Chairman Ron Olson for his two years of outstanding leadership.

NGFA Risk Management Committee Chairman Rod Clark (center), general manager, CGB/Diversified Services, Mount Vernon, Ind., is flanked by panelists who explored innovative financing and risk-management tools available for commercial hedgers to reduce margin risk. Panelists are (from left): John Catizone, managing director, AIG Financial Products Corp., Wilton, Conn.; Pete Arendt, senior vice president, BOK Financial Corp., Kansas City, Mo.; Andrew Ward, manager-commodities, Macquarie Commodities, New York, N.Y.; and Brent Grecian, vice president/derivatives specialist, Wells Fargo Financial Services, Seattle, Wash. [See page 2 for a report on their presentations.]

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 14 industry leaders serve on its 61-member Board of Directors during the organization's 112th annual convention conducted March 26-28 in Scottsdale, Ariz.

Elected to three-year terms on the NGFA Board of Directors were:

Kevin Adams ... President and Chief Executive Officer, CGB Enterprises Inc., Mandeville, La.
Erik Anderson ... President, Louis Dreyfus Commodities, Wilton, Conn.
John Anderson ... Chief Executive Officer, Ritzville Warehouse Co., Ritzville, Wash.
Sharon Clark ... Vice President, Transportation, Perdue Agribusiness Inc., Salisbury, Md.
Ray Defenbaugh ... President, Chief Executive Officer and Chairman, Big River Resources LLC, West Burlington, Iowa
John Heck ... Vice President, The Scoular Co., Omaha, Neb.
Scot Hillman ... Chief Executive Officer, J.D. Heiskell & Co., Tulare, Calif.
Cress Hizer ... President and Chief Executive Officer, Indiana Grain and Feed Association, Indianapolis, Ind.
Roger Krueger ... Director, Grain Marketing, South Dakota Wheat Growers Association, Aberdeen, S.D.
Steve Nail ... President and Chief Executive Officer, Farmers Grain Terminal Inc., Greenville, Miss.
Gary Olsen ... Group Vice President, Grain, Ag Processing Inc., Omaha, Neb.
Randall Pflum ... Chief Executive Officer, TriOak Foods Inc., Oakville, Iowa
Benjamin Smith ... Commercial Director, Attebury Grain Inc., Amarillo, Texas
Eric Wilkey ... President, Arizona Grain Inc., Casa Grande, Ariz.

NGFA Board Elects Members to Executive Committee

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

Kevin Adams ... President and Chief Executive Officer, CGB Enterprises Inc., Mandeville, La.
Erik Anderson ... President, Louis Dreyfus Corp., Wilton, Conn.
Rick Browne ... Senior Vice President, Grain, CHS Inc., St. Paul, Minn.
Rick Calhoun ... Vice President, Grain and Oilseed Supply Chain North America, Cargill Inc., Minneapolis, Minn.
Paul DeBruce ... Chief Executive Officer, DeBruce Grain Inc., Kansas City, Mo.
Geoff Finch ... Vice President, Operations, Wenger's Feed Mill Inc., Rheems, Pa.
David Geers ... President, Michigan Agricultural Commodities, Lansing, Mich.
David Gordon ... General Manager, Northwest Grain Growers Inc., Walla Walla, Wash.
Scot Hillman ... Chief Executive Officer, J.D. Heiskell & Co., Tulare, Calif.
Craig Huss ... Vice President, Transportation and Grain, Archer Daniels Midland Co., Decatur, Ill.
Butch Meibergen ... President and Chief Executive Officer, Johnston Enterprises, Enid, Okla.
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 *(a wholly owned subsidiary of Nidera Holdings B.V. of The Netherlands)*, Chicago, Ill.
First Vice Chairman **Hal Reed** ... President, Grain and Ethanol Group, The Andersons Inc., Maumee, Ohio
Second Vice Chairman **David Hoogmoed** ... Vice President, Feed, Land O'Lakes Purina Feed LLC, Shoreview, Minn.
Immediate Past Chairman **Ronald D. Olson** ... Vice President, Grain Operations, General Mills Inc., Minneapolis, Minn.
NGFA President **Kendell W. Keith**, Washington, D.C.

