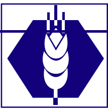

NGFA Newsletter

Volume 51, Number 21, October 21, 1999

Agriculture Appropriations, Emergency Relief Bill Waiting on Clinton

As the ***NGFA Newsletter*** went to press today, President Clinton still had not signed into law the fiscal year 2000 agriculture appropriations bill (H.R. 1906) cleared by the Senate on Oct. 13 that, among other things, allocates approximately $8.7 billion in emergency farm spending.

There were unconfirmed reports that the White House is considering a veto of the bill as a way to increase pressure on Congress to spend even more emergency funds on agriculture. However, officials tell the NGFA that the prevailing view is that Clinton will sign the bill.

The Senate cleared the measure by a 74-26 vote after the House had done so on Oct. 1 by a 240-175 vote. The bill earmarks $69 billion for funding for USDA operations in fiscal year 2000, as well as funding for the Food and Drug Administration.

The emergency farm spending provisions include the following:

- $5.544 billion in "market-loss assistance" to be made through increased direct marketing transition (so-called "AMTA") payments to producers. USDA officials have told the NGFA that these payments can be issued within two weeks after the bill is signed into law;
- A doubling of the payment limit for marketing loan gains and loan deficiency program (LDP) payments to **$150,000** (up from the current $75,000) for the 1999 crop year only. USDA officials told the NGFA that they have drafted a notice to implement this change, but it is being delayed awaiting Clinton's decision on whether to sign the bill into law;
- $1.2 billion in 1999-crop production-loss payments to compensate for quantity, quality or "severe economic losses" caused by adverse weather;
- $475 million for 1999-crop soybeans and oilseeds that will be made to producers eligible to receive marketing assistance loans;
- $134 million to specialty crop producers;
- $328 million to tobacco growers;
- $325 million to livestock and dairy producers;
- $650 million to reduce federal crop insurance premiums; and
- Mandatory livestock price reporting.

(Continued on page 2)

USDA Announces Changes to Lock-In Rate Procedures for Loan Program Repayments

The U.S. Department of Agriculture's Farm Service Agency today (Oct. 21) is scheduled to issue an amendment to its loan program handbook that will allow producers pledging collateral for either farm- or warehouse-stored marketing assistance loans to lock-in a loan repayment rate for **60 calendar days**, the NGFA has confirmed.

FSA's amendment to the handbook (8-LP) separates the loan-repayment lock-in rate from the marketing authorization form (CCC-681-1). The CCC-681-1 still will be the form used by FSA to authorize the producer to remove and deliver farm-stored loan collateral to a buyer, and notify a buyer of the Commodity Credit Corporation's security interest in such collateral. But no longer will the CCC-681-1 be used to lock in the loan-repayment rate.

Previously, producers who have pledged grain as collateral for **farm-stored** marketing assistance loans had the right anytime during the nine-month life of the loan to request a CCC-681-1 to deliver the loan

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Access the Web Site by Typing the NGFA's Web Site Address: http://www.ngfa.org

Enter the User Name: ngfa

Enter the Password: soybean

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Commodity Certificates: Importantly, the bill also contains language authorizing the U.S. Department of Agriculture's Commodity Credit Corporation to make "in-kind" payments to producers by issuing "negotiable commodity marketing certificates." The NGFA has learned from congressional staff that the intent of this provision is to discourage forfeitures by requiring CCC, upon the request of the producer, to issue commodity certificates **redeemable in either cash or commodities** in cases in which a producer pledges commodities as collateral for a marketing-assistance loan and subsequently reaches or exceeds the new $150,000 payment limit for 1999 crops. The provision reportedly was added at the behest of California and Arizona members of Congress, who maintained their producers routinely bump up against the payment limit.

Importantly, CCC has had the authority (under its charter act) to issue commodity certificates all along. But the commodity certificate language contained in the bill is extremely broad. Importantly, it would not be limited to 1999 crop but would extend through the end of the 1996 farm law in 2002. Among other things, this section of the bill authorizes CCC, in making in-kind payments to producers, to: "1) acquire and use commodities pledged to CCC as collateral for loans; 2) use other commodities owned by CCC; and 3) redeem negotiable marketing certificates **for cash**…." *[Emphasis added.]* Further, it requires CCC, "at the option of the producer" to make negotiable commodity certificates available to the producer "in the form of program payments or by sale in a manner that CCC determines will encourage the orderly marketing of commodities pledged as collateral for loans…." The bill states that CCC can make the in-kind payments: "1) by delivery of the commodity at a warehouse or similar facility; 2) by the transfer of negotiable warehouse receipts; 3) by the issuance of negotiable certificates…; or 4) by such other methods as CCC determines appropriate…."

USDA officials have told the NGFA that they have made a tentative determination the bill language gives USDA the authority to issue commodity certificates – but does not require the department to do so. However, **if** USDA does decide to issue certificates, USDA's current legal interpretation is that the bill would require it do so to eligible producers upon request.

Other questions being addressed by USDA are: 1) if certificates are issued, how will they apply against the loan; and 2) if certificates are issued, will they be subject to the payment limits on marketing loan gains or LDPs. The NGFA will seek additional clarification from USDA on these issues. Watch the NGFA's web site for further updates!

Lugar Signals Support for 1996 Farm Law

The 1996 farm law should be kept relatively intact until it expires in 2002, Senate Agriculture Committee Chairman Richard G. Lugar, R-Ind., said in an Oct. 19 speech.

In remarks to a Commodity Club of Washington lunch that was attended by the NGFA, Lugar said he supports the main concept behind the 1996 farm law – that producers should have freedom to make planting and marketing decisions based upon market forces rather than in response to government subsidies. Lugar also said advocates of a return to supply management appear to be in the minority in Congress.

Further, Lugar said he has no plans to conduct hearings on the farm law early next year. That is in sharp contrast to House Agriculture Committee Chairman Larry Combest, R-Texas, who has announced that he plans a series of such hearings.

