



NGFA

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BSE-Prevention Feed Rule Changes to be Published within Two Months

The Food and Drug Administration is scheduled “within the next two weeks to two months” to publish its interim final rules implementing a series of changes to its regulations that ban the feeding of certain mammalian-derived material to cattle and other ruminants to prevent the amplification of bovine spongiform encephalopathy (BSE) in the United States.

That was the time frame estimated by FDA Deputy Commissioner Dr. Lester M. Crawford during an address on Feb. 3 to a BSE conference sponsored by the American Meat Institute, National Cattlemen’s Beef Association and the U.S. Meat Export Federation. NGFA President Kendell W. Keith addressed the conference to present the feed manufacturing industry’s perspective on BSE prevention and FDA’s policy responses. Other FDA officials told the NGFA today that their best estimate was that the feed rule changes would be published in about one month.

Crawford also said FDA is considering a “grace period” to phase-in the effective dates of several of the feed rule changes even after the interim final rules are published to provide time for

feed and ingredient manufacturers and others to make the necessary compliance adjustments. He said discussions concerning the interim final rules had been ongoing between FDA, the Department of Health and Human Services, and the White House Office of Management and Budget (OMB). It is the NGFA’s understanding that the interim final rule still is being reviewed by all three agencies, most particularly OMB.

During testimony presented Jan. 27 at a hearing conducted by the Senate Agriculture Committee, Crawford said FDA’s approach is to “provide full protection of the public against BSE without adding unnecessary costs or restricting the consumption of safe beef products.”

Animal Feed Rule Changes: The FDA interim final rule pertaining to animal feed will contain four specific changes:

► **Require Dedicated Equipment, Facilities or Production Lines:** Rendering and feed manufacturing facilities

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Bill Introduced to Ban Soy Imports from Brazil, Argentina

Rep. Tom Latham, R-Iowa, on Feb. 4 introduced legislation that would ban the importation of soybeans and soybean meal from Brazil and Argentina over fears that such imports might introduce soybean rust into the United States.

“The evidence is clear that soybean rust is moving up the South American continent,” Latham said in introducing the bill. “We have an opportunity to take swift action to significantly slow what experts agree will be the inevitable introduction of this devastating crop disease to American soil, thereby giving us more time to find a solution to this serious problem.”

Soybean rust is a wind-borne fungus that attaches itself to the leaves of soybean plants and reproduces rapidly, preventing proper plant development and reducing yields by 10 to 80 percent. The U.S. Department of Agriculture’s Animal and Plant Health Inspection Service (APHIS) is in the midst of conducting a scientific risk assessment on soybean rust to determine appropriate cleaning or other controls for imported whole soybeans. The agency previously has established heat-treatment procedures for soybean meal to prevent soybean rust.

Prior to introduction of the bill, the NGFA and the North American Export Grain Association (NAEGA) had urged Latham to reconsider. “We concur that the risk of rust must be managed, but believe it is a

much-preferred approach to manage it from a scientific perspective than through bans on trade,” wrote NGFA President Kendell W. Keith and NAEGA President Gary C. Martin. “...[I]t is critical for the United States to maintain a ‘best science’ approach to technical import and export barriers. Erring on the side of precaution reinforces the protectionist tendencies of many countries that would use these barriers to manage trade...If the United States erects barriers without scientific justification, we can expect countries that buy from us to do the same.”

Soybean rust is caused by two fungal species, *Phakopsora pachyrhizi* and *Phakopsora meibomia*. It has been reported in various countries, including Australia, China, Korea, India, Japan, Nepal, Taiwan, Thailand, the Philippines, Mozambique, Nigeria, Rwanda, Uganda, Zimbabwe, South Africa, Brazil, Argentina and Paraguay. The first detection of soybean rust in the United States was *P. meibomia*, which was reported in Puerto Rico in 1976; this species has proven to be a weak pathogen. The *P. pachyrhizi* variety, which is much more aggressive, was reported in Hawaii in 1995 and recently has been introduced in other parts of the world, including Zimbabwe, South Africa, Paraguay and Brazil. Soybean varieties resistant to rust still are under development; for now, the most effective means of control involves expeditious application of fungicides once the disease is detected.



President Bush Releases FY 2005 Budget

President Bush on Feb. 2 released the administration's proposed \$2.4 trillion federal budget for fiscal year 2005, which begins Oct. 1, 2004.

The proposal was widely panned on Capitol Hill as seven of the 16 cabinet level departments would face significant reductions in discretionary spending. The budget proposal is intended to cut in half by 2007 the record \$521 billion fiscal 2004 budget deficit. Despite significant negative reaction, a group of Republican budget hawks are vowing to go even further to ease the deficit.

The budget proposal assumes a level of austerity that Congress may find difficult to tolerate. The proposal provides no money for Iraq and Afghanistan, leaving that to a likely \$50 billion post-election supplemental budget request in fiscal 2005. The budget includes increases of 7 percent for the defense and 10 percent for homeland security, while limiting all other programs to increases of less than 1 percent. Agriculture (6.8 percent) and the Transportation and Treasury Departments (9.4 percent each) would take the biggest hits in discretionary spending reductions compared to spending levels enacted for the current 2004 fiscal year.

Significant pressure in Congress likely will be focused on the administration's proposal to make tax cuts enacted over the past few years permanent; provisions in the still-pending energy bill that include significant tax breaks; and the corporate tax reform package that would replace with tax breaks the foreign sales corporation tax benefits that were ruled illegal by the World Trade Organization.

Here's an overview of sections of the administration's budget proposal that are of interest to the industry:

USDA: The budget proposal for USDA includes \$82 billion in spending, a \$4 billion increase over fiscal 2004. But discretionary (non-mandatory) spending would be \$20.8 billion – \$720 million less than fiscal 2004. The focus in USDA's budget is clearly food safety and security, with \$381 million included for the Food and Agriculture Defense Initiative, which covers a variety of monitoring, surveillance and research activities, including funds to complete the National Centers for Animal Health in Ames, Iowa. The Food Safety and Inspection Service (FSIS) budget would get a \$61 million increase – to \$952 million – which would support 7,690 food safety inspectors.