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

NGFA Chairman Coyle Appoints Committee Chairpersons

Newly elected NGFA Chairman Tom Coyle has announced the appointment of industry leaders to chair most of NGFA's committees and councils during his term of office.

"NGFA committees are one of the most important membership benefits offered by the Association, as they proactively address, for the mutual benefit of the industry, issues that are of bottom-line importance to all NGFA-member companies," said Coyle, general manager of Chicago & Illinois River Marketing LLC, Chicago, Ill. "In concert with the Board of Directors, it is committees that set the agenda and priorities for our industry-driven Association. We're fortunate to have such an outstanding cadre of dedicated and highly talented industry experts willing to serve."

Coyle noted that about 300 volunteers from all types and sizes of NGFA-member companies serve on committees and are on the cutting-edge of government policies and programs, as well as industry trends and practices. The NGFA keeps all members apprised of the work of its committees through its newsletter publication, ***Issues and Actions***.

Chairpersons appointed thus far by Coyle to lead NGFA committees are as follows:

Agroterrorism-Prevention and Facility Security: ***W. Jerry Cotter***, director of operations, Port of Corpus Christi Authority, Corpus Christi, Texas. This committee is responsible for addressing legislative and regulatory proposals, as well as providing practical best practices, education and information for the industry, to mitigate the risk of intentional contamination of the food and feed supply. It is a joint endeavor of the NGFA, North American Export Grain Association (NAEGA) and Grain Elevator and Processing Society (GEAPS). In fulfilling its function, the committee interacts extensively with the U.S. Department of Homeland Security, Food and Drug Administration, U.S. Department of Agriculture, FBI and other federal and state agencies.

Arbitration Appeals Panel: ***Don Wenneker***, director of procurement, Tate and Lyle Ingredients Americas Inc., Decatur, Ill. This committee is the linchpin in one of the NGFA's premier member services – the unique and time-honored Arbitration System.

Biotechnology Committee: ***James Stitzlein***, manager, market development, Consolidated Grain & Barge Co., Chesterfield, Mo. This committee represents the interests of commercial grain handlers, grain processors, feed and feed ingredient manufacturers, and other grain users on policies and issues arising from biotechnology-enhanced commodities. As such, it addresses U.S. regulatory and international trade developments pertaining to agricultural biotechnology, and provides a forum for interacting with biotechnology providers on issues affecting the commercial grain, feed and processing industry.

Country Elevator Committee: ***Bryce Wells***, president and chief executive officer, West Plains Co., Kansas City, Mo.. This committee addresses issues important to grain warehouse operators, including federal and state regulatory issues. It also provides input on cross-cutting issues important to country elevator managers, including risk-management, transportation, biotechnology and industry education/training needs.

Feed and Animal Agriculture Strategic Issues Committee: ***David Hoogmoed***, vice president, feed, Land O'Lakes Purina Feed LLC, Shoreview, Minn. This newly created committee provides 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. The committee also interacts with animal agriculture and species organizations to maintain and enhance the economic viability of U.S. animal agriculture production. And it interfaces with the grocery and retail food industry, which influences feed and food-animal production practices.

Feed Legislative and Regulatory Affairs Committee: ***Brad Gottula***, quality assurance manager/plant manager, Quality Liquid Feeds Inc., Dunlap, Iowa. Serving as vice chairman of the committee is ***Jarvis Haugeberg***, general manager, DakotaLand Feeds LLC, Huron, S.D. This committee addresses federal, state and international legislative and regulatory issues important to, or affecting, feed and feed ingredient manufacturers and integrators, including animal feed safety and world animal health codes. It interacts extensively with FDA, the Association of American Feed Control Officials and state feed regulatory agencies.

Feed Manufacturing and Technology Committee: ***David Kier***, general manager, J.D. Heiskell & Co., Tulare, Calif. This committee addresses operations issues and technological developments important to the manufacturing operations of commercial feed mills, feed ingredients and integrators. Among other things, it evaluates the latest developments in safety, quality, production and manufacturing technology; interacts with universities; and provides education and communication on feed operations issues.