Lugar said congressional debate over the future of farm policy would center on the issue of whether the U.S. government should guarantee farm cash flow. He also had this to say on other important topics:

- **Sanctions Reform:** Lugar said it still was possible that Congress yet this year could consider legislation exempting agricultural products and medicines from unilateral economic sanctions. Such a Senate provision was removed from the agriculture appropriations bill (H.R. 1906) during a joint House-Senate conference committee because of a dispute over whether shipments of agricultural and medical products would be allowed to enter Cuba.

  In a related development, Sen. John Ashcroft, R-Mo., author of the sanctions reform provision that was deleted from the appropriations bill, said this week that he would introduce a sanctions reform bill shortly. Further, he said Majority Leader Sen. Trent Lott, R-Miss., had agreed to hold a vote on the issue before Congress adjourns.

- **CFTC Reauthorization:** Lugar also said he would like the Senate Agriculture Committee to consider legislation to reauthorize the Commodity Futures Trading Commission early next year.

Senate Ag Committee Conducts Hearing on Crop Insurance Reform

The Senate Agriculture Committee on Oct. 14 conducted a hearing on crop insurance reform and producer risk-management issues.

The hearing focused on the merits of two competing crop insurance reform bills – one (S. 1666) offered by Senate Agriculture Committee Chairman Richard Lugar, R-Ind., and the other (S. 1580) introduced by Sens. Pat Roberts, R-Kan., and J. Robert Kerrey, D-Neb. There was consensus of committee members attending the hearing that producers needed more and better ways of addressing production and market risk.

The Roberts-Kerrey legislation would increase premium subsidies to encourage greater producer participation in the program. It also contains language that would create incentives for producers to use alternative risk-management tools, such as exchange-traded futures or options, in addition to crop insurance.

This latter concept forms the centerpiece of Lugar's bill. Rather than focus on crop insurance, Lugar's bill would provide increased direct marketing assistance (AMTA) payments for producers for crop years 2000-02. The amount of the additional payment would be based upon a percentage of the producer's current AMTA payment. To receive the additional funds, producers would be required to utilize at least two of eight specified alternative risk-management practices. Lugar advocated this approach during his Oct. 19 Commodity Club speech, saying that while crop insurance is a necessary part of any comprehensive risk-management plan, he would like to see Congress pass a bill that recognizes that there is no "one-size-fits-all" solution. Lugar reiterated his desire to give producers an incentive to choose from a wide variety of risk-management approaches. He also noted that it does not make much sense during a period of oversupply to provide an artificial incentive – through heavy government subsidies for crop insurance premiums – that encourages producers to put more marginal acres into production.

During the hearing, Sens. Roberts and Kerrey strongly advocated their approach, and repeatedly pressed Lugar to set a date for the committee to vote on a bill to send to the full Senate for consideration. But Lugar refused to make such a commitment, responding that he wanted legislation that provided the most choice for producers, and that the crop insurance program, while part of a broader risk-management package, was an inefficient way of supplementing producer security.

Roberts countered by stating that crop insurance was the fastest way to accomplish the goal of easing the effects of low prices on family farms. He said he believed that it would be easy to resolve the differences between the two versions and arrive at a final bill. **Significantly, Roberts also said he preferred to address crop insurance reform this year because it was "a given" that Congress would reopen the 1996 farm law for potential changes next year** and it would be easier to debate that issue with crop insurance off of the table.

NGFA Testifies on Concentration

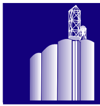
The NGFA, at the invitation of the House Judiciary Committee, testified at an Oct. 20 hearing that while concentration in the grain industry has raised legitimate concerns about competition, a number of factors in the grain markets offer inherent protections.

The hearing was conducted to review the antitrust ramifications of agribusiness mergers and to investigate the practice of "slotting," by which supermarkets charge a fee to food manufacturers to place products on shelf space.

NGFA's Testimony: In the testimony, NGFA President Kendell W. Keith acknowledged that consolidation is occurring in the agriculture sector through mergers and acquisitions. But the NGFA said that grain markets, in particular, contain inherent barriers to monopoly practices, including transparency in market prices; uniform trading rules; an arbitration system that resolves trade disputes among large and small market participants; producer-induced competition between processors and handlers caused by farmer trucking of grain and on-farm storage; and intense competition among the various sectors of the grain industry to originate available supplies. The NGFA's testimony can be obtained from the NGFA's web site at: www.ngfa.org. Click on the "News and Info" heading. Then click on the "Testimony and Official Statements" icon.

Others Testifying: Also testifying were representatives from the American Farm Bureau Federation, the American Meat Institute, the United Fresh Fruit and Vegetable Association, and the Food Marketing Institute. The National Farmers' Union submitted a written statement supporting a moratorium on further agribusiness mergers. In a related development, Sen. Paul Wellstone, D-Minn., introduced legislation (S. 1780) that would place an 18-month moratorium on mergers of agribusiness firms that have a value of more than $10 million.

Testifying for the government were representatives from the Departments of Agriculture and Justice, and the Federal Trade Commission. Federal government officials stated that current law provides the government with sufficient authority to investigate and, if necessary, require firms to divest a portion of their assets to protect against anticompetitive outcomes, as well as to take action against firms that engage in monopolistic practices.



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collateral and repay the loan. Under the CCC-681-1, they also had the option to "lock-in" the loan-repayment rate at the posted county price (PCP) for a 15- or 30-day period. Producers ostensibly then were required to deliver the loan collateral during the delivery period specified on the CCC-681-1; however, the previous rules allowed producers to let the CCC-681-1 expire without delivering the loan collateral, and permitted them to take out a new CCC-681-1 – and lock-in a new repayment rate – at a later time. One problem with the previous program was that it encouraged producers to obtain multiple CCC-681-1s with different potential buyers solely for the purpose of obtaining a new "lock-in" rate. That's because the previous rules prohibited producers from changing the lock-in rate during the 15- or 30-day period unless he/she obtained a new CCC-681-1 by designating a different buyer as the delivery location.

