



NGFA Newsletter

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LDP Announcement Still Pending; OMB Arguing for Public Rulemaking

As the *NGFA Newsletter* went to press tonight, the U.S. Department of Agriculture had targeted the week of June 7 for a final decision on whether it will be authorized to implement what it now is calling a "uniform national loan deficiency payment rate" system for 1999 crops.

At a background briefing with USDA officials on May 28, the NGFA learned that while there is no statutory or regulatory change needed to implement a uniform national LDP rate approach, officials at the White House Office of Management and Budget are urging USDA to conduct a public rulemaking – and solicit public comment – anyway because of the significance of the change. If OMB's suggestion prevails, it will halt in its tracks any change to a uniform national LDP rate for 1999 crops because of the time such a rulemaking would consume, USDA officials said.

USDA officials said they believe they have responded to OMB's satisfaction to each of the 15 questions that it posed concerning the rationale for changing to a uniform national LDP rate and the mechanics of how such a system would operate. This followed a three-hour meeting between OMB and USDA economists on May 27 that USDA officials characterized as constructive. USDA's Office of Chief Economist also reportedly has concurred in the economic analysis underpinning the recommendation to switch to a uniform national LDP rate.

Watch NGFA's Web Site for Breaking Developments

In a separate development, USDA scheduled a June 15-18 training session in St. Louis, Mo., for Farm Service Agency state office employees to review the operation of the marketing assistance loan program and LDP program for 1999 crops. However, contrary to some press reports, USDA officials told the NGFA that the timing of the training session was not scheduled to coincide with an announcement on an LDP rate-determination decision. Rather, they said, it was the belief of FSA officials that they could no longer wait to begin training on other procedural changes scheduled to occur for these programs for 1999 crops.

These changes include a streamlined LDP payment process under which producers will self-certify their LDP quantities rather than being required to submit settlement

sheets or load summaries to the FSA county office as proof of production. Those issuing false certification will be subject to prosecution for perjury, and USDA officials have told the NGFA they will spot check a percentage of producer certifications to verify their accuracy. Another change involves the issuance of a single LDP form – a modified version of the CCC-666-LDP that will incorporate some of the features of the field-direct form (CCC-777) used in 1998.

Bottom Line: USDA officials said that they were expecting congressional letters of support for a uniform national LDP rate approach this week from Iowa's two senators – Charles Grassley, R-Iowa, and Tom Harkin, D-Iowa. USDA said it also is receiving quiet support for the change from the National Corn Growers Association, following an enthusiastic endorsement earlier this year from the Iowa Corn Growers Association. Thus far, both public and private messages conveyed from Capitol Hill have expressed varying degrees of concern over a uniform national LDP rate, which USDA officials at the background briefing attributed to "fear of the unknown" and concerns that there could be geographical areas where loan forfeitures occur.

It appears that the outcome now rests largely with Secretary of Agriculture Dan Glickman and whether he is willing to intercede directly with OMB to argue against a public rulemaking on a uniform national LDP rate, and whether he believes he has the political support on Capitol Hill to do so.

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



Revisions to NGFA Grain Trade Rules Being Considered

The NGFA's Trade Rules Committee is in the process of conducting a wholesale review of the NGFA's Grain Trade Rules, considering revising, streamlining and reorganizing them to reflect changing trade practices and to make them more useable for transactions involving producers.

During the past several months, four special task forces have developed, or are in the process of developing, recommendations for consideration by the Trade Rules Committee. The Grain Trade Rules and Barge Trade Rules Subcommittees met on May 24 in Kansas City to discuss issues being addressed by the task forces, and the full Trade Rules Committee is scheduled to meet on June 15 in Minneapolis, Minn.

The task forces, and the issues they are exploring, are as follows:

◆ **Task Force on the Application of NGFA Grain Trade Rules to Producer Contracts:** This task force, comprised of representatives of the Grain Trade Rules Subcommittee and Country Elevator Committee, developed proposed changes to the existing Grain Trade Rules to reflect truck-oriented deliveries typically made by producers to country elevators and other first buyers of grain. Members of the task force include: **Bill Bluml** (*chairman*), assistant marketing manager, West Central Cooperative, Ralston, Iowa; **Jeff Bechard**, Grain Division manager, Farmway Co-op, Inc., Beloit, Kan.; **Les Busboom**, general manager, United Feeds Inc., Royal, Ill.; and **Todd Gerdes**, specialty grains, Aurora Cooperative, Aurora, Neb.