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

Grain Grades and Weights Committee: ***Tim Paurus***, vice president, terminal operations, CHS Inc., St. Paul, Minn. This joint NGFA-GEAPS committee advocates grain standards, as well as inspection and weighing practices, that facilitate orderly trade responsive to customer needs. It is the principal liaison to USDA's Grain Inspection, Packers and Stockyards Administration on official grain inspection and weighing issues.

International Trade/Agricultural Policy Committee: ***Tom Erickson***, vice president, government affairs, Bunge North America Inc., Washington, D.C. This committee advocates policies that promote sustained economic growth for all sectors of U.S. agriculture. It works to minimize market-distorting farm and acreage-idling programs to encourage U.S. agricultural growth to meet expanding demand for food, feed, exports and biofuels. And it promotes free trade agreements that significantly reduce and eliminate trade-distorting domestic and export subsidies, and enhance U.S. access to foreign markets.

Legal Council: ***Joan Maclin***, senior vice president and general counsel, The Scoular Co., Minneapolis, Minn. This group provides input and strategies on broad legal issues affecting NGFA-member companies, and provides a forum for corporate legal experts to learn about cutting-edge legal issues affecting the industry.

Marketing and Business Development Committee: ***Mark Avery***, publisher, ***Grain Journal***, Decatur, Ill. This committee advises on appropriate marketing strategies for products and services provided by the NGFA.

Rail Arbitration Rules Committee: ***Kyle Hancock***, vice president, industrial and agricultural products, CSX Transportation Co., Jacksonville, Fla. This committee, comprised of equal representation from carriers and shippers, oversees the application of the NGFA's unique Rail Arbitration Rules that address specified rail service-related issues arising between shippers and carriers.

Rail Shipper-Receiver Committee: ***Dan Mack***, vice president, transportation, CHS Inc., St. Paul, Minn. The NGFA is widely regarded as the lead agribusiness trade association on rail transportation and service issues. This committee represents the interest of grain shippers/receivers, feed and ingredient manufacturers, integrators and other NGFA rail users.

Risk Management Committee: ***Rod Clark***, general manager, CGB Diversified Services, Mount Vernon, Ind. This committee represents the interests of commercial hedgers in urging policies that create an environment where cash and futures markets can remain efficient, sound and viable for agricultural users. It also addresses issues concerning new risk-management products and the expanded role of federal crop insurance.

Safety, Health and Environmental Quality Committee: ***Kevin Danner***, corporate safety director, West Central Cooperative, Carroll, Iowa. This joint NGFA-GEAPS committee focuses on operations-related issues and proactively represents the industry's interests on matters affecting occupational safety and health, as well as the environment. It also develops regulatory compliance guidance and education/training materials for employees.

This committee also has three subcommittee chairmen:

- **Education Subcommittee:** ***Gary Kearn***, loss control/prevention manager, The Scoular Co., Salina, Kan.
- **Feed Subcommittee:** ***Paul Luther***, environmental, health and safety leader, Land O'Lakes Purina Feed LLC, St. Louis, Mo.
- **Grain Subcommittee:** ***Stacy Schmidt***, director of safety, health and environmental protection, The Andersons Inc., Maumee, Ohio

Trade Rules Committee: ***James Keistler***, merchandising manager, Twomey Co., Smithshire, Ill. This committee has three subcommittees that maintain and update the NGFA's Barge Trade Rules, Barge Freight Trading Rules, Feed Trade Rules and Grain Trade Rules to ensure they reflect current trade practice.

- **Barge Trade Rules Subcommittee:** ***C.C. Craig***, vice president, grain merchandising, Farmers Grain Terminal Inc., Greenville, Miss.
- **Barge Freight Trading Rules Subcommittee:** ***Laurie Hiler***, manager/owner, Seneca Transportation LLC, Creve Coeur, Mo.
- **Feed Trade Rules Subcommittee:** **Jack Smit**, president, Furst McNess Co. of Canada Ltd., London, Ontario, Canada
- **Grain Trade Rules Subcommittee:** **Mike Sumpter**, trading manager, Zen-Noh Grain Corp., Mandeville, La.