The budget also reacts to the diagnosis of the United States' first case of bovine spongiform encephalopathy (BSE) with an additional \$60 million for BSE-related activities – a 377 percent increase from fiscal 2004.

That would include \$5 million for the Agricultural Research Service for advanced research and development of BSE testing technologies; \$17 million for the Animal and Plant Health Inspection Service (APHIS) for increased cattle testing (40,000 samples in fiscal 2005); \$33 million as part of the National Animal Identification system development; \$1 million for Grain Inspection, Packers, and Stockyards Administration (GIPSA) programs addressing BSE-related cattle market contract problems; and \$4 million to FSIS for monitoring and surveillance of USDA's recently announced prohibitions on specified risk materials in human food and mechanical meat recovery. The department also is considering a transfer of emergency funds from the Commodity Credit Corporation to finance many of the BSE-related activities conducted in fiscal 2004.

Some conservation programs were increased slightly, while others took a hit. But most were funded at well below their authorized levels. The Conservation Reserve Program (CRP) would be increased by \$76 million to \$2 billion, designed to increase enrollment from the current 34.2 million acres to 36.3 million through 2005. Spending for the Environmental Quality Improvement Program (EQIP) would be set at \$1 billion, a \$25 million increase. A total of \$295 million would be allocated for the Wetlands Reserve Program, which would enroll 200,000 more acres). And \$125 million would be earmarked for the Farm and Ranch Land Protection Program, a \$13 million increase. The Conservation Security Program (CSP) established under the 2002 farm law would be funded at \$209 million for fiscal 2005, which assumes 12,000 participants. The budget for the Natural Resources Conservation Service would be reduced by \$152 million, to \$763 million.

USDA's rural development line item was hit the hardest, suffering a 10 percent reduction to \$2.2 billion from fiscal 2004 levels.

As it has dating to the Reagan administration, the USDA budget again includes a proposal to assess new user fees to cover the costs of developing, reviewing and maintaining official U.S. grain standards to be paid by "those who ship, store, or process grain." It is estimated the new fees would generate \$6 million. Each year, the NGFA has been successful in convincing Congress that these activities are appropriately funded by tax revenues, since the beneficiaries of the U.S. grain standards are diffuse and far transcend the grain industry. The additional \$6 million in user fees is included in USDA's budget proposal to earmark \$20 million to cover the cost of GIPSA's compliance, methods development and standardization activities, up from \$17 million in fiscal



year 2004. Within this total, the administration’s 2005 budget notes an increase of \$500,000 to enable GIPSA to “better address and resolve international grain trade issues, thus precluding disruption of US exports.”

Food and Drug Administration: As with USDA, the \$1.8 billion budget proposed for the Food and Drug Administration is geared toward food security activities. Included is a proposed \$65 million for an interdepartmental program to enhance food security efforts. This figure includes \$35 million to increase FDA’s analytic capacity for detecting biological, chemical and radiological threat agents through an enhanced Food Emergency Response Network. An additional \$15 million would be directed to research to develop technologies to combat potential terrorism agents ingested with food. Increased domestic and imported food inspections would be funded at \$7 million, sufficient to enable FDA to conduct 97,000 import field inspections and 26,000 inspections of domestic firms. Another \$3 million would be allocated to increase the agency’s crisis management response, while \$5 million would be designated for early detection of intentional releases of deadly pathogens into the food or water supply.

FDA’s budget also calls for \$8.3 million to support new FDA and USDA safeguards against BSE. The BSE-related funding would enable FDA to conduct 920 risked-based BSE inspections and 600 targeted sample collections to analyze domestic and imported animal feed and feed components. In addition, the funds would enable FDA to finance 2,500 more state-conducted inspections of animal feed manufacturing and rendering establishments that handle mammalian materials prohibited from ruminant feed. Finally the proposal would assist states’ infrastructure needs to more effectively monitor and respond to potential feed contamination incidents.

Waterways: The budget proposed for the U.S. Army Corps of Engineers’ civil works program (see accompanying table) would be \$690 million less than expended last year. The Corps’ budgetary authority would be around \$3.942 billion, down from \$4.6 billion in fiscal 2004. But unlike last year, the administration does not propose to raid the Inland Waterways Trust Fund to finance the agency’s operations and maintenance expenses. That proposal was resoundingly defeated by Congress during the fiscal 2004 budget and appropriations process.

The Corps’ general construction funding would allocate almost full capability funding for the eight “high-priority” projects and new contract award monies are included for only those projects. Those projects include a New York and New Jersey Harbor deepening project (\$103 million); the Olmsted Locks and Dam project in Illinois and

Kentucky (\$75 million); projects to restore the Florida Everglades (\$125 million) and the side channels of the Upper Mississippi River system (\$28 million); projects to provide flood-damage reduction to urban areas, namely, the Sims Bayou in Houston, Texas (\$16 million) and the west bank and vicinity project in New Orleans, La., (\$37 million); and projects to meet environmental requirements in the Columbia River basin (\$107 million) and Missouri River basin (\$69 million). **Importantly, the administration’s budget proposal contains no funds for preconstruction, engineering or design of improvements for the Upper Mississippi and Illinois Rivers.**

An initiative to “deemphasize” low-use waterways and shallow-draft harbors that do not serve commercial, subsistence fishing or federal users is promoted in the budget. The proposal would include only \$84 million for inland waterway projects that carry less than 5 billion ton miles and \$49 million for those having less than 1 billion ton miles.

Civil Works Budget Proposal	Fiscal 2005	Fiscal 2004
Operations and Maintenance	\$1.926 bil.	\$1.968 bil.
Construction	\$1.4215 bil.	\$1.722 bil.
Flood Control	\$270 mil.	\$324 mil.
General Expenses	\$167 mil.	\$160 mil.
Regulatory Program	\$150 mil.	\$140 mil.
Remedial Action Program	\$140 mil.	\$140 mil.
General Investigations	\$90.5 mil.	\$160 mil.