New Loan-Repayment Rate Lock-In Privilege: Under the new procedures, which take effect immediately (Oct. 21), producers pledging grain and oilseeds as collateral for marketing assistance loans have the option to lock in the loan-repayment rate at the posted county price (PCP) for **60 calendar days** on all or any portion of the producer's loan collateral. To be eligible for the lock-in rate privilege, producers will need to enroll in the loan program. FSA will use a new form – the Form CCC-697 – for producers wishing to lock in the loan-repayment rate.

Importantly, FSA will require that the loan be approved and the loan proceeds be disbursed before the producer can request a lock-in rate. This could be a factor if FSA service centers (formerly called county offices) become backed up in approving loan applications and disbursing loan proceeds. This also differs from the new procedures implemented this year (via Notice LP-1689) for loan deficiency payments (LDPs), where the rate for producers using the Form CCC-666-LDP is the PCP in effect on the date the LDP application is **received** rather than the rate in effect on the date the LDP application is approved.

- **Commodities Eligible for Lock-In:** Grains and oilseeds (including so-called minor oilseeds, such as sunflowers and canola) will be eligible for the lock-in loan-repayment rate. The lock-in privilege will **not** apply to cotton.

  The lock-in rate privilege will take effect for eligible commodities pledged as collateral for loans on or after Oct. 21. The lock-in rate privilege will **not** be retroactive to producers who already have redeemed their loans. Nor will it apply to commodities for which a loan deficiency payment (LDP) already has been obtained.

- **Length of Lock-In Rate:** Producers will be allowed to lock-in a loan-repayment rate for 60 calendar days, with one exception. **In an effort to avoid forfeitures, FSA will require that the lock-in rate expire at least 14 days prior to loan maturity**.

- **Loan Settlement:** To exercise the locked-in repayment rate, producers will be required to repay the loan during that 60-day period. During that 60-day period, the producer will **not** have the option to lock in a

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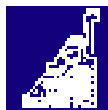

FDA Issues Guidance on Dioxin in Mined Clay Products

The Food and Drug Administration's Center for Veterinary Medicine on Oct. 15 issued a guidance document advising the feed industry not to use any mined clay products contaminated with dioxin in animal feed and feed ingredients. Mined clay products are sometimes used as an anti-caking agent in feed.

The guidance document advised that all mined clay products intended for use in feeds – not just ball clay – "should be carefully monitored for dioxins, without regard for how remote or pristine the source."

FDA/CVM based its recommendations on tests of 15 samples of anti-caking, flow and pelleting aids collected in late 1998, nine of which were found to contain detectable levels of dioxins ranging from less than 1 part per trillion toxicity equivalents to more than 20 parts per trillion toxicity equivalents. Unexpectedly, the agency said, the dioxin congener contributing to the toxicity levels was different than the congener found in a widely reported incident involving mined ball clay that occurred in 1997. Further, the agency said, "[n]one of the samples collected in 1998 appeared to be ball clay, but were labeled "'montmorillonite,' 'bentonite,' 'ground clay,' and even 'silicate' and 'lime.'"

The agency said FDA and the Environmental Protection Agency continue to investigate the sources of the samples containing the higher levels of dioxin, but said the information discovered thus far "indicates the need for increased caution in industry surveillance for dioxins in feed ingredients." FDA/CVM recommended that analyses for dioxins include the entire congener group that contributes to the toxicity equivalent measurement. But the agency also noted that the "significance to public health of the relatively low concentrations of dioxins found in the latest samples is presently unclear."

("Lock-in" continued from page 4)

different repayment rate on the quantity of loan collateral for which a rate already has been locked in. Nor will the producer be allowed to repay the loan at a different PCP on that specific loan collateral quantity during the 60-day period for which the lock-in rate applies. *[See example later in this article.]*

If the producer locks in a loan-repayment rate but does not repay the loan during the 60-day period, **the lock-in rate will expire automatically** and the producer will have the same options to settle the loan as he or she does under the regular marketing assistance loan program; that is, repay the loan at any time up to maturity: 1) at the lower of the market loan repayment rate (PCP) in effect on the date the loan is repaid (i.e., the date the producer's check is received by FSA); or the applicable county loan rate, plus accrued interest and charges; **or** 2) by forfeiting the commodity to CCC at loan maturity.

- **Number of Lock-In Rates Permitted:** Only **one** lock-in rate will be permitted on the loan collateral quantity, as selected by the producer. That quantity could be either the entire loan collateral amount or any portion(s) thereof.

  The producer will determine the specific quantity of loan collateral that will apply to the lock-in rate he/she selects. **Further, FSA will apply a "first-in, first-out" rule to producers who lock in different loan-repayment rates on different increments of their loan collateral and subsequently seek to redeem their loans.** Under this procedure, the locked-in loan repayment rates (unless they have expired) will apply sequentially to the quantities of loan collateral that the producer redeems. *[See example.]*

- **Both Warehouse- and Farm-Stored Loans Eligible:** For the first time, the lock-in rate privilege will be extended to warehouse-stored loans, in addition to farm-stored loans.

Marketing Authorization Form – Delivery of Grain: The producer can elect to deliver the grain at any time after the loan repayment is satisfied by using the CCC-681-1 marketing authorization form. This form still will be the vehicle used by FSA to allow the producer to remove farm-stored loan collateral and deliver it to a buyer, as well as to notify the buyer that CCC has a security interest in the commodities previously pledged as collateral for a marketing assistance loan.

The CCC-681-1 will continue to be valid for 15 or 30 days, at the producer's option. Further, producers will have the option to obtain as many new CCC-681-1s with a new delivery period as they wish.