◆ **Task Force on Reorganization/Streamlining of NGFA Grain Trade Rules** – This task force has developed a proposed reorganization and renumbering of the Grain Trade Rules. In some cases, the task force also has recommended changes to modernize the wording of existing rules. The continued relevancy of certain rail-related rules also is being scrutinized. Specific questions have arisen regarding the following:

- definitions of type of billing in Grain Trade Rule 1(h);
- the definition of what railroads will accept for claims purposes in Grain Trade Rule 4.A.2;
- signing of switching orders and bills of lading in Grain Trade Rule 8;
- terms relating to terminal markets and terminal sales in Grain Trade Rules 14 and 15; and
- net bushels referred to in Grain Trade Rule 35.

The task force is comprised of: **J. Stephen Lucas** (*chairman*), vice president, Louis Dreyfus Corp., Wilton, Conn; **Thomas J. Hammond**, senior vice president, Columbia Grain International Inc., Portland, Ore.; **Stephen Norris**, manager, grain merchandising, Southern States Cooperative Inc., Richmond, Va.; and **Donald W. Wenneker**, manager, cash grain, A.E. Staley Manufacturing Co. Inc., Decatur, Ill.

◆ **Task Force on Grain Trade Rule 4 Weight Issues:** This task force is focused on rewriting the weight definitions found in Grain Trade Rule 4, particularly those sections pertaining to certified and other weights. Members of the task force include: **Michael D. Sumpter** (*chairman*), trading manager, Consolidated Grain and Barge Co., Mandeville, La.; **Charles Colbert**, feed grains product line manager, Cargill Inc., Minneapolis, Minn.; **Philip L. Hageman**, vice president, Parrish & Heimbecker Inc., Brown City, Mich.; **Richard A. McWard**, vice president, Bunge Corp., St. Louis, Mo.; and **Donald W. Wenneker**, manager, cash grain, A.E. Staley Manufacturing Co. Inc., Decatur, Ill.

◆ **Texas Gulf Weights Task Force:** This task force is examining concerns raised by grain shippers selling on destination weights to Texas Gulf export elevators about the effect of batch-weighing at these destinations on their ability to recover on rail loss-and-damage claims. Railroads typically apply a 0.25 percent loss tolerance to the entire unit train rather than individual cars when destination batch weights are involved, even though the shippers have certified weights on individual cars at origin. This practice has placed shippers in the position of absorbing the first 50,000 pounds of loss on a typical 100-car unit train.

NGFA Trade Rules Committee Chairman **James W. Keistler** has asked that this task force to provide its recommendations to the Trade Rules Committee at its June 15 meeting. Members of the broad-based task force include: **Michael D. Sumpter** (*chairman*), trading manager, Consolidated Grain and Barge Co., Mandeville, La.; **Bruce A. Benschoter**, manager, transportation business services, Western Region, Farmland Industries Inc., Kansas City, Mo.; **Charles Colbert**, feed grains product line manager, Cargill Inc., Minneapolis, Minn.; **Philip L. Hageman**, vice president, Parrish & Heimbecker Inc., Brown City, Mich.; **Mark Huston**, business director, wheat and grain products, Union Pacific Railroad Co., Fort Worth, Texas; **Larry Kittoe**, president, DeBruce Grain Inc., North Kansas City, Mo.; **Mike Mahoney**, executive vice president, Wheeler Brothers Grain Co., Inc.; **Richard A. McWard**, vice president, Bunge Corp., St. Louis, Mo.; and **Roger Sperry**, director, equipment utilization, Burlington Northern and Santa Fe Railway Co.

Copies of Proposals Available on the NGFA Web Site:

Copies of proposals developed by these task forces will be accessible by all members on the NGFA's web site as they become available. Click on the "Committee Action" heading on the NGFA's home page, then click on the special NGFA Trade Rules Committee icon to access the draft proposals. Written comments on proposals are encouraged, and should be sent to David Barrett at the NGFA by either e-mail [dbarrett@ngfa.org] or FAX [202-289-5388]. Questions also should be directed to Barrett at (202) 289-0873.



