



NGFA Newsletter®

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Election Brings Minimal Change to Congressional Ag Committees

The results of the Nov. 3 congressional elections are expected to bring little change to the House and Senate Agriculture Committees.

In fact, the biggest change is likely to result from a retirement – that of House Agriculture Committee Chairman **Bob Smith**, R-Ore. – who is expected to be succeeded by **Rep. Larry Combest**, R-Texas, current vice chairman of the committee and a featured speaker at this year's NGFA Country Elevator Council meeting in Fort Worth, Texas. In fact, the only current member of the House Agriculture Committee who was defeated was **Rep. Scotty Baesler**, D-Ky., who lost a tight Senate race against **Rep. Jim Bunning**, R-Ky., to replace the retiring Wendell Ford, D-Ky. Ranking Democrat **Rep. Charles Stenholm**, D-Texas, won what was expected to be a tight race with 54 percent of the vote.

Of the 18 current members of the Senate Agriculture Committee, only four faced reelection and all won: **Sens. Paul Coverdell**, R-Ga., **Charles Grassley**, R-Iowa, **Patrick J. Leahy**, D-Vt., and Senate Minority Leader **Thomas Daschle**, D-S.D.

Overall, as has been widely reported, Democrats gained five House seats, cutting in half the narrow Republican majority. But the Republicans retained majorities in both the House (223-211, with one Independent) and the Senate

(55-45) for the third consecutive Congress. One of the Senate races – involving incumbent **Sen. Harry Reid**, D-Nev. – still is in doubt, with Reid holding a 459-vote lead over challenger **Rep. John Ensign**, R-Nev., out of more than 400,000 ballots cast.

(Continued on page 2)

362 Rail User Companies Sign Rail Arbitration Agreement

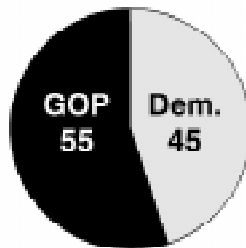
A total of 362 NGFA-member rail user companies executed and returned the rail arbitration agreement by the Nov. 1 deadline.

These companies, and the railroad signatories to the agreement, now have the right to compel arbitration of rail disputes covered by the agreement for its duration (until Oct. 1, 2000). The enclosed edition of **FOCUS** provides a list of rail carriers and rail users signing the agreement. Importantly, this list may not include all rail user signatories, as the NGFA still may receive mailed executed agreements postmarked by the Nov. 1 deadline. Likewise, new companies joining the NGFA have the right to elect to enter into the rail arbitration agreement. Any additional signatories will be reported on the NGFA's web site and in a future edition of the **NGFA Newsletter**. [See related article on page 7.]

Congressional Results

House

Senate



Independent: 1

Democrats gain 5 seats.

Seat balance unchanged.



3 Easy Steps for Using NGFA's Web Site:

1. Access the Web Site by Typing the NGFA's Web Site Address: <http://www.ngfa.org>
2. Enter the User Name: **ngfa**
3. Enter the Password: **soybean**

[Note: Password changed to "soybean" on **Oct. 1**]

[Note: Type all letters in lower case. Any problems or ideas? Call us at (202) 289-0873.]

2) (“Election” continued from page the Securities and Exchange Commission and may seek authority to review the Commodity Futures Trading Commission, which is under the jurisdiction of the Senate Agriculture Committee but is up for reauthorization in 1999. Gramm’s wife, Wendy Lee Gramm, is a former CFTC chairman.

Selection of Congressional Leaders, Committees Scheduled for Week of Nov. 16:

The newly elected Congress will conduct party organizational meetings during the week of Nov. 16 to choose their respective leaders and determine the makeup of congressional committees. While the election reduced the Republican majority in the House and the ratio of Republicans to Democrats on key committees may change slightly, Republicans will retain numerical control of each committee.

Much of the attention will focus on whether House Republicans retain their current leadership team of Speaker **Newt Gingrich**, R-Ga., Majority Leader **Richard Armey**, R-Texas, Majority Whip **Tom DeLay**, R-Texas, and Republican Conference Chairman **John Boehner**, R-Ohio. While the attention will be on the

U.S. House Election -- New Members

California

- Steve Kuykendall (R)
- Gary Miller (R)
- Grace F. Napolitano (D)
- Douglas Ose (R)
- Mike Thompson (D)

Colorado

- Tom Tancredo (R)
- Mark Udall (D)

Connecticut

- John Larson (D)

Idaho

- Mike Simpson (R)