Environmental Protection Agency: The Environmental Protection Agency’s proposed \$7.76 billion budget would be reduced by 8.9 percent from the amount appropriated for the current fiscal year. However, the administration maintains that its proposed budget for 2005 still would be \$133 million more than it proposed in 2004, asserting that Congress “overstuffed” the agency’s appropriations budget this year. To promote clean water, the budget proposal includes \$5 million to the Great Lakes Legacy Program, \$25 million to the Targeted Watersheds Program and \$20 million for an initiative that would help states develop and implement water-quality monitoring programs. On land, the agency would receive \$210 for Brownfields cleanup, \$1.4 billion for the Superfund and \$24 million for a program with states to monitor underground storage tanks. The bulk of the agency’s budget – \$4.4 billion – would be earmarked for core efforts on regulatory, research and enforcement activities and state program grants. The proposal would provide \$1.25 billion for state categorical grants for states to run their own environmental programs.



Commodity Futures Trading Commission: The budget proposal for the Commodity Futures Trading Commission amounts to \$95 million, a \$5 million increase from fiscal 2004. The budget includes \$24 million for monitoring commodities markets and \$8 million for the Office of the General Counsel. The proposal assumes an increase in newly opened enforcement investigations from 120 in fiscal 2004 to 135 in fiscal 2005, as well as an increase in enforcement cases filed from 60 to 65.

U.S. Trade Representative: The Office of the U.S. Trade Representative would see its budget cut to \$40

million, \$2 million less than fiscal 2004. The USTR resource issue has long been a point of contention, as it is viewed by many to be understaffed for the amount of responsibility it has undertaken given the plethora of trade negotiations and its responsibility for ensuring compliance with trade agreements by other countries. Given election-year politics, further strides on trade liberalization are unlikely in 2004. But 2005 is viewed as an opportunity to advance more significant discussions in the World Trade Organization trade negotiations.

Highway Bill Moves Slowly; Faces Veto Threat

Senate floor debate began Feb. 2 on legislation that would reauthorize the federal highway bill and allocate \$318 billion in highway-associated spending over six years.

But a \$375 billion version of the bill remains stalled in the House. And the White House has threatened a veto if the bill exceeds the \$256 billion budgeted by the administration for the bill or includes increases in the federal excise tax on gasoline.

The highway bill primarily authorizes funds for federal aid for highway construction and maintenance, as well as highway safety and transit programs. A group of agricultural organizations, including the NGFA, are encouraging Congress to include in the bill an hours-of-service agricultural provision that would codify the existing exemption and guard it from further regulatory incursion by the Department of Transportation.

The bill is intended to replace the previous highway reauthorization bill (TEA-21) that expired last fall and was extended through the end of February. A further extension may be needed, as progress has been slow and significant differences over how to fund the measure have become more entrenched. The vast differences in funding levels have led to a postponement in consideration of the bill in the House, as Transportation and Infrastructure Committee Chairman Don Young, R-Alaska, grapples with administration officials and House Republican leaders who are staunchly opposing his recommendation to increase the gas tax to cover the increased costs.

Meanwhile, Transportation Secretary Norman Mineta and Treasury Secretary John Snow sent a letter to senators warning that they would recommend that the president veto any bill that increases taxes, relies on the sale of federal bonds or increases the deficit. The chief Senate sponsor, James Inhofe, R-Okla., has claimed that the

Senate bill generally will comply with the president's stipulations, but portions of the bill still are being passed out of committee as the overlying bill is debated on the Senate floor.

The Senate Finance Committee's portion of the bill would shift the cost of ethanol subsidies from the Highway Trust Fund to the general fund. Ethanol blenders would pay the tax at the pump, which would go to the Highway Trust Fund, and then apply for a tax credit which would be reimbursed from the general fund. This would cost the general fund \$17 billion. And during debate, fiscally conservative Sen. Jon Kyl, R-Ariz., termed it "funny money" and questioned whether this met with the administration's approval. Disagreeing with Kyle, Finance Committee Chairman Charles Grassley, R-Iowa, said that the tax breaks for ethanol should have been included in the energy – not the highway – bill. The Finance Committee, with the administration's approval, also included a provision that no longer would require that 2.5 cents of the 18.4-cents-per-gallon tax on gasoline be diverted to the general fund.

Energy Bill Add On?: Potentially complicating matters even further is the prospect of adding portions of the delayed energy bill to the highway measure. Sen. Pete Domenici, R-N.M., chairman of the Senate Energy and Natural Resources Committee, has alluded to a potential strategy of reducing some of the energy bill's \$31 billion cost and attaching it as an amendment to the highway bill to rejuvenate its lagging prospects. In addition, the MTBE-liability waiver included in the current version of the energy bill that helped contribute to its demise last year may be deleted to improve the chances for passage. But House Republican leaders have stressed that they will not support exclusion of the MTBE language, and maintain that the bill has the support of a majority of House and Senate members and should be passed as is.





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(including on-farm mixer-feeders) that receive and use mammalian protein that currently is prohibited from being fed to cattle or other ruminants will be required to use dedicated equipment, facilities or separate receiving and production lines for manufacturing non-ruminant animal feed if they also manufacture products for cattle or other ruminants. FDA said this requirement "will further minimize the possibility of cross-contamination of ruminant and non-ruminant animal feed." FDA's most recent inspection data show that of the 6,194 commercial feed mills inspected for compliance with the BSE-prevention feed rule, 879 handled mammalian material that is prohibited from being fed to cattle or other ruminants. But FDA officials told the NGFA they estimate that of those 879 facilities, about 100 are believed to currently manufacture ruminant feed and would be affected by the dedicated-facility requirement.