Agriculture Appropriations Bill Stalls in House

The first appropriations bill out of the gate – the \$60.8 billion fiscal 2000 spending bill for agriculture, nutrition and Food and Drug Administration programs (H.R. 1906) – has become the poster child for debate over whether Congress will abide by its spending caps.

The 1997 budget agreement between Congress and the White House placed specific caps on the levels of discretionary spending for each fiscal year. But since that time, the budget surplus created from Social Security Trust Fund receipts has resulted in significant pressure upon Congress to break the caps and increase spending. For fiscal year 2000, the budget agreement called for a 17 percent reduction in agriculture funding compared to fiscal 1999 levels. However, when the House Appropriations Committee sent the measure to the full House, it contained \$14

billion in discretionary spending, \$253 million **more** than was approved for fiscal 1999.

Outraged at the Appropriations Committee’s failure to adhere to the spending caps, some House Republicans attempted to mire the bill in procedural delays. Rep. Tom Coburn, R-Okla., submitted more than 115 amendments designed to reduce spending levels for specific programs in the agricultural legislation. Despite prodding from many of his colleagues on both sides of the aisle, Coburn refused to combine the amendments into one measure. After two days of debates over some of Coburn’s amendments and others offered by other congressmen, the Republican leadership withdrew the bill from consideration. The House then recessed for Memorial Day without passing the bill. Debate is expected to resume when Congress returns June 7.

Hearings on CFTC Reauthorization to Resume

A House Agriculture Committee subcommittee on June 8 will resume its hearings on whether to reauthorize the Commodity Futures Trading Commission.

The House Agriculture Committee’s Subcommittee on Risk Management and Specialty Crops, which conducted

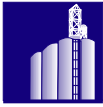
three hearings in May on the issue, will hear testimony from private-sector groups, including the NGFA, the National Cattlemen’s Beef Association and the National Futures Association. The hearing will be broadcast live on the Internet at www.house.gov/agriculture under the heading “CFTC HEARINGS.”

Hill Highlights

There were these other recent developments on Capitol Hill of interest to the grain, feed and processing industry:

- ◆ Sen. Susan Collins, R-Maine, has introduced legislation (S. 1123) that would allow the Food and Drug Administration to prevent the importation of food from foreign countries or sources with a proven history of exporting contaminated food to the United States. The bill also would authorize FDA to mark containers of contaminated food as “U.S. – Refused Entry”; increase legal penalties for importers with a continuing history of shipping contaminated food; and authorize the Centers for Disease Control to make grants to states and localities to upgrade food-testing equipment. Cosponsors of the bill are: Sens. Bill Frist, R-Tenn., Spencer Abraham, R-Mich., Olympia Snowe, R-Maine, Jim Jeffords, R-Vt., and Paul D. Coverdell, D-Ga.
- ◆ Rep. Merrill Cook’s, R-Utah, legislation that would increase the limits on truck weights on the Interstate highway system has been assigned a bill number (H.R. 1667) and been referred to the Committee on Transportation and Infrastructure for consideration.

- ◆ The legislation (S. 1032) introduced by Sen. Sam Brownback, R-Kan., that would reform outdated U.S. maritime laws (collectively referred to as the Jones Act) now has five cosponsors, including Sens. Jesse Helms, R-N.C., Conrad Burns, R-Mont., Pat Roberts, R-Kan., Peter G. Fitzgerald, R-Ill., and Richard G. Lugar, R-Ind. The bill has been referred to the Senate Commerce, Science and Transportation Committee for consideration.
- ◆ During a hearing on the Clinton Administration’s proposed \$1 billion-plus harbor services user fee, House Transportation and Infrastructure Committee Chairman Bud Shuster, R-Pa., stated that the concept of funding dredging and other maintenance activities from general revenues (as opposed to a user fee) was “about as close to smoking opium as one can get.”
- ◆ The Office of the United States Trade Representative and the U.S. Department of Agriculture have scheduled a series of public hearings on U.S. agricultural priorities for the upcoming round of World Trade Organization negotiations, which are scheduled to begin in December in Seattle. A list of the hearing dates and sites, which began June 4 and continue through July 23, can be found on NGFA’s website at: <http://www.ngfa.org>. Click on the “News & Info” icon.