Waterborne Commerce Committee: ***Mark J. Carr***, communications, AEP River Operations, Chesterfield, Mo. This committee advocates improvements to inland waterways and ports to facilitate the cost-effective transport and export of U.S. agricultural commodities and products.

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

NGFA Board Approves More Changes to Trade, Arbitration Rules

During its March 28 meeting, the NGFA Board of Directors approved several important changes to NGFA's Trade Rules and Arbitration Rules recommended by NGFA's Trade Rules Committee and Arbitration Appeals Panel, respectively.

The approved changes to **NGFA's Trade Rules** included a new provision to provide a generic definition of what is meant by *"mechanical seals"* in the Trade Rules. Based upon the recommendation of the Trade Rules Committee, which followed extensive discussions of a specially dedicated task force, the Board approved the new provisions in **Grain Trade Rule 30 and Feed Trade Rule 28** to define a *"mechanical seal"* as a *"locking mechanical device, readily identifiable by unique markings or numbers, whose primary purpose is to provide evidence of tampering with the conveyance, and whose type and/or usage may be mutually agreed upon between the Buyer and Seller as part of the contract terms."*

The membership earlier during the convention ratified changes to the two sets of trade rules to include the term "mechanical seals" as an "article of trade" for parties to include in their contracts, when applicable. This addition, adopted by the Board on March 20, 2007, also was proposed by the Trade Rules Committee following review by a special task force that examined trade customs and the potential for additional new trading rules related to seals.

Also approved by the Board on March 28 were changes recommended by the Trade Rules Committee following its review of the development of a practice of the trade to stop taking barge applications at 1 p.m. on days when the CME Group schedules a shortened session in trading CBOT futures contracts. Added to subparagraph **Barge Trade Rule 9(E)** was the following provision: *"When the CBOT Open Auction Trading (pit) has a scheduled shortened session, applications must be made between the hours of 8 a.m. and 1 p.m."* Similarly, added to **Barge Trade Rule 10** was the following provision: *"When the CBOT Open Auction Trading (pit) has a scheduled shortened session, the Buyer shall furnish billing instructions to the Seller not later than 1:30 p.m. on the day of application."*

The NGFA Board also approved a change, based upon a recommendation by the Trade Rules Committee, to align the definition for *"rail arrival"* in the Feed Trade Rules with the definition for that same term in the Grain Trade Rules. As a result, **Feed Trade Rule 28(J)** provides as follows: *"Arrival of a rail car of feed shall be: (a) The time of actual physical placement at the billed destination; or (b) If not physically placed, then 48 hours after the car is constructively placed or reported to the Buyer as available for Buyer's instructions. This period shall exclude Saturdays, Sundays, or legal holidays, unless otherwise agreed."*

The Board-approved changes to **Arbitration Rule 9** to make consistent the timing and procedures for appointing arbitration committees in both appeal and non-appeal cases. Under the rules in non-appeal cases, arbitrators are named after all arguments are filed and they receive the case all at once after their appointments as arbitrators of the case are official. However, under the existing rules in appeal cases, arbitrators are named and receive the record of the original case before the parties prepare the briefs and before the arbitrators' appointments are official. **Arbitration Rule 9** was amended to be make the procedures for appeal cases consistent with those for non-appeal cases. That will result in appeal arbitrators being appointed after the parties' briefs are completed, and they will receive the entire case at once.

Effective Dates of Newly Approved Rules: Pursuant to the NGFA's Bylaws, the amendments to the Trade Rules and Arbitration Rules adopted by the NGFA Board on March 28 take effect 30 days after the March 28 date of adoption, which is **April 27**. These Board-approved amendments then will be subject to ratification by the membership at the March 2009 annual business meeting during the NGFA's 113th annual convention at Walt Disney World, Orlando, Fla.

NGFA Members Ratify Changes to Bylaws, Trade and Arbitration Rules: During the March 28 annual business meeting at the NGFA's 112th annual convention, the membership ratified changes to the NGFA's Bylaws, Trade Rules, Arbitration Rules and Rail Arbitration Rules that previously had been approved by the Association's Board of Directors and which already are in effect.