Illinois

- Judy Biggert (R)
- David Phelps (D)
- Janice Schakowsky (D)

Indiana

- Baron Hill (D)

Kansas

- Dennis Moore (D)

Kentucky

- Ernie Fletcher (R)

Massachusetts

- Michael Capuano (D)

Mississippi

- Ronnie Shows (D)

Nebraska

- Lee Terry (R)

Nevada

- Shelley Berkley (D)

New Jersey

- Rush Holt (D)

New Mexico

- Tom Udall (D)

New York

- Joseph Crowley (D)
- Thomas Reynolds (R)
- John Sweeney (R)
- Anthony Weiner (D)

North Carolina

- Robert Hayes (R)

Ohio

- Stephanie Tubbs Jones (D)

Oregon

- Greg Walden (R)

Pennsylvania

- Joseph Hoeffel (D)
- Donald Sherwood (R)
- Patrick Toomey (R)

South Carolina

- James DeMint (R)

Texas

- Charlie Gonzalez (D)

Washington

- Brian Baird (D)
- Jay Inslee (D)

Wisconsin

- Tammy Baldwin (D)
- Paul Ryan (R)
- Mark Green (R)

Defeated House Incumbents

Jon D. Fox, R-PA
Jay Johnson, D-WI
Mike Pappas, R-NJ

Bill Redmond, R-NM
Vince Snowbarger, R-KS
Rick A. White, R-WA

Republican House Leadership, a less-watched election result occurred in Missouri, where House Minority Leader **Richard Gephardt**, D-Mo., an adamant opponent of fast-track trade negotiating authority and the current farm law, won his narrowest election ever – with 56 percent of the vote.

USDA Announces Scope of Potential Russian Food Aid Package

President Clinton has authorized the U.S. Department of Agriculture to finalize a Russian food assistance package consisting of “at least” 3.1 million metric tons, including 1.5 million metric tons of wheat, announced Secretary of Agriculture Dan Glickman on Nov. 4.

Glickman said the presidential authorization is dependent upon the Russian government providing assurances that the U.S. food assistance will be: 1) distributed to those in need; and 2) exempt from taxes and customs duties.

The initial Russian food aid package currently under consideration consists of:

- ▶ 100,000 metric tons of commodities to be distributed through non-governmental and private voluntary organizations “to some of the most vulnerable Russian citizens, especially the elderly and poor.”
- ▶ 1.5 million metric tons of wheat through a Section 416(b) grant for food-deficit regions and needy people.
- ▶ 1.5 million metric tons of “various commodities” to be provided through a concessional loan under P.L. 480 Title 1, a 20-year loan with a five-year grace period. These “commodities” are expected to include pork, poultry and feed grains.



GIPSA: Mexico Suspends Phytosanitary Requirements for U.S. Sorghum, Wheat Shipments

The U.S. Department of Agriculture's Grain Inspection, Packers and Stockyards Administration on Oct. 28 alerted the NGFA that Mexico has provided **verbal** assurances that it is **suspending indefinitely** its requirements that phytosanitary certificates for wheat and sorghum certify that U.S. sorghum shipments contain less than 0.05 percent ergot and wheat shipments are free of TCK smut.

The requirements initially were scheduled to take effect Oct. 27 as part of series of new rules (known as NOM-FITO-1995) that were issued on Oct. 12 by Mexico's Secretaria de Agricultura, Ganaderia y Desarrollo Rural (SAGAR). [A summary of the Mexican regulations prepared by the U.S. embassy in Mexico City are found on the NGFA's web site at <http://www.ngfa.org>. Click on the "What's New" icon.] As reported in the Oct. 22 edition of the *NGFA Newsletter*, the rules also prescribe fumigation methods for imported grains and seeds and require the cleaning and fumigation of surface transport vehicles if Mexican border officials determine they are contaminated with vegetation or soil. GIPSA told the NGFA that Mexico now is stating that the fumigation and cleaning requirements will take effect on Nov. 2. GIPSA said it is seeking written confirmation from the Mexican government on its revised policy.

The Mexican rules also contain phytosanitary certification, inspection and fumigation requirements for products transhipped through the United States, as well as restrictions on ports of entry for certain products, including corn, sorghum, soybeans, wheat and rice.