("LDP" continued from page 1)

Other LDP Tidbits: During the May 28 background briefing, USDA officials made these other points:

- ▶ USDA's two primary objectives in proposing to change to a uniform national LDP rate are to: 1) eliminate the non-market-driven disparities in LDP rates between states and counties; and 2) eliminate disruptions in traditional business relationships between producers and grain handlers resulting from the price incentive caused by LDP rate disparities.
- ▶ If a uniform national LDP rate is adopted for 1999 crops, USDA plans to issue the rates for grains and soybeans daily rather than weekly. [Note: Minor oilseed rates will continue to be announced weekly.] The main reason? **Shifting to a weekly rate determination would require a time-consuming public rulemaking.** If USDA does shift to a uniform national LDP rate for 1999 crops, the department expects to issue a proposed rule later this year asking for public comment on whether to use a weekly rate for 2000-crop grains and soybeans.
- ▶ USDA officials said the additional \$400 million price tag estimate attributed to the change to a uniform national LDP rate was what the cost would have been had such a system been in place for 1998 crops – not a projection on the estimated cost for 1999 crops. USDA officials maintain that OMB has never estimated the cost of the change for 1999 crops to be \$1 billion.
- ▶ USDA now estimates it will make \$3.2 billion in LDP and marketing loan gain payments for 1998 crops.
- ▶ Producers harvesting wheat who obtain an LDP under the current PCP-based approach will be compensated retroactively if USDA later shifts to a uniform national LDP rate system and the resulting rate is higher for the date on which the LDP was obtained. If the LDP rate paid to the producer is lower under a uniform national LDP rate, no repayment of the excess amount will be requested.
- ▶ USDA plans to issue a proposed rule later this year on its *secret weapon* for avoiding loan forfeitures – its so-called "cost-reduction" option. Under this option – authority for which was retained and expanded under the 1996 farm law – USDA may settle nonrecourse loans with producers by forgiving part or all of the loan principal and accumulated interest if it is determined that such a reduction in the settlement price of the loan will avoid forfeitures or eliminate storage, handling and carrying charges on the forfeited commodity. This could become an important factor under a uniform national

LDP rate approach since USDA's current ability to change local PCP values to avert forfeitures would be eliminated.

- ▶ USDA officials said that their attempts to "fix" the current PCP-based approach for determining LDPs and marketing loan gains were handicapped by the decision not to revise county loan rates and by badly outdated internal basis data. Outdated basis level data also are undermining USDA's ability to use a weighted average of terminal market prices under a uniform national LDP rate approach, USDA officials said.
- ▶ USDA's analysis included a comparison of corn, soybean and wheat LDP rates that occurred on 10 randomly selected dates in 1998 under the current PCP-based approach compared to what would have occurred under a uniform national LDP rate system. The dates selected were: Aug. 3, 1998, Aug. 31, 1998, Sept. 28, 1998, Nov. 2, 1998, Nov. 30, 1998, Jan. 4, 1999, Jan. 26, 1999, March 2, 1999, April 5, 1999 and May 3, 1999. See below the composite chart for various commodities that show the LDP rates that would have occurred under a uniform national rate on these dates.

Same Approach to Be Used for Determining Loan Repayment Rates: As has been noted previously, USDA also would use a uniform national approach to determine the loan repayment for producers who elect to obtain a marketing assistance loan rather than an LDP rate. The loan repayment rate under this approach would be the **lesser** of: 1) the county loan rate plus the per-unit accrued interest; or 2) the county loan rate as adjusted by the uniform national rate (which could be a positive or negative number for a given day). Of course, the producer still retains the option of forfeiting the loan collateral to the Commodity Credit Corporation. See page 5 for USDA's description of how its uniform national approach for determining loan repayments and LDP rates would operate.