The ratified changes to the **NGFA's Bylaws**, approved by the NGFA Board of Directors on Sept. 11, 2007, clarify that companies with more than one representative on a committee are entitled to one vote per company when a committee vote is conducted. This change to Article XII is consistent with other sections of the NGFA Bylaws that limit votes by the general membership to one vote per company; the ratified provision simply extends that policy to votes by all NGFA committees. It also was noted that the newly ratified Bylaws provision does not affect committee discussions and typical voting procedures.

The amendment to **Arbitration Rule 9** ratified by the membership, which previously had been approved by the NGFA Board of Directors on March 20, 2007, further clarifies that the filing fee required in arbitration appeal cases is exactly double the fee that was *in fact assessed* in the filing of the original case. The original filing fee, in turn, is based upon the damages claimed in the arbitration complaint. The NGFA Arbitration Appeals Panel recommended this amendment after a question arose as to whether the rule indicated that the fee in an appeal case was based upon the amount that

(Continued on page 14)

Convention Special

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

would be assessable using the amount of the original arbitration committee's award, instead of the damages claimed in the original arbitration complaint.

Also ratified by the membership was a new set of **Secondary Rail Freight Trading Rules** approved by the NGFA Board of Directors on March 20, 2007. These rules culminated an effort that began in 2006 to address the increasing volume and potential volatility of trading in this market. Prior drafts of the secondary rail freight trading rules had been circulated widely to the membership and industry for feedback, with the final draft developed by a task force and approved and recommended for adoption by the Trade Rules Committee.

The amendments to **Rail Arbitration Rule 5** ratified by the membership expand the Rail Arbitration Rules Committee from 10 to 14 persons, including at least seven representatives from NGFA-member rail carriers. The NGFA Rail Arbitration Rules Committee recommended this amendment so that each of the Class I rail carriers could have a representative on the committee. The size of the committee was expanded to add two additional corresponding members from non-railroad NGFA-member companies.

New NGFA Rules Booklet Being Published: The NGFA will be publishing a new booklet containing all changes to the Trade Rules and Arbitration Rules. Ordering information will be announced in a future edition of the ***NGFA Newsletter***.

Feed Facts

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

FDA Seeks Comments on Third-Party Certification for Food, Feed

The Food and Drug Administration (FDA) on April 2 issued a ***Federal Register*** notice requesting information and comments by May 19 on the use of third-party certification programs used in the food and feed industries.

The notice emanated from recommendations contained in the Bush administration's Food Protection and Import Safety Plans issued Nov. 6. In both of those plans, the administration recommended development of truly independent, voluntary third-party certification programs without financial or other ties to facilities being certified as a potential way to reallocate FDA's scarce inspection resources based upon risk, particularly for imported ingredients used in food and feed. The plans noted that "it may not be necessary to establish certification programs for low-risk products."

In the ***Federal Register*** notice, FDA said one action it "will take" to implement the plans is to accredit independent third parties, or to recognize entities that accredit such third parties, to evaluate compliance with FDA requirements. The agency said its notice was the "first step" in soliciting public input on the "design or recognition" of third-party certification.

"Although certification by an independent third party would not replace an FDA inspection, and FDA would continue to inspect a firm itself, as appropriate based on risk, third-party certification could provide additional assurances of safety," FDA stated in the ***Federal Register*** notice. "In addition, third-party certification could provide FDA with important information about the ability of specific food (and feed) suppliers to meet FDA requirements and to better focus the use of our resources based on risk."

FDA said it believed that eligible third parties should include other federal, state and foreign government agencies and officials.

FDA Poses Questions: In the notice, FDA sought public comment on several specific questions regarding third-party inspection programs:

- What domestic and foreign third-party certification programs for suppliers are being used currently by U.S. companies? The agency sought more information on the standards and procedures used to ensure third parties are truly independent (i.e., don't have conflicts of interest), the standards used to accredit third parties, who accredits them and how and by whom third parties are audited and evaluated on their performance.
- Do current third-party certification programs ensure compliance with FDA regulatory requirements?
- What obstacles (such as awareness, availability and cost) exist to private-sector use of third-party certification programs?
- What incentives should be provided to increase participation in third-party certification programs? As noted in the Bush administration's Import Safety Plan, FDA asks whether allowing expedited treatment of imported FDA-regulated products at U.S. ports of entry would encourage use of third-party certification of foreign suppliers. FDA also asks if making names of certified firms available on a public database would encourage use of third-party certifiers. In addition, the agency asks if using third-party certification of facilities as one factor in determining its inspection priorities would provide a significant incentive for foreign or domestic firms to participate.