Requirements for Sorghum, Wheat Phytosanitary Certificates Suspended Indefinitely: Mexico's **now suspended** rules would have imposed the following additional requirements on imports of sorghum and wheat:

- ▶ For **sorghum**, the phytosanitary certificate would have been required to indicate that the shipment contained less than 0.05 percent of ergot (sclerotia of *Claviceps sorghi* and/or *Claviceps africana*), which Mexico specifies as 90 sclerotia per kilogram of sorghum.
- ▶ For **wheat**, the phytosanitary certificate would have been required to show that the shipment was free from TCK smut (*illetia controversa*).

Importantly, **remaining in effect** – as a protection against introduction of Karnal bunt (*Tilletia indica*) – will

be Mexico's requirement that phytosanitary certificates issued by the U.S. Department of Agriculture's Animal and Plant Health Inspection Service (APHIS) for wheat be required to show that the shipment did not originate from Arizona, California, New Mexico and Southwestern Texas (i.e., El Paso, Hudpeth, Culberson, Jeff Davis and Presidio, Texas).

The NGFA has been informed that APHIS would not have been able to provide the level of ergot and TCK certification originally required by Mexico.

Fumigation Requirements Delayed to Nov. 2: Mexico's rules, which reportedly now will take effect Nov. 2, mandate three different fumigation treatment methods, depending upon where it occurs.

- ▶ For shipments originating in the United States, Mexico will accept fumigation at point of origin using phosphine gas.
- ▶ For shipments originating in the United States but not fumigated at the point of origin, Mexico specifies treatment with methyl bromide at either atmospheric pressure or 600 mm of vacuum, or treatment with phosphine gas at the point of entry into Mexico.
- ▶ For direct surface imports from the United States, the dosage and exposure times are required to be specified on the fumigation certificate issued by the Federal Grain Inspection Service or by USDA-authorized companies. For direct ocean shipments originating from the United States or Canada, the rules require that the dosage and exposure time be specified on the phytosanitary certificate.

Cleaning, Fumigation Requirements for Rail Cars and Trucks Delayed to Nov. 2: Mexico's rules concerning cleaning and fumigation of railcars and trucks also reportedly have been delayed to Nov. 2. These rules require that railcars, trucks and containers be free from vegetation and soil. If Mexican border inspectors detect vegetation and/or soil and cleaning is required, the rules specify the types of fumigants to be used and direct that the cleaning be done outside of Mexico. The rules state that when vegetation is detected on railcars or trucks, such vehicles will be prohibited from entering Mexico and the Mexican government will notify other entry points of the vehicle identification number.

GIPSA Extends Pilot Programs

The U.S. Department of Agriculture's Grain Inspection, Packers and Stockyards Administration has extended until Sept. 30, 2000 the evaluation period for its current pilot programs that are examining ways to increase competition between official inspection and weighing agencies. Previously, the pilot programs had been scheduled to expire on Oct. 31, 1999.

The agency said it needed more time to determine the impact, if any, of allowing more than one inspection agency to operate in a single geographic area. The two pilot programs – "timely service" and "open season" – were implemented on Nov. 1, 1995. The "timely service"

pilot project allows official inspection agencies to provide service to facilities located outside their assigned geographic area on a case-by-case basis when such services cannot be provided in a timely manner by the official agency designated to serve the users. The "open season" pilot project permits official inspection agencies to offer services to facilities outside their assigned geographic area, provided no official sample-lot or official weighing services have been provided within the previous three months. A third pilot program, initiated on March 1, 1998, permits any official inspection agency to perform probe-sampled inspections of barges on all rivers.



EDI CORNER

by Todd Kemp
director of marketing

New EDI Package Nears Completion

Two new electronic data interchange (EDI) documents are nearly complete and ready to be added to the NGFA's EDI software package:

- ◆ an invoice document, which can be transmitted by either buyer or seller (or both) as either an advance or final invoice; and
- ◆ a settlement document, which can be used as a remittance advice or payment notice.

The guidelines for the new EDI documents were developed by the NGFA's EDI Guidelines Committee, with technical assistance from GE Information Services. Paired with the original EDI documents developed by the NGFA – bills of lading and grade/weight certificates – the new EDI software will provide a more complete package of services for buyers and sellers of grains, oilseeds and grain products that wish to enhance efficiency and improve their bottom lines by automating these functions and decreasing their reliance on paper documents.

Importantly, the new settlement document is a key piece of the EDI puzzle for rail shippers (especially those served by the **Burlington Northern Santa Fe Railway**). The BNSF offers a \$20-per-car discount to shippers transmitting bills of lading electronically. The NGFA's new settlement document can serve as electronic notification of payment to the BNSF to facilitate the discount.