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Effects of a Uniform National LDP Rate Approach

This chart, a composite of data provided by USDA, shows the loan deficiency payment rates that would have applied for 1998-crops on selected dates under a uniform national LDP rate approach.

Date	Corn	Soybeans	Wheat				Durum
			HRW	SRW	HRS	SWW	
Aug. 3, 1998	0.04*	0.34*	-0.31	-0.57	-0.26	-0.60	0.97*
Aug. 31, 1998	-0.37	-0.40	-0.46	-0.64	-0.38	-0.67	0.52*
Sept. 28, 1998	-0.30	-0.46	-0.17	-0.47	-0.13	-0.45	0.32*
Nov. 2, 1998	-0.09	-0.15	0.21*	-0.20	0.23*	-0.21	0.72*
Nov. 30, 1998	0.02*	0.22*	0.17*	-0.28	0.26*	-0.29	0.62*
Jan. 4, 1999	-0.05	-0.18	0.08*	-0.32	0.11*	-0.31	0.52*
Jan. 26, 1999	0.04*	-0.35	0.03*	-0.36	0.15*	-0.34	0.47*
March 1, 1999	-0.10	-1.05	-0.37	-0.69	-0.27	-0.58	0.22*
April 5, 1999	0.04*	-0.82	-0.07	-0.32	-0.03	-0.27	0.27*
May 3, 1999	0.02*	-0.81	-0.28	-0.40	-0.18	-0.45	0.42*

* Positive number indicates **no** LDP rate would have applied.

(“LDP” continued from page 4)

Uniform National Approach for Determining Loan Repayments and LDP Rates

The following is a description provided by the U.S. Department of Agriculture on May 28 on how a uniform national approach for determining loan repayments and loan deficiency payment rates would operate:

Loan deficiency payment (LDP) and loan repayment rates would be calculated using a formula that would result in a uniform LDP rate for every county on a given day. The uniform LDP rates would continue to be determined on an individual basis for each of the five classes of wheat, as they are under the current system.

The formula would involve a two-step process:

1. First, for the terminal markets currently used under the posted county price (PCP) system for a commodity, the **difference** between: 1) the “adjusted” terminal price for the preceding day; and 2) the county loan rate (in which the terminal market is located) would be computed for each terminal market. *[Note: “Adjusted” terminal price means the terminal price as quoted, less the within-county differential less any temporary differential adjustment]*

2. The high and low differences would be dropped and a simple average of the remaining differences would be computed (e.g., an olympic average).

If the value as computed in this two-step process was **negative** (e.g., -30 cents per bushel), the **uniform** LDP rate for every county in the nation on the **next day** would be 30 cents per bushel. In turn, a given loan’s repayment rate would be the applicable county loan rate minus 30-cents per bushel if a producer decided to repay the loan on that given day.

Conversely, if the computed uniform rate was positive, the LDP rate would be zero. But the loan repayment rate generally would be the applicable county loan rate plus the lesser of: 1) per-unit accrued interest; or 2) the county loan rate **plus** the positively valued uniform rate.

USDA Implements New End-Use Certificates for Canadian Wheat Imports

Effective **June 1**, the U.S. Department of Agriculture implemented its new end-use certificate requirements for imported Canadian wheat.

In a final rule that took effect March 16, USDA expanded the information required to be provided by U.S. importers on end-use certificates for Canadian wheat, ostensibly to “help ensure that Canadian wheat will not benefit from U.S. export programs.” However, USDA officials have conceded that a major objective in obtaining the new information is to establish a mechanism for monitoring and making more transparent the activities and pricing practices of the Canadian Wheat Board.

The new rules require that U.S. importers of Canadian wheat provide the following additional information on end-use certificates: 1) the sales contract date; 2) numerical grade; 3) moisture content; 4) protein content; and 5) dockage. The final

rule also requires that end-use certificates be submitted within 10 days, compared to the current 15 days. Other changes include: 1) a redefinition of the term “importer” to be consistent with the terminology used by the U.S. Customs Service; and 2) a requirement that penalties be deducted from the U.S. importer’s bond that is posted with the Customs Service.