Example: To illustrate how the new loan-repayment rate procedures work, take this example: Assume a producer on Oct. 28 pledges 100,000 bushels of corn as collateral for a marketing assistance loan. On Nov. 1, the producer locks in a loan-repayment rate at a PCP of $1.72 per bushel on 20,000 bushels. On Nov. 15, the producer locks in a loan-repayment rate of $1.76 per bushel on another 20,000 bushels. On Dec. 1, the producer locks in a third loan-repayment rate of $1.80 per bushel on another 30,000 bushels. The producer does not lock in a rate on the remaining 30,000 bushels of loan collateral.

By no later than Dec. 31 *(60 days after the Nov. 1 lock-in rate)*, the producer will need to decide whether to exercise the $1.72-per-bushel lock-in rate on the initial 20,000 bushels. If the producer exercises the lock-in rate, the $1.72 per bushel will represent the loan-repayment rate for that 20,000-bushel portion of the loan. If he/she does **not** exercise the lock-in rate, it will expire automatically and the producer will have the option under the loan program of making repayment: 1) at the lower of the market loan-repayment rate (PCP) in effect on the date the loan is repaid (i.e., the date the producer's check is received by FSA); or the applicable county loan rate, plus accrued interest and charges; **or** 2) by forfeiting the commodity to CCC at loan maturity. But the producer will **not** have the option of locking in a new loan-repayment rate on that 20,000 bushels for which the $1.72-per-bushel rate previously was locked in. Nor will the producer, during this 60-day period, have the option of repaying the loan on that 20,000 bushels at a different PCP rate.

The same scenario applies to the 20,000 bushels for which the producer locked in the $1.76-per-bushel loan-repayment rate on Nov. 15 and the 30,000 bushels for which the producer locked in the $1.80-per-bushel rate on Dec. 1.

In addition, and importantly, under FSA's "first-in, first-out" procedure *(discussed previously)*, if the producer seeks to repay all or any portion of the loan during the 60-day lock-in rate period(s), the lock-in rates (i.e., $1.72, $1.76 and $1.80 in this example) will be the loan-repayment rates that are applied, sequentially, to the first 70,000 bushels of the producer's loan collateral – provided the lock-in rates have not expired. Said another way, the $1.72 loan-repayment rate will be applied to the first 20,000 bushels of loan collateral the producer seeks to redeem, the $1.76 rate will apply to the next 20,000 bushels and the $1.80 rate will apply to the next 30,000 bushels -- so long as those lock-in rates have not expired.

For the 30,000 bushels of loan collateral for which the producer chooses **not** to lock in a loan-repayment rate, the producer **at any time** until loan maturity – even during a 60-day period for which a lock-in rate applies to the producer's other loan collateral – can repay the loan: 1) at the lower of the market loan-repayment rate (PCP) in effect on the date the loan is repaid (i.e., the date the producer's check is received by FSA); or the applicable county loan rate, plus accrued interest and charges; **or** 2) forfeit the commodity to CCC at loan maturity.

USDA Schedules 20th CRP Signup for Jan. 18-Feb. 11

The next signup for the Conservation Reserve Program – the 20th since its inception in 1986 – will be conducted Jan. 18-Feb. 11, the U.S. Department of Agriculture has announced.

USDA said it will continue to evaluate and rank eligible CRP offers using an Environmental Benefits Index (EBI) that is based on the potential environmental benefits gained from land-idling. The EBI criteria used for the next CRP signup will be "very similar" to that used for last year's signup, USDA said.

As it has with previous signups, USDA said decisions on the EBI cutoff that determines which CRP offers are accepted will be made after the signup ends, when the EBI numbers of all offers are analyzed. USDA cautioned that the EBI cutoff used in previous signups might not be used for the 20th signup; thus, those who would have met previous signup EBI thresholds are not guaranteed enrollment of their offers under signup 20.

Under the 1996 farm law, USDA is authorized to maintain CRP enrollment of up to 36.4 million acres. Approximately 31.5 million acres will be enrolled in CRP contracts as of Oct. 1, 1999, USDA said. About 400,000 acres currently subject to CRP contracts will expire on Sept. 30, 2000. The contracts awarded under signup 20 will become effective on Oct. 1, 2000.

Under the CRP, applicants agree to enter into contracts with USDA to idle land for 10 to 15 years. In exchange, they receive annual rental payments and a payment of up to 50 percent of the cost of establishing conservation practices, such as vegetative covers, on the enrolled acreage.

Continuous Signup: In announcing its 20th signup, USDA also issued a reminder about its continuous CRP signup available for buffer strips, such as filter strips, riparian buffers and grass waterways. Normal CRP eligibility requirements apply to these acres, but the competitive EBI scoring is waived because of the highly environmentally desirable nature of the practices available.

USDA said that as with previous general signups, the continuous signup also will be offered during the 20th enrollment. For program-administration purposes, the continuous signup number was changed from signup 19 to signup 21 for acres offered for enrollment on or after Oct. 1, 1999.

USDA to Preapprove Counties Allowed to Exceed 25 Percent CRP Limit: Meanwhile, USDA's Farm Service Agency on Sept. 3 issued a notice *[Notice CRP-345]* to its state offices and service centers that, among other things, requires that FSA headquarters preapprove, before signup begins, **all** waiver requests to exceed the 25 percent limit on the total cropland in an individual county allowed entry into the CRP.

"Unless a waiver is provided (by the FSA deputy administrator for farm programs) before signup begins, (the FSA service center) shall immediately notify producers who submit an offer for land physically located in a county that has reached or exceeded the 25 percent cropland limitation that the offer is rejected," the FSA notice said. "[C]ounties that approach or exceed the 25 percent cropland limitation may only be eligible to accept offers under (the) continuos signup provisions…."

FSA said it was making the change because FSA offices "frequently" had failed to determine that both legal requirements for waiving the 25 percent cropland limit had been met and/or had not reported all of the counties that were granted such waivers. By law, a county's CRP acreage is not allowed to exceed 25 percent of its total cropland unless USDA determines both of the following: 1) exceeding the 25 percent limit would not adversely affect the local economy of the county; **and** 2) producers in the county are finding it difficult to comply with conservation plans when farming such land.