For renderers, it is not clear yet whether FDA will permit processing of multiple species within the same plant if all rendered product emanating from the rendering facility is labeled with the BSE caution statement, which reads "Do Not Feed to Cattle or Other Ruminants." Based upon FDA's most recent inspection data, of the 234 rendering facilities inspected, approximately 157 – or 67 percent – handled material prohibited from being used in ruminant feed and most are believed to render multiple species.

Once effective, the dedicated facility change to FDA's BSE-prevention rule will mean that procedures – such as flushing and sequencing – currently acceptable to FDA as methods for cleaning out restricted-use mammalian protein from mixing and conveyance equipment between runs of non-ruminant feed and ruminant no longer will be allowed.

Importantly, FDA officials told the NGFA that they anticipate that **the dedicated facility requirement will be extended to distributors – including transport conveyances, such as trucks, railcars and other vehicles hauling bulk feed or feed ingredients that contain or may contain restricted-use material banned from ruminant feed.** FDA said transport of bagged feed or feed ingredients would **not** be subject to the dedicated equipment requirement. No further details were available yet on how FDA intended to implement this requirement, or the procedures transporters would be required to follow to "clean" existing equipment to meet the pending dedicated fleet requirement.

The agency took **no action to ban the use in animal feed of certain specified risk materials (SRMs), such as brain and spinal cord of cattle 30**

months or older. FDA officials told the NGFA that the SRM issue was the subject of serious consideration and debate within the agency. The NGFA has learned that FDA's policy inclination based on the science would have been to prohibit some or all ruminant SRMs in all animal feed. But the agency's legal counsel believed that FDA does not have sufficient authority under the Federal Food, Drug and Cosmetic Act's adulteration provisions to declare SRMs an adulterated product for use in animal feed if such products come from healthy, non-diseased cattle. FDA reportedly also believed that there would be a less severe economic impact by requiring dedicated facilities for those that use restricted-use mammalian protein and manufacture feed or feed ingredients for both ruminants and non-ruminants.

- ▶ **Prohibit the use of bovine-derived blood and blood products in feed for ruminants:** FDA's interim final rule will prohibit the use of bovine-derived blood, blood products (including plasma) and blood fractions from being used as a protein source in feed for ruminants. Currently, blood and blood products are exempt from the feed rule. Importantly, while unclear in the official announcement, FDA officials confirmed with the NGFA that **porcine blood and blood products still will be approved for use as a feed ingredient for ruminants and other species.** In addition, they said milk products, including colostrum, still will be **exempt** from the ban on feeding to ruminants.

Also continuing to be exempt from the ruminant feeding ban will be mammalian fats and tallow, since they are not considered to be protein. However, FDA's interim final rule may establish a standard that tallow will need to contain no more than 0.15 percent protein because of the potential for the BSE prion to concentrate in the protein fraction of tallow.

- ▶ **Ban the use of poultry litter as a feed ingredient for ruminants:** FDA's interim final rule will ban the use of poultry litter – consisting of bedding, spilled feed, feathers and fecal matter collected from poultry houses – from being used as a feed ingredient in cattle and other ruminants. While primarily an on-farm feeding practice to the extent it occurs, this ban is expected to have a disproportionate impact on the Southeast, California, and other poultry-growing regions located near cattle-raising areas. Currently, FDA said it allows rations consisting of up to 40 percent poultry litter to be used in ruminant feed.

- ▶ **Prohibit the use of restaurant plate waste as a feed ingredient for ruminants:** The fourth feed-related action will ban as a feed ingredient for ruminants the use of restaurant "plate waste," which consists of





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uneaten meat and other meat scraps currently collected from some large restaurant operations and rendered into meat and bone meal for animal feed. FDA maintained that the use of plate waste "confounds (its) ability to analyze ruminant feeds for the presence of prohibited proteins, compromising the agency's ability to fully enforce the animal feed rule." Further, FDA said recently that its action to ban plate waste is designed to prevent bovine protein from being fed to cattle or other ruminants. FDA officials told the NGFA that restaurant grease would be exempt from this plate-waste ban.

The bans on poultry litter and plate waste, as well as the issue of dedicated equipment and facilities, had been raised by FDA in its advance notice of proposed rulemaking published on Nov. 6, 2002. In announcing the forthcoming changes, FDA declined to take action on a fourth issue raised in that earlier rulemaking – whether to require all pet food sold at retail to bear the BSE caution statement ("Do Not Feed to Cattle or Other Ruminants") to address the issue of salvaged or distressed pet food containing ruminant-derived protein from potentially being used inappropriately in cattle feed. The Pet Food Institute, with which the NGFA has a strategic alliance, had compellingly documented through extensive consumer surveys the devastating impact such a requirement would have had on retail pet food sales, as well as sales of other meat products at groceries and other retail stores.

Other Feed-Related Actions: In conjunction with its changes to the BSE-prevention feed rule, FDA said it will increase its inspections of feed mills and renderers during 2004 to a total of 3,800. The agency said it would conduct 2,800 inspections of its own, and provide funds for state agencies to conduct an additional 3,100 contract BSE inspections of facilities, including on-farm locations, that handle animal feed and feed ingredients. Further, FDA said it will receive an additional 700 inspection results from states that routinely inspect for BSE-prevention feed rule compliance in conjunction with other inspections. FDA said its oversight will include annual inspections of 100 percent of all known renderers and feed mills that process products containing mammalian materials prohibited from use in ruminant feed.

The agency also said it would continue work to develop a diagnostic quick test capable of detecting mammalian materials prohibited from being used in ruminant feed. "FDA has conducted and supported research efforts in the process of validating a rapid DNA-based method for detection of animal-derived materials in animal feed and feed ingredients," Crawford said in his Jan. 27 testimony to the Senate Agriculture Committee. "As part of this research effort, FDA has developed a polymerase chain

reaction (PCR) probe to determine the animal species of origin from which feed ingredients were derived." FDA said such tests would offer a quick and reliable method of testing animal feeds for prohibited materials and for testing other products for contamination with the agent thought to cause BSE.