An announcement of the effective date of the revised end-use certificate form was mailed in mid-May by USDA to U.S. importers of Canadian wheat. A copy of the revised end-use certificate form (Form FSA-750) that contains the new information and requirements is available on the NGFA’s web site at: <http://www/ngfa.org>. USDA officials told the NGFA that implementation of the new reporting requirements was delayed by the printing of revised end-use certificate forms.

FDA Proposes to Tighten ‘Export Exception’ Rule

The Food and Drug Administration is seeking comments by **June 16** on a proposal that would, among other things, impose recordkeeping requirements on those companies that export commodities or products under the so-called “export exception” of the Federal Food, Drug and Cosmetic Act.

The “export exception” permits, under specified conditions, the export of commodities that ordinarily would be considered “adulterated” if sold in domestic channels (e.g., mycotoxins above certain levels). FDA is proposing that exporters using this “export exception” maintain records for at least five years from the date of export documenting that the shipment(s) meet each of the conditions specified under this section of the law. Specifically, FDA proposes to require that the exporter maintain records demonstrating that the product:

- ▶ meets the foreign purchaser’s specifications;
- ▶ does not conflict with the laws of the importing country.

Such records could include “a letter from an appropriate foreign government agency, department or other authorized body stating that the product has marketing approval from the foreign government or does not conflict with that country’s laws.” FDA’s proposed rule states that “letters or other documents from nongovernmental bodies or persons, such as company officials or attorneys in the foreign country, are not acceptable”;

- ▶ is labeled on the outside of the shipping package that it is intended for export; and
- ▶ is not subsequently sold or offered for sale in the United States.

Submitting Comments: NGFA member companies wishing to submit comments should do so on or before **June 16** by writing to: Dockets Management Branch (HFA-305), Food and Drug Administration, 5630 Fishers Lane, Room 1061, Rockville, Md., 20852.



CFTC Defers to NGFA Arbitration Proceeding

The Commodity Futures Trading Commission, by a 4-0 vote, has ruled that a decision rendered in a NGFA arbitration case was binding on the losing party who later filed a reparations complaint with the agency involving the same transaction.

The CFTC opinion and order, issued on May 20, reversed an earlier decision by a CFTC administrative law judge in a reparations proceedings filed against a futures commission merchant.

Background of the Case: The earlier NGFA arbitration [*The Andersons Inc. v. Lowell E. Harter, NGFA Arbitration Case No. 1788*] was conducted pursuant to a court order issued by an Illinois federal district court after Harter had first filed suit against The Andersons Inc., Iowa Grain Co. and a third party. The court had dismissed Iowa Grain (the futures commission merchant) and the third party as defendants in the case, but ordered arbitration of the claims asserted against The Andersons based upon a provision included in the hedge-to-arrive contracts between The Andersons and Harter.

The Andersons was awarded damages against Harter in the NGFA arbitration case, and the Illinois federal district court subsequently entered an order confirming the validity of the NGFA arbitration award. In a related action, the U.S. District Court for the District of Columbia also found that Harter “presented no objective basis to conclude that the arbitration was biased.”

When Harter later filed a reparations complaint with the CFTC against Iowa Grain, the company moved to dismiss on grounds that the same facts and issues already had been

considered and decided in the NGFA arbitration case. A CFTC administrative law judge denied Iowa Grain’s motion, writing that: “This court 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.”

The CFTC’s Decision: But contrary to the finding of its administrative law judge, the CFTC concluded that: “[T]he principal issues upon which Harter’s reparations complaint is based have previously been resolved against him in the NGFA arbitration proceeding and affirmed by the federal district court. Those rulings are binding in this reparations proceeding.”

Significance of the CFTC’s Decision: The decision in this case is significant because Harter mounted a broad attack against the integrity of the NGFA’s Arbitration System as part of his CFTC case. After learning of the administrative law judge’s initial decision, the NGFA submitted comments in the CFTC case outlining the history and fairness of the NGFA Arbitration System.

In its decision, the CFTC wrote: “The district court...specifically rejected Harter’s objections to the fairness of the NGFA (arbitration) proceeding, including his argument that the arbitration provisions were invalid because they violated the (CFTC’s) regulations for such proceedings....Indeed, the court found Harter’s claim of alleged structural bias in the composition of the arbitration panel to be ‘without merit’ and lacking ‘any real factual support.’”