National Ranking Plan to be Used: The FSA notice also said that individual state plans to rank CRP offers – in lieu of the national ranking plan – would not be permitted for the 20th signup. No state CRP ranking plans have been submitted since signup 13, FSA noted. This means that all eligible offers will be assessed at USDA headquarters using the national ranking plan.

Ohio Agribusiness Association Executive to be Honored

The NGFA congratulates **Gary King**, president and chief executive officer of the Ohio Agribusiness Association, who has been named recipient of The Ohio State University College of Food, Agricultural and Environmental Sciences Alumni Society's "Meritorious Service Award."

King, who has served as chief executive officer of this NGFA affiliated association since 1990, will receive the award on Nov. 12. The award is designed to recognize recipients for their "qualities of service, leadership, and academic excellence" that The Ohio State University and the college seek to foster. King has served on advisory groups and committees for the Ohio Agricultural Research and Development Center, The Ohio State University Agricultural Technical Institute and the OSU College of Food, Agricultural, and Environmental Sciences. He was the catalyst in the formation of the Ohio Agribusiness Association Educational Trust Fund, which provides support for the Ohio LEAD Program and scholarships in excess of $12,000 to The Ohio State University and the Agricultural Technical Institute. He also oversees the Ohio Agribusiness Association State Workers' Compensation Group Rating Plan.

NGFA Members Report Deteriorating Rail Service in East

The NGFA today told those attending the Conrail Transaction Council meeting that it has received reports that rail service for agricultural shippers and receivers in the Eastern half of the United States has deteriorated significantly during the past month.

Among other things, the NGFA said it had received reports that some Eastern feed mills are facing shutdowns because of delayed shipments of grain and soybean meal. An NGFA country elevator member from Ohio, writing on his and others' behalf, expressed "great frustration" and said his elevator had experienced loaded trains on the Norfolk Southern waiting for more than a week before locomotives arrive and the train is pulled. He termed the situation "intolerable," noting that he has had to store 500,000 bushels of grain in ground piles while waiting for delivery of billed cars.

And the Michigan Agri-Business Association, in an Oct. 21 letter to its congressional delegation that was shared with the NGFA, voiced concerns about a "virtual collapse" in service for grain elevators across the state caused by car shortages and delayed turnarounds. The Michigan association reported delays of a month or more for 60-car unit trains to make the round trip from Michigan to the mid-south. "The resulting situation is that, in many cases, elevators are being forced to close and stop receiving grain from farmers," wrote Michigan Agri-Business Association President James E. Byrum. "…[T]his is a crisis situation and demands immediate attention."

NGFA Letter to STB: In a letter transmitted today to Surface Transportation Board Chairman Linda Morgan, the NGFA noted that inventories of grain, oilseeds and meal, and feed in the entire eastern and southeastern regions of the country are low to nonexistent because of drought and hurricane conditions. "Local trucking, therefore, is not an option for many receivers that now face feed mill shutdowns if rail shipments do not arrive when expected," the NGFA wrote. "Likewise, deteriorating rail service is threatening shutdown situations for Midwest processing plants trying to ship products to eastern and southeastern receivers." The NGFA also cited continuing reports of problems with interchange of traffic between the Norfolk Southern and CSXT in certain areas.

"The NGFA remains committed to exploring private-sector solutions to rail service problems," but urged the STB to remain "vigilant in its oversight of the eastern rail situation," the association wrote. "We have urged both CSXT and Norfolk Southern to cooperate in permitting rail carrier switching/interchange with each other and with the Canadian Pacific Railroad and shortlines where alternative service is available."

NGFA Meetings with Rail Carriers: During a half-day meeting on Oct. 13 between the NGFA and representatives of the Norfolk Southern Corp., the carrier said it had "limited resources" to devote to agricultural shipments and that customers should not expect measurable improvements before the end of December.

The NGFA also conducted separate half-day meetings on Oct. 13-14 with representatives of the CSX Transportation Co., and Canadian Pacific Railroad, respectively, to discuss continuing rail service problems encountered since the June 1 implementation of the acquisition of Conrail. Also attending the meetings was Surface Transportation Board Chairman Linda Morgan. Representatives of other NGFA-member companies, including members of the Rail Shipper/Receiver Committee, participated in the meetings via conference call.

During the meetings, representatives of the Norfolk Southern and CSXT said service delays had been exacerbated by heavier-than-usual traffic volumes from auto, intermodal and agriculture; the earlier harvest; and increased demand from rail grain users in the East and Southeast because of the drought and hurricanes. The following is a summary of the discussions with each carrier:

- **Norfolk Southern:** Norfolk Southern representatives said that service demands on its system likely will not decline until the November-January period, after which additional locomotives and crews may be made available to handle agricultural products. Until that time, there are "few if any additional resources that can be devoted to grain," they said. They said shippers adding cars to an "already congested system" was contributing to service delays.

  The NS officials also said several of its gateways – such as Decatur, Ill., Bellevue and Sandusky, Ohio, Detroit, Mich., and Harrisburg, Pa. – were congested, further exacerbating delays. They said NS Chairman David Goode had directed that five corporate initiatives examining infrastructure needs be conducted of bottleneck areas. They said the Decatur study had been completed, but that it would be six to nine months before "significant resources" could be committed and major improvements made. In the interim, the NS said it is redirecting freight cars and using alternative gateways in an effort to reduce congestion.