Currently, GE Information Services has completed programming work for the new documents. Testing of the documents by members of the NGFA's EDI Guidelines Committee and other interested companies will occur in mid-to-late-November. It is anticipated that the new EDI software

package will be available to NGFA members in December.

Progress by Grain Accounting Software Developers:

The greatest benefits of EDI are realized when companies achieve one-time data entry that automatically updates internal business records (inventory, accounts payable/receivable, etc.). To facilitate these benefits, the NGFA has been working closely with developers of grain accounting software to encourage them to integrate NGFA's EDI software into their grain accounting packages. To date, seven major developers have taken steps to begin work on an interface. Most recently, **Summit Software**, Fort Wayne, Ind., requested the programming files needed to begin interface development. Other grain accounting software developers that previously received the files and are in various stages of interface development are: **dbc SMARTsoftware, inc.**, Kitchener, Ontario, Canada; **Agris Corp.**, Roswell, Ga.; **Grossman & Associates**, Savoy, Ill.; **Commodity Software International Inc.**, Victor, Mont.; **Udenberg & Associates**, Rochester, Minn.; and **CompuWeigh Corp.**, Cheshire, Conn.

NGFA-member companies interested in adopting EDI that use grain accounting software or other software developed by the above-listed companies should contact them immediately and communicate that integration is a priority. That's the only way you will receive the greatest benefit from EDI.

How To Get More Information on EDI or order EDI software:

Call NGFA Director of Marketing Todd Kemp at (202) 289-0873 to discuss the benefits of EDI, to receive more information or to order the NGFA's EDI software.



NGFA, Other Ag Groups Urge Glickman to Intervene on Phosphine Issue

The NGFA and 25 other national and state agricultural organizations have jointly urged Secretary of Agriculture Dan Glickman to "intervene immediately" with the Environmental Protection Agency to preempt the issuance of an ill-conceived proposed rule that would threaten the continued use of phosphine.

As reported previously in the *NGFA Newsletter*, EPA as part of its reregistration of aluminum and magnesium phosphate (which produce phosphine gas) plans later this month to propose significant changes to the rules governing these chemicals. Several of the planned proposals would impose stringent new legal requirements that are unjustified and would be so onerous as to effectively preclude the use of these chemicals as a grain fumigant.

In an Oct. 29 letter to Glickman, the NGFA and other agricultural groups said they strongly objected to EPA's plans to propose rules that would:

- ▶ reduce the exposure standard for phosphine gas to a level that is one-tenth of the amount considered safe by the Occupational Safety and Health Administration, without any clear scientific justification that any reduction is warranted or feasible;
- ▶ establish a radius in residential areas within which fumigation and aeration would be prohibited, which EPA's data show is not necessary to protect public health and would preclude the use of phosphine gas at many country elevators and other grain handling operations; and
- ▶ require unnecessary and unwarranted notification of local residents and authorities (such as fire and police departments), as well as adjoining commercial and industrial sites, prior to fumigation.

The strategy to send the letter was developed by the NGFA and several State and Regional Grain and Feed Associations at an Oct. 12 meeting in Kansas City.

"These misguided requirements would imperil the use of aluminum and magnesium phosphide as agricultural commodity protectants, to the detriment of America's agricultural producers, commercial grain handlers and ultimately U.S. consumers," said the letter, which was drafted by the NGFA. "We also are concerned that such requirements could undermine the ability of exporters to meet contractual requirements with many U.S. export customers for the in-transit fumigation of grains, oilseeds and other products loaded on ocean-going vessels."

The agricultural groups said they supported existing requirements applicable to these chemicals that protect safety and human health (e.g., employees, bystanders, nearby residents and others who may work near or enter a

fumigated space), and believe that when used in accordance with current label requirements, phosphine gas presents a minimal risk to the health of employees or the public. "In fact, it appears that most, if not all, of the cases of alleged phosphine incidents cited by EPA as justification for issuing a proposed rule could have been avoided had users complied with *current* legal requirements," the agricultural groups advised Glickman.

In addition to the NGFA, national organizations signing the letter were: the American Farm Bureau Federation, American Soybean Association, Grain Elevator and Processing Society, National Association of Wheat Growers, National Corn Growers Association, North American Millers Association, North American Export Grain Association, USA Rice Federation, U.S. Grains Council (formerly U.S. Feed Grains Council) and U.S. Wheat Associates.