Other FDA BSE-Prevention Actions: Other actions announced by FDA that **do not affect the feed rule** include an interim final rule that mirrors for FDA-regulated human food (including dietary supplements, soups and pizza toppings) and cosmetics the restrictions previously implemented by USDA for human food products it regulates. Specifically, FDA will ban from use in dietary supplements and cosmetics: 1) SRMs from cattle 30 months or older, and a portion of the small intestine and tonsils from all cattle, regardless of age; 2) any material from non-ambulatory, disabled (downer) cattle; 3) any material from dead cattle; and 4) mechanically separated meat products.

Other BSE-Related Developments: There were these other BSE-related developments of interest to the industry:

► **Zoellick to Raise Beef Trade Resumption in Feb. 10 Talks with Japan:** Talks are scheduled to occur Feb. 10 between the United States and Japan to explore ways to reopen beef trade between the two countries. This time, the negotiations will include U.S. Trade Representative Robert Zoellick, as part of his world-wide tour seeking resumption of World Trade Organization negotiations. Japan continues to demand that the United States conduct BSE tests of each beef animal from which product is exported to Japan. The United States has countered that this is a scientifically unjustified step, since the BSE prion agent has been shown to occur overwhelmingly in cattle 30 months or older, to the extent it occurs at all. Further, the United States contends that since some portion of 90 percent of U.S. cattle slaughtered each year end up in Japan, the Japanese demand would cost \$900 million per year, roughly equivalent to the value of U.S. beef exports to Japan.

Meanwhile, USDA Undersecretary for Marketing and Regulatory Programs William T. Hawks was meeting today with counterparts in Mexico to discuss BSE trade issues.

► **CFTC Investigation of Cattle Futures:** The Commodity Futures Trading Commission announced Jan. 28 that it launched a routine investigation in late December to determine if "certain commodity traders had advance knowledge" of the U.S. Department of Agriculture's Dec. 23 announcement of the first U.S. case of BSE.



The investigation is focusing on the Dec. 9-23 time frame, and is being spearheaded by attorneys for the agency's Enforcement Division. The investigation is expected to be completed shortly, unless irregularities are found – in which case the investigation could take several months, the agency said.

► **USDA Wrapping Up Epidemiological Investigation:** USDA said it has positively identified 14 cattle that were part of the group of 81 that originally entered the United States from Canada as part of the birth herd of the BSE-infected Holstein found in Washington state. These 14 represent the cattle born one year before or one year after the infected cow, and as such are classified as “animals of significant interest” by USDA because they may have consumed the same feed or feed

ingredients as the BSE-infected Holstein. In addition, USDA said it has located 15 other animals from the group of 81 – bringing the total to 29 – all of which have been placed under “hold orders.” Given that the number of cattle identified exceeds what normally would be expected under international guidelines as part of an epidemiological investigation – and because of the extensive human and financial resources such an investigation requires – USDA said it is nearing completion of this phase of its work.

► **Testing of Suspect Cattle All Negative for BSE:** USDA said it now has tested for BSE samples from 252 cows that were part of the birth herd or were herd mates of the BSE-infected Holstein. Each of the test results has been negative for BSE.

International Review Team Submits Controversial Report on BSE

The international review team created by Secretary of Agriculture Ann M. Veneman to examine the epidemiological investigation regarding the single case of bovine spongiform encephalopathy (BSE) found in Washington state submitted a report on Feb. 4 that contained several highly controversial findings and recommendations.

The report, presented at a meeting of the U.S. Department of Agriculture's Animal and Poultry Disease Advisory Committee, stated that the Food and Drug Administration's current feed regulations designed to prevent the amplification of BSE through feed in the United States is “insufficient to prevent exposure” of North American cattle to BSE. As rationale for this assertion, the report cited epidemiological evidence that it maintained “indicat(es) that (the) BSE agent was already circulating in ruminant feed prior to the feed ban in 1997 and (because of) the integration of the North American cattle and feed industries.” The international team's findings in this regard differ significantly from the exposure rates calculated in the Harvard Center for Risk Analysis' 2001 study for USDA, which has since been peer reviewed and updated to reflect the first North American case of BSE in Canada in May 2003, and which stated that the risk of BSE posing a threat to the U.S. cattle herd was “extremely low.” The Harvard study found that it “could not come up with a single situation in which (BSE) could become established” or spread in the United States.

The international panel was comprised of: **Dr. Ulrich Kihm**, who chaired the group and is former chief veterinary officer in Switzerland and current head of a European consulting company known as Safe Food Solutions Inc.; **Dr. Will Hueston**, director of the Center for Animal Health and Food Safety at the University of Minnesota and a former USDA veterinary official; **Dagmar Heim**, chief

of the BSE control program for Switzerland's Federal Veterinary Office, a lead technical expert to the international animal health body known as OIE (Organization International Des Epizooties) that establishes guidelines for BSE classifications and response; **Stuart MacDairmid**, an epidemiologist and risk-assessment BSE expert with the New Zealand Food Safety Authority; and **Danny Matthews**, a BSE specialist from the United Kingdom. With the exception of Matthews – who was added by USDA – each of the other four panelists comprised the international team that investigated Canada's BSE case in May 2003.

Importantly, the international team's report was being discussed today in closed session by the USDA advisory committee, which could agree or disagree with the findings and recommendations. Even after the full advisory committee develops its recommendations concerning the report, it is expected to take several weeks or months for USDA and FDA to evaluate the findings and recommendations and decide what, if any, policy adjustments to make.

In addition to the **NGFA** and its strategic partner, the **Pet Food Institute**, other industry organizations represented at the advisory committee meeting at which the international team's report was presented were the **National Cattlemen's Beef Association** and the **American Meat Institute**, as well as the **National Milk Producers Federation** and **National Renderers Association**, which have representatives that serve on USDA's Foreign Animal and Poultry Disease Advisory Committee.