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NGFA Meets with Norfolk Southern, CSX and Canadian Pacific

NGFA-Norfolk Southern

NGFA and Norfolk Southern Corp. representatives are shown during their meeting to discuss rail service problems. Pictured are (front row, from left) NGFA Rail Shipper/Receiver Committee member Sharon Mock, director, traffic, Perdue Farms Inc., Salisbury, Md.; Walter B. Trollinger, assistant vice president, markets management, Norfolk Southern Corp., Norfolk, Va.; Rail Shipper/Receiver Committee Chair John Bratten, vice president, transportation, Central Soya Co., Inc., Fort Wayne, Ind.; Surface Transportation Board Chairman Linda Morgan; and NGFA Chairman Michael Donnelly, president, R.F. Cunningham & Co., Smithtown, N.Y. Also pictured are (back row, from left): Thomas Brugman, director, agriculture and consumer products, Norfolk Southern Corp., Roanoke, Va.; Nancy Wilson, Association of American Railroads, Washington, D.C.; NGFA Counsel for Public Affairs David C. Barrett Jr.; Debra Butler, assistant vice president, transportation assets management, Norfolk Southern Corp., Atlanta, Ga.; and NGFA President Kendell W. Keith. Other representatives of NGFA-member companies, including several from the Rail Shipper/Receiver Committee, participated via conference call.

NGFA-CSX

NGFA and CSX Transportation Co. representatives are shown following discussions on the integration of Conrail into the CSX system. Pictured are (front row, from left): NGFA Chairman Michael Donnelly; STB Chairman Linda Morgan; NGFA Rail Shipper/Receiver Committee Chair John Bratten; and John P. Sammon, senior vice president, Merchandise Service Group, CSX Transportation, Jacksonville, Fla. Also shown are (back row, from left): NGFA Counsel for Public Affairs David C. Barrett Jr.; Perdue's Sharon Mock, AAR's Nancy Wilson; and Thomas C. Owen Jr., assistant vice president, agricultural products, CSX Transportation, Jacksonville, Fla. Representatives of several other NGFA-member companies participated via conference call.

NGFA-CP

The Canadian Pacific Railroad discuss ways it could provide service to agricultural shippers and receivers experiencing service disruptions in regions served by the Norfolk Southern, CSX and the former Conrail. Pictured are (front row, from left): Perdue's Sharon Mock; NGFA Chairman Mike Donnelly; and Rail Shipper/Receiver Committee Chair John Bratten. Also pictured are (back row, from left): NGFA's David C. Barrett and Kendell Keith; John R. Brimsek, attorney, Mullenholz, Brimsek and Belair, Washington, D.C.; S.A. (Steve) Fisk, manager, corridor marketing D&H, St Lawrence and Hudson Railway, Clifton Park, N.Y.; and D.E. (Dan) Stirling, director, grain, Canadian Pacific Railway, Winnipeg, Manitoba, Canada. STB Chairman Linda Morgan and representatives of other NGFA-member companies participated via conference call.

("Eastern Rail Service" continued from page 7)

The NS said its service problems were caused mostly by a lack of locomotives and, to a much lesser degree, inefficient use of its crews. They also said the lack of integration between the computer systems of the NS and Conrail had contributed to its service problems. Norfolk Southern officials attributed most of the service problems to reduced velocity and slower turnaround times on its cars. They said the average turnaround time has increased five days – to 22 days – this year compared last. But they conceded that turnaround times are highly variable, and may approach 30 to 40 days in some areas.

The Norfolk Southern reported it has 111 grain trains currently operating, compared to 75 in its fleet last year prior to the Conrail acquisition. But only eight of those trains were planned growth trains resulting from the Conrail acquisition. The carrier also said it had leased 482 locomotives since June 1, and that 416 of those were now in service, with the remainder being prepared for service.

➧ **CSXT:** CSXT officials said that slotting capacity on tracks, rather than a lack of locomotives or crews, primarily was responsible for service delays on its system. The CSXT also said it had experienced some backups at its gateways, particularly St. Louis, Mo., and Indianapolis, Ind. (the latter of which it attributed to record auto shipments). They said CSXT is striving to pull trains within eight hours after they are loaded, and that delays had been cut in half. They also said it likely would be early next year before significant improvements in service are made.

The CSXT said its trainload volume was up significantly this year, and that it currently had 81 active grain unit trains in service, compared to 50 a year ago. CSXT officials said the carrier had experienced crew shortages in several areas – including Nashville/Chattanooga, Tenn., Baltimore/Philadelphia, Toledo, Ohio, Lafayette/ Evansville, Ind., and Danville, Ill. – and was hiring new employees and providing relocation incentives to existing crews. They also noted that the carrier had implemented a reorganization that reduced the number of its regions from 16 to five, and increased decision-making powers within each division.

➧ **Canadian Pacific Railway:** Canadian Pacific Railway executives unveiled several options for serving grain transportation needs of eastern U.S. receivers. The Canadian carrier said it is the only Class I railroad able to source grain on its own lines in both the western United States and western Canada and deliver it on its own lines to customers in the U.S. Northeast (built around its wholly-owned Delaware & Hudson Railway). The Canadian Pacific said that it originates grain on its own lines in North Dakota, Minnesota, South Dakota, Ontario, Quebec and the western Canadian provinces. Likewise, non-Canadian Pacific origins can interchange with carrier at Chicago and other locations, it said.

The Canadian Pacific indicated it already moves 6,000-8,000 cars of feed grains annually into the U.S. Northeast, but said it has the ability to provide additional service to drought-stricken areas in the region. It said service options included rail shipments to transload locations and direct service using its trackage rights over Norfolk Southern to other points. The carrier said it also operates its own transload facility in Philadelphia, Pa., that has excellent truck access.