State and Regional Grain and Feed Associations affiliated with the NGFA that signed the letter were: Agribusiness Association of Iowa; California Grain and Feed Association; Farmers Elevator Association of Minnesota; Grain and Feed Association of Illinois; Indiana Grain and Feed Association Inc.; Kansas Grain and Feed Association; Michigan Agri-Business Association; Nebraska Grain and Feed Association; North Dakota Grain Dealers Association; Northwest Agri-Dealers Association; Ohio AgriBusiness Association; Oklahoma Grain and Feed Association; South Dakota Grain and Feed Association; Texas Grain and Feed Association; and Wisconsin Agri-Service Association Inc.

NGFA Calendar

- Nov. 12:** **Research Committee**, NGFA Library/Conference Room, Washington, D.C.
- Nov. 18:** **International Trade/Agricultural Policy Committee**, NGFA Library/Conference Room, Washington, D.C.
- Dec. 5:** **Feed Industry Committee**, Worthington Hotel, Fort Worth, Texas
- Dec. 6:** **Leadership Conference for State/Regional Associations**, Worthington Hotel, Fort Worth, Texas
- Dec. 6:** **Country Elevator Committee**, Worthington Hotel, Fort Worth, Texas
- Dec. 6:** **Feed Industry Council Conference**, Worthington Hotel, Fort Worth, Texas
- Dec. 6-7:** **NGFA Trade Show**, Worthington Hotel, Fort Worth, Texas
- Dec. 7-8:** **Country Elevator Council Conference**, Worthington Hotel, Fort Worth, Texas
- March 21-23, 1999:** **NGFA's 103rd Annual Convention**, Sheraton Palace Hotel, San Francisco, Calif.

NGFA Urges USDA to Halt Redundant Wheat Cleaning Study

The NGFA today urged Secretary of Agriculture Dan Glickman to disband a USDA task force that reportedly has been formed to examine whether to install grain-cleaning devices at public elevators at the Texas Gulf.

USDA formed the task force, being headed by Farm Service Agency Administrator Keith Kelly, following a Sept. 19 meeting between Glickman and representatives of five Midwestern wheat commissions that maintained cleaning grain at the Texas Gulf would increase the competitive position of, and demand for, U.S. wheat exports. The wheat commissions involved were: the Kansas Wheat Commission, Oklahoma Wheat Commission, Texas Wheat Producers Board, Nebraska Wheat Board and Colorado Wheat Administrative Committee. The five wheat commissions said they have hired a consultant to investigate the funding and feasibility of grain cleaning at Texas Gulf public elevators.

"It was suggested by the producer groups that a cleaning facility in a public elevator would provide the catalyst the export industry needs," wrote Gary Gilbert, assistant administrator of the Kansas Wheat Commission. "Once in place, others will follow to maintain competitive services." Kansas Wheat Commission Acting Chairman Eldon Lawless was quoted as saying "U.S. grain cleanliness continues to be an issue to our foreign customers.... We need the help of U.S. government in this effort to be more competitive. Highly efficient Midwest wheat producers

deserve to be the world's preferred suppliers and cannot afford to be suppliers of last resort."

In response to this development, the NGFA's Grain Grades and Weights Committee today approved a letter in which the NGFA reminded Secretary Glickman that USDA's Economic Research Service spent more than \$1 million conducting a comprehensive study in 1993 that definitively showed that increased cleaning of export wheat is neither economically feasible nor generally warranted. The study, which was done at the direction of Congress in the 1990 farm act, found that increased cleaning of export wheat was cost-beneficial only when targeted at specific niche markets, such as Japan, the Philippines, Italy, Venezuela, Togo and Ghana, that represent about 20 percent of total U.S. wheat exports. The ERS study also found that about 80 percent of U.S. wheat exported to these niche markets would be exported from the Pacific Northwest, not the Gulf. The NGFA letter also was critical of using public taxpayer funds to invest in cleaning operations at a "preferred" segment of the grain handling industry, namely Texas Gulf public elevators.

"The USDA (ERS) research simply is too current and relevant to justify spending additional time and resources to restudy this issue," said the NGFA in the Nov. 5 letter to Glickman. "Rather, we think (USDA) can address the concerns of the five wheat commissions by immediately forwarding a full set of the (ERS) wheat cleaning reports to them."

Appointments to New Rail Arbitration Rules Committee Finalized

NGFA Chairman Michael F. Donnelly has finalized appointments to the new 10-member Rail Arbitration Rules Committee approved in August by the Board of Directors.