International Panel's Recommendations for Feed: Based upon its theoretical assumptions concerning the alleged prevalence of BSE in North America and the “integration of the North American cattle and feed





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industries,” the five-member international panel recommended a “system of complementary barriers because of what it called the “difficulty of controlling feed contamination with any single action.”

As a first step, the international panel recommended the removal from human food and all animal feed of specified risk material (SRMs), which it defined as brain, spinal cord, skull and vertebral column from all cattle 30 months or older, as well as the entire intestine (large and small) of all cattle, regardless of age. The report asserted that its recommendation to remove the skull and vertebral column was **not** based on a scientific belief that these materials are “inherently infected with BSE,” but rather because they “cannot be separated from the dorsal root/trigeminal ganglia” – the associated central nervous system bundles – or from what the report called “residual contamination” with central nervous system tissue.

While the international team’s recommendations were not prioritized in the report, the two panel members that briefed the USDA advisory committee – Drs. Kihm and Hueston – stated multiple times that the international team favored a ‘phased-in’ approach to the feed rule recommendations, with the goal of removing all potential infectivity as quickly as possible. Hueston stated several times, with Kihm concurring, that the single most important step that the United States could take would be to ban the “highest-risk material” whose removal from the food and feed chain would “break the cycling of amplification (of BSE)...and have the greatest impact at the least cost and generate the greatest degree of compliance.” Hueston specifically cited brain and spinal cord of ruminants 30 months or older as “being far and away the greatest risk in terms of volume and potential infectivity.” Hueston said that dead and non-ambulatory, disabled cattle also should be removed from the feed chain if such a step is necessary to remove their SRMs.

Importantly, the report recommended the 30-month age cutoff for SRM removal from cattle as a “reasonable temporary compromise” until the level of BSE risk in the United States has been established through ramped-up surveillance and testing of cattle. If BSE surveillance and testing is **not** increased to a level that would qualify the United States as at least a minimal-risk country for BSE under the OIE International Animal Health Code, the report recommends removal of SRMs from cattle 12 months or older. The report made no recommendations on an appropriate level of BSE surveillance and testing in the U.S. cattle herd, saying it was not asked to do so. However, the report strongly endorsed the U.S. strategy of targeting surveillance and testing programs at the “highest risk” segments of the cattle herd, starting with those exhibiting neurological disorders, cattle that die on farm or during

transport, and non-ambulatory, disabled cattle presented for slaughter. “Surveillance systems targeting these subpopulations have been shown to be the most efficient at identifying BSE cases,” the panel said.

Most disturbing, the report recommended that, to further reduce the risk of cross-contamination and to enable testing of feed ingredients and finished feed for prohibited mammalian material, a **ban be imposed on use of all mammalian material (including pork and equine), as well as all poultry protein, in ruminant feeds**, even though those materials have never been shown to be a vector for transmitting the BSE prion. The NGFA challenged this recommendation during the international team’s presentation to the advisory committee on grounds that scientific studies have not shown that pork, equine or poultry protein products convey BSE infectivity. The NGFA also questioned the necessity of such a step to prevent cross contamination given the international team’s principal recommendation to remove all SRMs from animal feed. Dr. Ron DeHaven, USDA chief veterinarian, also questioned the need and cost-effectiveness of imposing four levels of redundant BSE-prevention systems, particularly “given the low prevalence of BSE” in the United States.

In response, Dr. Kihm, the international team’s chairman, responded that if the non-ruminant protein (e.g., pork and poultry) were pure and there was no risk of cross-contamination with ruminant protein, then continued feeding to ruminants would not be objectionable. Dr. Hueston also said the recommendation was made to permit testing of finished feeds to detect prohibited protein, at which time the panel was reminded that FDA is perfecting DNA-based tests capable of differentiating between ruminant and non-ruminant mammalian protein in feed ingredients and finished feeds.

Interestingly, the international team did **not** recommend – nor consider the potential risk-mitigation impact of – three of the four changes to the BSE-prevention feed rule FDA announced on Jan. 26. Specifically, the report made no reference to FDA’s actions to require dedicated facilities, or ban plate waste and poultry litter feeding to ruminants. [See previous article.]

The international panel also made the following observations important to the feed industry:

- ▶ Drs. Kihm and Hueston said that new data on the dosage of infectious material sufficient to trigger a case of BSE in cattle – which they said now is believed to be as little as 10 milligrams of orally ingested infected brain tissue – was one of the reasons for the recommendation that non-ruminant mammalian protein be banned from ruminant feeds.





Feed Facts

by Randall C. Gordon
V.P., Communications/
Government Relations

- ▶ Curiously, Dr. Kihm said ruminant-derived blood “is not infectious – no doubt about it” – but that a ban on feeding mammalian blood also was being recommended by the panel as a means of facilitating the testing of finished feeds and feed ingredients (assuming that such tests cannot distinguish between blood and ruminant protein).
- ▶ The international team’s report also generated an uproar because of its assertions in several portions of the text that BSE is “indigenous” in North America. At

one point, the report states that: “...[I]t is probable that other infected animals have been imported from Canada and possibly also from Europe. These animals have not been detected and therefore infective material has likely been rendered, fed to cattle and amplified within the (U.S.) cattle population, so that cattle in the USA have also been indigenously infected.” At another point, the report stated that “the BSE case detected in the USA and the first ‘indigenous case’ reported in Canada in 2003 must be recognized as both being BSE cases indigenous to North America.”



Country/Terminal Corner

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

Bush Issues Major Directive to Enhance Ag, Food Security

President Bush on Feb. 3 issued a sweeping executive order that directs several federal agencies to work cooperatively to develop plans to protect the safety and security of the nation’s plant and animal-based food supply.

The directive is expected to have significant implications for grain elevators, feed mills, processors and other sectors of the U.S. agriculture and food system. For instance, it is expected to influence the U.S. Department of Agriculture’s future policies concerning vulnerability assessments and security plans operating under government contracts or from which the Commodity Credit Corporation procures products for domestic and foreign food assistance programs.