The Canadian Pacific offered the following ideas for grain movements into the U.S. Northeast:

- Provide up to 200 cars per week incremental capacity on existing trains in the Chicago-Detroit corridor.
- Provide additional train capacity on Canadian Pacific's Canadian route over the Great Lakes.
- Work with facility operators to expand capabilities of Canadian Pacific-served transloads and distribution centers at: Albany, N.Y., Philadelphia, Pa., Naval Yard, Oak Island, N.J., and Taylor, Pa.
- Work with operators of large grain processing facilities in Albany and Mount Pocono, N.Y., to serve as temporary transload facilities.
- Set up temporary transloads at other Canadian Pacific-served facilities in Allentown and Harrisburg, Pa., and Buffalo, N.Y.
- Work with facility operators to expand capabilities at Canadian Pacific-accessed transload and distribution centers on shortlines and other railroads.
- Explore with NS and CSXT providing temporary direct Canadian Pacific access to facilities on NS and CSXT and shortlines connecting with those carriers.
- Explore permission for the Canadian Pacific to receive grain from all railways in Chicago for delivery to the U.S. northeast.

Clinton Administration Submits STB Reauthorization Bill to Congress

The Clinton administration on Oct. 15 submitted to Congress its proposed legislation that would reauthorize the Surface Transportation Board.

The administration's proposed bill calls for labor reform, defines small shippers that can access expedited procedures for rate cases, recommends increasing competition by providing for reciprocal switching in railroad terminal areas and addresses antitrust issues by giving the Department of Justice primary responsibility for railroad mergers.

Among other things, the administration's proposals would:

- subject railroad mergers to the same antitrust review as other industries and vest in the Justice Department (rather than the STB) the authority to review the competitive impacts of proposed rail mergers. The STB would retain jurisdiction over non-competitive public-interest aspects of rail mergers.
- authorize the STB to approve more reciprocal switching in areas where it is in the public interest or where competition would benefit. Specifically, the administration's bill would require reciprocal switching in terminal areas. Reciprocal switching currently is required only when it is "in the public interest," which the administration maintains has been interpreted to mean a compelling necessity, usually related to inadequate service or competitive abuse.
- extends the permitted duration of STB-issued emergency service orders to one year (up from the current 270-day limit).
- require that DOT conduct a study of the financial and service impacts that might result from statutory changes that would impose mandatory competitive access that exceed the reciprocal -switching provisions proposed in the administration's bill.
- provide that the STB's simplified and expedited procedures for processing non-coal rate cases would apply to situations where the shipper challenging the rate has incurred shipping costs of not more than $500,000 under that rate for the 12-month period immediately preceding the filing of the rate complaint. The administration's bill also would allow the STB to broaden the application of the streamlined rate appeal procedures to other shipments.
- codify the current practice of requiring six years of labor protection for railroad employees adversely affected by mergers involving a Class I or two Class II carriers. The provision is designed to reverse the Amtrak Reform Act's provision, approved in December 1997, that repealed the Amtrak labor protection provisions, which the administration said "arguably weaken(ed) the statutory basis for merger labor protection."
- require that labor negotiations regarding employees reassigned as the result of a merger be conducted in accordance with the Railway Labor Act, thereby removing the STB's authority to intervene in the process of negotiating implementing agreements related to mergers.
- require that STB derive its entire budget from user fees.

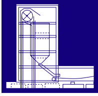
Inland Waterways Board Meets Nov. 3

The U.S. Army Corps of Engineers has announced that the Inland Waterways Users Board will meet on Nov. 3 in Washington, when it is expected to review the status of funding for inland waterways projects and vote on its annual report to Congress.

The NGFA in an Aug. 17 letter to Assistant Secretary of the Army (Civil Works) Joseph W. Westphal urged that the Corps of Engineers reactivate the functions of the congressionally mandated Inland Waterways Users Board. "The NGFA is alarmed that the 11-member board is in danger of ceasing to function…," the NGFA wrote. The NGFA noted that the advisory committee had not met since November 1998 and that members to the board for two-year terms that ostensibly began on Jan. 1, 1999 had not been appointed. "The situation has prevented the board from exercising its independent judgment regarding critical issues affecting the nation's inland waterways and has prevented (it) from filing its annual report to Congress" as required by federal law," the NGFA wrote.

In a letter dated Oct. 1 and received by the NGFA on Oct. 12, Westphal responded by indicating, among other things, that "all vacancies on the board have recently been filled" and that "the board will soon convene for the purpose of finalizing priorities for the inland waterway system. I appreciate your members' strong support for the inland waterways navigation system and I wish to convey to you that I am personally pledged to do everything possible to keep our inland navigation system the very best in the world, " Westphal wrote.

Member Input Sought: The draft agenda for the Inland Waterways Users Board's Nov. 3 meeting provides a period for public comment. The NGFA will take this opportunity to make a statement urging the users board and the U.S. Army Corps of Engineers to push for modernization of locks on the Upper Mississippi and Illinois River system. The NGFA welcomes input from members that can be incorporated into its statement. NGFA members with specific concerns or comments should provide them to NGFA Counsel for Public Affairs David C. Barrett Jr. by **Oct. 29**. You may do so by calling him at (202) 289-0873 or by sending an e-mail message to: dbarrett@ngfa.org.



EPA Proposes Changes to NFPA Code for Liquefied Petroleum Gases

The Environmental Protection Agency has submitted several recommended changes to the National Fire Protection Association's (NFPA) code for liquefied petroleum (LP) gas (NFPA 58), which includes propane.

NFPA 58 applies to highway transportation of LP gas, as well as to the design, construction, installation and operation of all LP-gas systems. EPA's proposed changes to NFPA 58 are of potential interest to NGFA members because NFPA codes frequently are adopted by states.

Specifically, EPA proposes that NFPA 58 be amended to require LP-gas facilities to: 1) develop and perform a written fire safety analysis of the LP-gas installation every five years. The analysis would be available to the public and local emergency management officials upon request; 2) develop improved employee training, operating and maintenance programs; 3) perform a written compliance audit every three years and make it available to local emergency responders, upon request; and 4) provide information to local emergency responders regarding a "worst-case scenario," including at least one alternative scenario if off-site consequences are possible.