Submitting Comments: The NGFA's Feed Legislative and Regulatory Affairs Committee will take the lead in preparing the NGFA's response to FDA. Comments are due on or before May 19, and should be submitted to: Division of Dockets Management (HFA-305), FDA, 5630 Fishers Lane, Room 1061, Rockville, Md., 20852. Comments also may be submitted electronically to: http://www.regulations.gov.

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

NGFA Urges Canada to Change Proposed Rules on Distillers Grains

The NGFA on April 1 submitted a statement to the Canadian Food Inspection Agency (CFIA) urging that it make several significant changes to its draft policy concerning the use in livestock and poultry feed of distillers grains products derived as co-products from fuel ethanol production.

The NGFA's statement, reviewed and approved by the Biofuels Committee, stressed the importance of CFIA developing sound science- and risk-based policies to facilitate the safe production and use of feed ingredients, while preserving efficient and fluid cross-border trade between the United States and Canada. Based upon that yardstick, the NGFA said several elements of CFIA's draft policy "exceed requirements necessary" to ensure the safe production and use of distillers grains products; are not in harmony with current U.S. feed regulations applicable to such co-products; and could inhibit cross-border trade.

CFIA's review of the matter began in late 2007, when it issued a notice to the Canadian feed industry stating that distillers grains co-products derived from fuel ethanol production are not considered to be approved for use in animal feed under current Canadian feed regulations, since the "manufacturing processes which generate fuel ethanol products differ from those of alcohol for human consumption; the differences stem from the use of non-food-grade starting materials, different sources of enzymes, or processing aids." That led to subsequent discussions with the Canadian feed industry that resulted in CFIA's development of a draft policy, which was the subject of the NGFA's statement.

In its statement, the NGFA raised the following specific concerns about the CFIA's draft policy:

- **Use of Antimicrobial Drugs in Ethanol-Fermentation Process:** The NGFA urged CFIA to limit, for the time being, the use of antimicrobial drugs allowed to be used as fermenters in the ethanol-production process. CFIA had proposed to set maximum inclusion rates for four approved antimicrobial drugs: penicillin (1 part per million), streptomycin (2.7 p.p.m.), ampicillin (4 p.p.m.) and virginiamycin (6 p.p.m.). The NGFA asked that CFIA for the time being limit the approved use of antimicrobial drugs to virginiamycin – the only antimicrobial product currently recognized by the U.S. Food and Drug Administration (FDA) for use by fuel ethanol producers in the United States. "The potential use of antimicrobial drugs by Canadian fuel ethanol producers that are not approved by FDA could cause cross-border trade disruptions if the resulting distillers grains products are exported to the United States," the NGFA noted. The NGFA also recommended that CFIA and FDA work collaboratively to harmonize additional antimicrobial products approved for use in fuel ethanol fermentation.

- **Fermentation Microorganisms, Enzymes and Processing Aids Used in Producing Distillers Grains:** The NGFA strongly urged CFIA to revise its proposed policy to officially recognize those fermentation microorganisms, enzymes and processing aids approved by FDA for use in producing human beverage alcohol as being acceptable for use by ethanol producers in the manufacture of distillers grain co-products. CFIA had proposed that such microorganisms, enzymes and processing aids be subjected to independent review and approval by a Canadian governmental body, such as Environment Canada, Health Canada or CFIA.