Among other things, the executive order (Homeland Security Presidential Directive-9) directs the secretaries of agriculture; health and human services (which includes the Food and Drug Administration) and homeland security to “expand and continue vulnerability assessments of the agriculture and food sectors, and to update those assessments every two years. It also requires USDA and the Departments of Homeland Security, Health and Human Services and Justice (including the FBI), as well as the Environmental Protection Agency, CIA and other federal agencies to “prioritize, develop and mplement...mitigation strategies to protect vulnerable critical nodes of production or processing from the introduction of diseases, pests or poisonous agents.” And it calls on federal agencies to expand on the development of “common screening and inspection procedures” for agriculture and food products imported into the United States, and to “maximize effective domestic inspection activities” for food products.

“The U.S. agriculture and food systems are vulnerable to disease, pest, or poisonous agents that occur naturally, are intentionally introduced, or are intentionally delivered by acts of terrorism,” the executive order states. “We

should provide the best protection possible against a successful attack on the U.S. agriculture and food system, which could have catastrophic health and economic effects.” In implementing its provisions, the directive also states that federal agencies are to “ensure that homeland security programs do not diminish the overall economic security of the United States.”

Similar presidential directives already have been issued for several sectors of the U.S. economy, including transportation.

The presidential directive pertaining to agriculture and food also contains these major provisions:

- ▶ USDA is to develop recommendations within 120 days for using existing or new “financial risk-management tools” to encourage the private sector to protect agriculture and food facilities vulnerable to terrorist attack.
- ▶ Develop within 90 days a new biological threat-awareness capacity to enhance detection and characterization of a terrorist attack on the food or water supply.
- ▶ Develop a coordinated agriculture and food-specific standardized response plan in the event of an agriculture or food “incident.”
- ▶ Enhance current “recovery systems” capable of stabilizing agricultural production, the food supply and the national economy, as well as rapidly removing, disposing and decontaminating the premises where contaminated agricultural or food products, and infected plants or animals are found.
- ▶ Develop “robust, comprehensive and fully coordinated” surveillance and monitoring systems” for detecting disease, pests or poisonous agents that adversely affect

(Continued on page 10)





("Security" Continued from page 9)

domestic and foreign animals, plants and wildlife, as well as food and water systems.

- ▶ Develop a "national veterinary stockpile" containing sufficient quantities of animal vaccine, antiviral or therapeutic products that could be deployed within 24 hours of an outbreak to respond to the "most damaging animal diseases affecting human health and the economy."
- ▶ Develop a "national plant disease recovery system" capable of responding to a "high-consequence plant disease" with pest-control measures and resistant seed varieties capable of sustaining a "reasonable level of production of economically important crops" within a single growing season. The directive specifically cites wheat smut and soybean rust as two "high-consequence" plant diseases for which resistant seed varieties and/or pesticide-control measures should be developed and implemented.
- ▶ The Department of Homeland Security is to coordinate

research and development activities for current and new countermeasures against the intentional introduction or natural occurrence of "catastrophic animal, plant and zoonotic diseases." These activities are to include research and development of new methods for detecting, preventing, identifying and determining dose-response relationships for "high-consequence agents in the food and water supply."

- ▶ Develop nationwide laboratory networks for food, veterinary, plant health and water quality, with standardized diagnostic protocols and procedures.
- ▶ USDA and the Department of Homeland Security are to develop "safe, secure and state-of-the-art" agricultural biocontainment laboratories where research can be conducted on diagnosing and controlling foreign animal and zoonotic diseases.

The NGFA will be interacting with the Department of Homeland Security, the White House Office of Homeland Security and USDA's Homeland Security Office as these efforts move forward.

USDA Sets 2004-Crop Loan Rates for Corn, Sorghum, Soybeans

The U.S. Department of Agriculture today announced the 2004 national and county loan rates for corn, grain sorghum and soybeans.

As shown in the accompanying table, the national average loan rates reflect the statutory levels established under the 2002 farm law. For corn and sorghum, the national average loan rates will be reduced beginning with the 2004 crops to \$1.95 per bushel and will remain at that level through 2007 – down 3 cents per bushel from the loan rates in effect for 2002 and 2003. The national soybean loan rate remains unchanged at \$5 per bushel, as established under the 2002 farm law.

USDA said the relative levels of the county loan rates for each commodity reflect the most recent information available about price relationships between states and counties, and are designed to avoid anomalies in loan deficiency payments. In establishing this year's county loan rates, USDA said it continued to focus special attention on minimizing neighboring-county loan rate variances that are not justified by current market forces.

USDA said the 2004-crop county loan rates for corn, sorghum and soybeans will be available by Feb. 11 on the Farm Service Agency's web site at: <http://www.fsa.usda.gov/dafp/psd/LoanRate.htm>. County loan rates for 2004-crop wheat, barley, oats and other oilseeds, which were announced on Dec. 9,

2003, also are available on this site. USDA said the 2004-crop loan rates for pulse crops will be announced soon.

Commodity	Crop Year		Change (2004 relative to 2003) (per bu.)
	2002-2003 (per bu.)	2004-2007 (per bu.)	
Corn	\$1.98	\$1.95	-\$0.03
Sorghum	\$1.98	\$1.95	-\$0.03
Soybeans	\$5.00	\$5.00	No change



Calendar

March 14-16, 2004: NGFA 108th Annual Convention
Hyatt Regency Riverwalk, San Antonio, Texas

May 4-5, 2004: NGFA Seminar on Trading, Trade Rules and Dispute Resolution
St. Louis Airport Hilton Hotel, St. Louis, Mo.

July 27-28, 2004: NGFA/GEAPS Operations Management and Technology Seminar
KCI Airport Hilton Hotel, Kansas City Mo.