Legislation (S. 880) signed into law by President Clinton on Aug. 5 exempted propane and other flammable fuels from the provisions of the Clean Air Act's risk-mitigation program, which would have required facilities handling propane and other flammable fuels above certain thresholds to perform several of the actions EPA recommends for inclusion in NFPA 58. EPA said it is submitting the proposed amendments to NFPA 58 to comply with provisions of the law that require amendments [to NFPA 58] to provide "information to local emergency response personnel concerning the off-site consequences of accidental releases of substances exempted from listing…" and address safety concerns stemming from several recent "serious" accidents involving explosions of propane tanks. The NGFA's Safety, Health and Environmental Quality Committee is evaluating EPA's proposed changes, and will be submitting input to NFPA, as appropriate.

Tech Tidbits

There were these other operations-related developments of interest to the grain, feed and processing industry:

NIOSH Issues Alert on Phosphine: The National Institute for Occupational Safety and Health (NIOSH) has issued an alert on the health and safety risks posed to workers fumigating with phosphine gas.

In a bulletin entitled, ***"Preventing Phosphine Poisoning and Explosions during Fumigation,"*** NIOSH describes the physical characteristics of and symptoms of exposure to the gas, as well as significant chemical reactions with certain metals. The alert also provides the current exposure limits recommended by the Occupational Safety and Health Administration, Environmental Protection Agency, NIOSH and the American Conference of Governmental Industrial Hygienists (ACGIH). It also contains recommended practices for the aeration and reentry of fumigated products, and lists actions workers and employers should take to minimize the risk of phosphine poisoning.

A copy of the alert is available on the NGFA's web site at: www.ngfa.org. Click on the "Reference Desk" heading on the left side of the NGFA's home page. Then click on the "Safety and Health" icon to access the document. Members without Internet access can obtain a copy by calling Jackie Congress at the NGFA at (202) 289-0873.

OSHA Issues Proposed Policy on Employer Self-Audits: The Occupational Safety and Health Administration has issued a proposed policy outlining how it will address employer self-audits. The proposal defines a voluntary self-audit as a systematic, documented and objective review conducted by, or for, employers to review their operations and practices to ascertain compliance. It would not include self-audits that are mandated by law, regulation, the Occupational Safety and Health Act, or any settlement agreements.

In the Oct. 6 ***Federal Register***, OSHA said it would not routinely request voluntary self-audit reports when initiating an inspection, and would not use self-audit reports to identify hazards during an inspection. But the agency said it may seek access to self-audit reports when OSHA has an independent basis to believe a specific safety or health hazard warrants investigation and has determined that such records may be relevant to identify or determine the circumstances of the hazardous condition. As an example, OSHA said it might request voluntary self-audits when a fatal or catastrophic accident occurs or if it believes a hazardous non-compliance condition exists and wants to determine its extent.

The proposal also clarifies that "if an employer is responding in good faith to a violative condition identified in a voluntary self-audit report, and OSHA discovers the violation during an enforcement inspection, OSHA will not treat that portion of the report as evidence of willfulness." The policy also describes how an employer's response to a voluntary self-audit may be considered evidence of good faith, qualifying the employer for substantial reductions in civil penalties.

Submitting Comments: The NGFA's Safety, Health and Environmental Quality Committee will submit comments on the OSHA proposal. Comments are due by Dec. 6 and should be sent in duplicate to: OSHA Docket Office, Docket W-100, Room N-2625, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Ave., N.W., Washington, D.C., 20210.

by todd kemp
director of marketing

NGFA Meetings and Membership – A Potent Combination

...Invite Your Prospect to Take Advantage of this Special Offer!...

Got your registration in yet for the Feed Industry Council and Country Elevator Council meetings? Don't delay – they're right around the corner. And this year's programs are dynamite! *[See enclosure.]*

And don't forget – NGFA meetings provide a great membership marketing tool. You know the quality and relevance of information provided at NGFA meetings – and you know the value of seeing and visiting with your industry colleagues there. This December is an ideal time to introduce your membership prospect to an important part of the NGFA experience. Here's how to do it:

1. Call that prospect you've been visiting with about membership – or that prospect you've been putting off visiting with. Invite him/her to attend the meeting with you. If you need additional registration materials, just call the NGFA's staff.

2. Inform your prospect about this special offer: If they join the NGFA within 30 days after the meeting, the difference between the member and non-member registration rates will be applied to their first year's dues investment. In some cases, that's roughly half their first year's dues! (Of course, getting them signed up before the meeting is even better!)

3. Bring them to these two outstanding conferences and help introduce them to your fellow NGFA members and the NGFA's staff. Help them experience the value of NGFA meetings and information. Once we get a prospect to a meeting, we stand a good chance of signing them up for membership – and keeping them as members!

Have questions, or need materials? Call Todd Kemp at (202) 289-0873, or e-mail your message to tkemp@ngfa.org.

NGFA Calendar

Nov. 3:	**Marketing Committee,** GATX Headquarters, Chicago, IL
Nov. 17:	**Strategic Issues Committee**, Skybird Meeting Center, Chicago O'Hare Airport
Nov. 18:	**International Trade/Agricultural Policy Committee,** NGFA's Conference Room, Washington, D.C.
Dec. 4:	**Leadership Conference**, Regal Riverfront Hotel, St. Louis, Mo.
Dec. 4:	**Feed Industry Committee**, Regal Riverfront Hotel, St. Louis, Mo.
Dec. 5:	**Country Elevator Committee**, Regal Riverfront Hotel, St. Louis, Mo.
Dec. 5-6:	**Feed Industry Council**, Regal Riverfront Hotel, St. Louis, Mo.
Dec. 5-6:	**NGFA Trade Show**, Regal Riverfront Hotel, St. Louis, Mo.
Dec. 6-7:	**Country Elevator Council Meeting**, Regal Riverfront Hotel, St. Louis, Mo.
Dec. 7-8:	**NGFA Trade Rules Committee**, Regal Riverfront Hotel, St. Louis, Mo.
March 29-31, 2000:	**NGFA's 104th Annual Convention**, Hotel Del Coronado, San Diego, Calif.