- **Sulfur:** The NGFA urged CFIA to eliminate its proposal to require that labels of distillers grain products contain a maximum sulfur guarantee. The NGFA cited the following reasons: 1) The proposal, by addressing just one potential ingredient of an animal's diet (distillers grains products), does not address the relevant factor of feed manufacturers and livestock/poultry feeders determining the <u>total</u> dietary sulfur intake of an animal, which is the crucial factor in determining whether sulfur levels are excessive for a given species; 2) other feed ingredients, such as canola meal, typically have similar or greater sulfur content than distillers grains products, but are not subject to mandatory maximum sulfur guarantee labeling requirements; and 3) U.S. state feed regulations, with the sole exception of South Dakota, currently do not require a maximum sulfur guarantee on labels of distillers grains products. "As proposed, CFIA's policy would place a negative connotation only on distillers grains products by making them the <u>only</u> group of feed ingredients with a required maximum sulfur label guarantee," the NGFA noted. "(Further), the CFIA policy would obligate U.S. firms that export distiller's grains products to Canada to take additional actions to label products with required guarantees, thereby increasing the cost of doing business and making cross-border trade more difficult."

Proposed Ingredient Definition for Distillers Grains: The NGFA also urged CFIA to modify its proposed feed ingredient definition for "distillers grains dehydrated derived from fuel ethanol" to remove references that such products be labeled with guarantees for maximum moisture, maximum sulfur, maximum sodium and maximum phosphorus. The NGFA argued that such label guarantees are inappropriate for distillers grain co-products because: 1) they are not required for a variety of other feed ingredients that contain similar or greater concentrations of sodium or phosphorus; and 2) the Association of American Feed Control Officials' (AAFCO) model feed regulations and virtually all U.S. state feed laws require labels of distillers grains products to contain guarantees <u>only</u> for minimum crude protein, minimum crude fat and maximum crude fiber. Exceeding this requirement, as proposed by CFIA, would require additional label guarantees for moisture, sodium and phosphorus solely on exported distillers grains products destined for Canada, thereby creating potential cross-border trade disruptions.

Membership Matters

by Todd Kemp
Director of Marketing/Treasurer

Major Membership Prizes Awarded to Leading NGFA Recruiters

On March 28 during the NGFA's 112th annual convention in Scottsdale, Ariz., major membership prizes were awarded to the NGFA's leading recruiters for the just-completed 2007-08 membership year.

Major winners and their prizes were:

- **First Place Individual: Scotty McCoy**, White Commercial Corp., Sandersville, Ga., who recruited a whopping **28** new NGFA-member firms this past year! For his efforts, he received the "Southwest Sojourn" prize package consisting of airfare for two, sponsored by Arizona Grain Inc., and two nights' lodging at the fabulous Loews Ventana Resort in Tucson, Ariz.
- **Second Place Individual: Bob Obrock**, FGDI LLC, Bowling Green, Ohio, who recruited two new biofuels companies: Central Indiana Ethanol and Western New York Energy. Bob won the "Vermont Venture" prize package, comprised of airfare for two, sponsored by BASF Plant Science, and two nights' lodging at the Stoweflake Resort and Spa in Stowe, Vt.
- **Third Place Individual (Tie): Charlie Trauger**, DTN, Omaha, Neb., and **Jeff Bechard**, AgMark LLC, Beloit, Kan. Charlie and Jeff co-sponsored the new membership of Farmers Co-op in Dorchester, Neb., in the waning days of the membership campaign. Charlie won the "Lake Luxury" prize, with airfare for two sponsored by the Minneapolis Grain Exchange and two nights' lodging at the Grand Traverse Resort on the shores of Lake Michigan. Jeff won the "Windy City Weekend" in Chicago, with airfare for two (sponsored by R.J. O'Brien) and two nights in the GATX corporate suite, courtesy of GATX Rail.
- **Membership Competition:** On the strength of Scotty McCoy's recruiting exploits, the solid bronze statue of Ceres, Goddess of the Harvest, will reside in the offices of **White Commercial Corp.**, Stuart, Fla., again this year. Congratulations to Scotty and to White Commercial!
- **Nootbaar Prize:** Endowed by a generous donation from former NGFA Industry President **Herb Nootbaar**, this $1,000 cash prize is awarded each year in a random drawing for which all successful recruiters are eligible. The winner was…**Scotty McCoy**! *(Of course! He had 28 chances in the hopper!)*

Thanks to all NGFA recruiters who made the 2007-08 member year a smashing success! Final membership statistics were: New Members: 108 *(highest total since 1990-91!)*; Non-renewals: 79.

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

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