The Rail Arbitration Rules Committee will be responsible for administering and considering amendments to the Rail Arbitration Rules that emanated from the Rail Arbitration Agreement and which were approved by the Board of Directors. The new 10-member Rail Arbitration Rules Committee is comprised equally of rail carrier and rail user members. The committee's first task will be to develop and propose, by Jan. 15, arbitration procedures for resolving disputes involving sidetrack agreements.

The final three appointees to the committee are:

Steve Milligan, vice president, transportation, ConAgra Grain Companies, Minneapolis, Minn.; **Sharon Mock**, director of traffic, Perdue Farms Inc., Salisbury, Md.; and **Terry Voss**, vice president, transportation, Ag Processing Inc., Omaha, Neb.

Previously announced appointees to the Rail Arbitration Rules Committee were:

Chairman: Stevan B. Bobb, vice president, agricultural commodities, Burlington Northern and Santa Fe Railway Co., Fort Worth, Texas; **George Aspatore**, general solicitor, Norfolk Southern Corp., Norfolk, Va.; **Joe Guenley**, vice president, Agrex Inc., Overland Park, Kan.; **Ed Kammerer**, vice president, bulk commodities, Illinois Central Railroad, Chicago, Ill.; **Diane Knutson**, vice president, agricultural products, Union Pacific Railroad Co., Omaha, Neb.; **Ed Laur**, vice president, Attebury Grain Inc., Amarillo, Texas; and **Tom Owen**, assistant vice president, agri products, CSX Transportation Co., Jacksonville, Fla.

Previously appointed as ex-officio (non-voting) members were:

John Bratten, vice president, transportation, Central Soya Co., Fort Wayne, Ind., chairman of the NGFA's Rail Shipper/Receiver Committee; and **John L. McClenathan, Jr.**, vice president, grain marketing, GROWMARK, Inc., Bloomington, Ill., chairman of the NGFA's Arbitration Appeals Panel.



NGFA Defends Industry Arbitration System Before CFTC

The NGFA on Oct. 30 filed a statement with the Commodity Futures Trading Commission in response to a reparations proceeding before the agency involving two non-members in which the integrity of the NGFA's widely respected, 100-plus-year-old Arbitration System was challenged.

The NGFA's involvement in the CFTC reparations proceeding – *Lowell E. Harter v. Iowa Grain Co.* – arose after a CFTC administrative law judge rejected a motion filed by Iowa Grain (a registered futures commission merchant), which sought to bar Harter's CFTC reparations claims because Harter earlier lost a NGFA arbitration case involving The Andersons Inc., a NGFA member. The NGFA arbitration case involved allegations related to the same transactions being pursued by Harter before the CFTC. The NGFA arbitration was conducted pursuant to an Illinois federal district court order, and the court subsequently confirmed the NGFA arbitration decision. Harter contended the grain contracts at issue in the cases were illegal off-exchange futures contracts. Both the federal district court and the NGFA arbitrators ruled against Harter on this issue. Subsequently, Harter appealed the federal district court's decision to the U.S. Court of Appeals for the Seventh Circuit, where that action remains pending.

Harter originally had sued both The Andersons and Iowa Grain in the Illinois federal district court. Harter contended

that Iowa Grain was acting as the actual or implied agent of The Andersons Investment Services Corp., an introducing broker guaranteed by Iowa Grain. In the CFTC case, Iowa Grain argued that Harter was barred by the doctrine of collateral estoppel from pursuing a CFTC reparations claim since Harter lost the NGFA arbitration involving the same set of facts. CFTC Administrative Law Judge George H. Painter disagreed and ruled on Sept. 2 that "[t]his [c]ourt does not believe that a jurisdictional issue, such as whether a contract is a futures contract, can be preclusively determined by federal district court or NGFA arbitration." In addition, the administrative law judge certified the decision for "interlocutory review" by the five CFTC commissioners.

The NGFA filing with the CFTC did not take a position on the merits of the underlying claims of either party to the CFTC reparations action. However, the NGFA statement did seek to "provide the (CFTC) with information that shows the NGFA Arbitration System, and the Harter-Andersons arbitration are, and were, fair, just and free from any form of systematic bias or prejudice." The NGFA suggested that "[r]esolution of the CFTC proceeding involving two non-members does not warrant a wholesale investigation of the NGFA or its arbitration rules." Finally, the NGFA asked the CFTC for permission to intervene in the action to present further evidence, as necessary, if the CFTC decides to undertake such a review.



Mark Your Calendar!

**NGFA's 103rd Annual Convention
Sheraton Palace Hotel, San Francisco, Calif.**

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