NGFA Files Brief on Arbitration System With Iowa Federal Court

The NGFA on April 29 filed a “friend-of-the-court” brief with an Iowa federal district court, in a case involving the enforcement of a NGFA arbitration award.

The NGFA took the action after learning of a March 22nd hearing in which the federal district judge expressed a number of concerns pertaining to discovery and arbitration, generally.

The NGFA, in its brief, provided the court with information to show that: 1) The NGFA Arbitration System contains multiple procedural safeguards for all participants, including farmers; 2) The Federal Arbitration Act does not require pre-trial discovery; and 3) NGFA arbitration provides parties with a method to resolve commercial disputes quickly and with trained specialists knowledgeable in the trade.

In particular, the NGFA pointed out that “not one arbitration award rendered by an NGFA Arbitration Committee has ever been overturned by a court.” Likewise, it was pointed out that the following procedural safeguards are followed in NGFA arbitration cases:

- 1) Arbitrator disclosure and disclosure of bias or partiality;
- 2) Written, publicly available Arbitration Rules govern the conduct of the arbitration;
- 3) Mandatory, written opinions issued by a three-member arbitration committee that adjudicates the dispute;
- 4) The ability to challenge an arbitration committee member for bias;
- 5) Appeal rights prior to a NGFA arbitration award becoming final; and
- 6) Review by federal courts under the Federal Arbitration Act.

The latest court case involved an arbitration decision issued in *CARGILL v. HOFFMAN* [*NGFA Arbitration Case No. 1787*]. The Iowa federal court earlier had issued an order compelling NGFA arbitration of the dispute. Prior to a two-day oral hearing before the NGFA arbitrators, the parties engaged in extensive discovery by mutual consent regarding the disputed transaction. The arbitration decision can be accessed from the NGFA’s web site at: <http://www.ngfa.org>. Contact Juli Butler at the NGFA at (202) 289-0873 if you want a copy of the NGFA’s “friend-of-the-court” brief.



EPA Extends Schedule for Reviewing Phosphide Rules

The Environmental Protection Agency has announced that it is extending its schedule for completing its reregistration review of the fumigants aluminum and magnesium phosphide to "allow more time for stakeholder involvement, public input and complete consideration of alternative ways to reduce risks from these important pesticides."

In a statement issued May 13, EPA said it plans to propose a revised set of risk-mitigation measures for the two fumigants in August. Stakeholder meetings to discuss the revised proposed restrictions then will be scheduled for October and November, the agency said. EPA previously had announced that the stakeholder meetings will occur in Kansas City, Mo., Atlanta, Ga., and Sacramento, Calif.

"EPA is extending this schedule because of the need to further consider the more than 600 comments received on the initial proposal," EPA said. The agency also said it was working with the U.S. Department of Agriculture's Phosphine Task Force, the National Institute for Occupational Safety and Health, the Occupational Safety and Health Administration and a "coalition of industry groups and user organizations to identify feasible risk-mitigation measures before releasing a new proposal."

Under its revised schedule, EPA said it plans to issue a final rule on the matter in late 1999 or early 2000. Registrants then would have eight months to incorporate any new requirements on the label for aluminum and magnesium phosphide.

EPA Delays Filing Deadline for Propane Risk-Management Plans

The Environmental Protection Agency on May 28 officially delayed until Dec. 21 the effective date for complying with its risk-management plan rule for processes containing no more than 67,000 pounds of listed flammable fuels, including propane.

In a process means one or more tanks that are interconnected or located close enough together that a release from one tank could result in a release from a neighboring tank.

EPA also noted that its proposed exemption is in addition to, and does not affect, the stay of the risk-management program rule for propane users granted on by the U.S. Court of Appeals for the District of Columbia Circuit. [See *NGFA Newsletter*, May 6, 1999] While the stay is in effect, any source or process at a stationary source subject to the rule by virtue of propane is not subject to risk-management program requirements, the agency reconfirmed. The EPA said that the court's order affects not only propane in its pure form but also propane commonly sold as mixtures of liquefied petroleum gas.