Study Finds Biotech Food Crops with Pharma, Industrial Properties Strong Candidate for 'Stringent' Confinement

An integrated, redundant system of biological barriers that ensures "stringent confinement" should be employed if biotech providers decide to breed "common and widespread food crops" or "any novel compound or GEO (genetically engineered organism)" that is subject to a zero tolerance.

That was among the conclusions contained in a National Academy of Sciences' National Research Council (NAS/NRC) study issued on Jan. 20. The study, commissioned by the U.S. Department of Agriculture in 2001, evaluated the scientific status of "bioconfinement" – the use of various biological techniques – for preventing biotech-enhanced plants and animals from spreading into natural ecosystems and breeding or competing with their wild relatives, or passing engineered traits on to other species. As reported in the Jan. 22 *NGFA Newsletter*, USDA has launched a major reevaluation of its regulations that govern field trials, commercialization and interstate shipments of biotech crops.

The NAS/NRC study examined bioconfinement strategies for genetically engineered plants, animals, microbes and fungi, with particular emphasis on transgenic fish and shellfish, trees and grasses, and microbes. While some bioconfinement techniques have been used to control non-bioengineered organisms, most still are in the conceptual or experimental stage. Among other things, the 236-page report specifically cited as a concern "plants and animals engineered to produce pharmaceuticals (that) could harm humans or other species who may accidentally consume them." In this regard, the NAS/NRC report stated that an, "organism that is typically grown to produce a common and widespread food product probably would be a poor choice as a precursor for an industrial compound unless the organism **were to be grown under stringent conditions of confinement...an important issue for any novel compound or GEO (genetically engineered organism) for which zero tolerance of bioconfinement failure is needed.**" [*Emphasis added.*]

The report urged biotech providers to consider bioconfinement strategies up front by conducting a risk assessment, including an evaluation of the risk of human error and the severity of consequences if a genetically engineered organism "escaped." "Deciding whether and how to confine a genetically engineered organism cannot be an afterthought," said the chair of the NAS/NRC

committee, Dr. T. Kent Kirk, professor emeritus at the University of Wisconsin's Department of Bacteriology. "Confinement won't be warranted in most cases, but when it is, worst-case scenarios and their probabilities should be considered."

The report said bioconfinement strategies could include such methods as inserting genes to keep plants from producing pollen or that induce sterility to prevent the spread of transgenic plants and animals. But the study warned that the efficacy of bioconfinement methods will vary depending upon the organism, the environment into which it will be released and other factors, such as the duration of confinement needed and the size of area affected. Further, since "no single bioconfinement method is likely to be 100 percent effective," the study recommended that developers of biotech-enhanced organisms use more than one system to "lower the chance of failure." In addition, it advised that in situations where confinement is desirable, it would be important to implement an "integrated confinement system" that includes commitment of senior decision-makers within institutions developing biotech-enhanced commodities, written confinement plans and strategies for mitigating failures, employee training, periodic outside review, and reports to appropriate government regulatory agencies.

EPA Schedules Public Workshop on Biotech Commodities: In a related development, the U.S. Environmental Protection Agency has scheduled a Feb. 10-11 workshop in Arlington, Va., a Washington, D.C., suburb, to seek public input on ways to improve its regulations that govern experimental-use permits for biotech-enhanced commodities that contain plant-incorporated protectants. EPA said the workshop will address the experimental-use permit application and permitting process, and "associated compliance issues, including "containment and confinement issues." The agency said participants "will be asked to identify concerns and recommend potential solutions." It also said the workshop will compare and contrast USDA and EPA's approaches for regulating experimental biotechnology, as well as "compliance issues and needs."

The NGFA will participate in the workshop. More information is available by contacting NGFA Director of Technical Services Tom O'Connor at toconnor@ngfa.org.



Major Membership Prizes to be Awarded in San Antonio!

Membership recruiting is the lifeblood of the NGFA. By bringing new companies into our organization, we gain access to new ideas, new people, new resources. And, in a moment of enlightened self-interest, one realizes that broadening the NGFA's membership helps "spread the load" and keeps everyone's membership dues at reasonable levels.

Now, there is another excellent reason to recruit a new member: fabulous cash and merchandise prizes! In our yearly membership competition, the top four recruiters will vie for the following prizes at the annual convention in San Antonio:

- ▶ **Savannah Sojourn:** Two luxurious "low-country" nights at the Westin Savannah Harbor Resort & Spa, courtesy of the resort. Plus airfare for two, all sponsored by the Minneapolis Grain Exchange.
- ▶ **Windy City Weekend:** Two nights in the GATX corporate apartment, located in the elegant Talbott Hotel, just off Michigan Avenue on Chicago's prestigious "Gold Coast." Plus airfare for two! Thanks to GATX Rail for again making the apartment available.
- ▶ **Beantown Breakout!:** Two nights at the Fairmont Copley Plaza in Boston, a luxurious, historic hotel that epitomizes Boston's culture and tradition, courtesy of the hotel. Plus airfare for two!

- ▶ **Carefree in Coeur d'Alene:** Two nights at the memorable Coeur d'Alene Resort in scenic Coeur d'Alene, Idaho, courtesy of the resort. Plus airfare for two!
- ▶ **Nootbaar Prize:** A random drawing for which all successful recruiters are eligible will award \$1,000 cash! Funded by an endowment established by former NGFA President Herb Nootbaar.

In addition, we'll be awarding special prizes for **Rookie of the Year** and for several **Affiliate Association** recruiting accomplishments.

And in the **Company Competition**, the coveted solid bronze statue of Ceres, Goddess of the Harvest, will be awarded and will grace the offices of the winning company with her presence for the coming year.

With every new member enrolled, you earn points in our competition. Even if you sign up only one new member, you automatically are eligible for the Nootbaar Prize drawing. And the more new members you get, the more points you earn, the greater your chances for an additional prize!

Only five weeks left in our membership year – now is the time to talk with that prospective member you've been thinking about!



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TIME SENSITIVE