EPA Proposes Increase in Exemption Threshold for Propane: In conjunction with the delay, EPA also simultaneously proposed to exempt a process containing up to 67,000 pounds of the listed flammable fuels (e.g., propane) from the risk management plan rule. The exemption would **not** apply to processes that: 1) manufacture the fuel; 2) contain more than a threshold quantity of another (non-fuel) regulated substance; or 3) are connected to, or are collocated with, another covered process at the facility. EPA said that the proposed exemption would provide relief to about 83 percent of propane users.

Submitting Comments: EPA is seeking public comment by **June 28** on its proposed exemption. Among the issues on which EPA seeks comment are whether the proposed exemption should be: 1) limited to on-site fuel users with no upper limit on quantity; 2) restricted to on-site use as a

fuel but retaining the proposed 67,000-pound threshold; or 3) limited to liquid propane gas and natural gas, subject to the 67,000-pound threshold.

Those wishing to submit comments should submit duplicate copies to: Environmental Protection Agency, Air Docket (6102), ATTN: Docket No. A-99-18, Waterside Mall, 401 M St., S.W., Washington, D.C., 20460.

Glickman Appoints New Members to Grain Inspection Advisory Committee

Secretary of Agriculture Dan Glickman on May 21 appointed five members and four alternates to serve on the U.S. Department of Agriculture's Grain Inspection Advisory Committee.

Four NGFA members were among the five new appointees: **Arvid Hawk**, grain handling coordinator, Cargill Inc., Minneapolis, Minn., who chairs the NGFA's Food and Feed Safety Committee; **Diane S. Hanekamp**, director, commodities, Corn Products International, Chicago, Ill., who also serves on the Food and Feed Safety Committee; **Bennie B. Lackey Jr.**, director of commodity operations, Riceland Foods, Stuttgart, Ark.; and **Thomas J. Miller**, grain marketing manager, Farmers Cooperative Co., Farnhamville, Iowa, who serves on the NGFA's Board of Directors and Rail Shipper/Receiver Committee. The other appointee was producer Bonnie Ileen Fernandez of Woodland, Calif. and

The new alternate members are: **James "Mickey" Cook**, manager, Cenex/Harvest States, Belle Chasse, La.; **Paul A. Coppin**, general manager, Hunter Grain Co., Hunter, N.D., a member of the NGFA's Grain Grades and Weights Committee; **Ping Feng**, Optimum Quality Grains, Des Moines, Iowa; **Mary G. Schuler**, Dutton, Mont.; **Hubert E. Simonsen**, Superior, Neb.; and **Gretchen M. Stewart**, Cereal Ingredients Laboratory Services, Kansas City, Mo.



Two New Staff Members Join the NGFA Team



Rhonda Warren

The NGFA this week welcomed its newest staff member, **Rhonda Warren**, as membership specialist/systems administrator.

A native of Fort Washington, Md., a Washington-area suburb, Warren assumes responsibility for the role formerly filled by Liz Ofstad, who left the NGFA in April to work for the non-profit Benton Foundation. Warren comes to the NGFA from the Tax Executives

Institute (TEI) in Washington, D.C., where she served as the organization's membership coordinator and back-up systems administrator. Previously, she has worked for the National Osteoporosis Foundation and for Community Anti-Drug Coalitions of America, both in the Washington metropolitan area, where her professional experience encompassed primarily membership and meetings responsibilities.

At the NGFA, Warren will be responsible for working with the Marketing Committee and the Membership Recruiter Network to attract new member companies to the organization. In addition, Warren is responsible for main-

taining the NGFA's extensive database and tapping it to facilitate member services and a new emphasis on electronic communications to the membership. Warren also will manage the NGFA's computer systems.

Another new addition to the NGFA's staff is **Candace French**, who serves as receptionist/executive assistant for member services. She is responsible for providing support to the NGFA's marketing, membership and meetings functions, as well as serving as receptionist. Most recently, French was employed by Kinko's Copies in Annapolis, Md., as a customer service representative.



Candace French

Next time you call the NGFA offices, ask for Candace and/or Rhonda and take a few minutes to get acquainted. Both are extremely personable and will be front-line employees in providing excellent customer service to NGFA members, and both will be valuable contributors to the NGFA's continued success.