



# NGFA

# Newsletter<sup>®</sup>

Volume 57, Number 21, October 27, 2005

## USDA Considering Reopening Offers for Damaged Barge Corn Initiative

The NGFA has learned that the U.S. Department of Agriculture is considering issuing an invitation for a new round of offers for its hurricane-recovery initiative that provides incentive payments to discharge damaged corn from barges in the New Orleans region.

The continued displacement of hundreds of barges containing damaged corn stranded by Hurricane Katrina became a principal focus of a House Agriculture Committee hearing on Oct. 26. In his opening statement, Committee Chairman Robert Goodlatte, R-Va., referred to a delegation from the committee that he led to the region on Oct. 16 that found “export facilities operating at about two-thirds capacity due to difficulties with the barge logistics system and the difficulty of dealing with nearly 500 barges containing damaged grain.” Goodlatte urged USDA to make additional financial resources available to “clear the barges of storm-damaged corn and get the barges back in circulation as quickly as possible,” noting that the disruption had raised freight rates and contributed to a decrease in grain prices for farmers and an increase in loan deficiency payments. [See report on the hearing on page 2.]

It is the NGFA’s understanding that if resumption of the damaged barge corn initiative is approved, **USDA plans to solicit a new round of offers very shortly that will focus solely on discharging damaged corn in an effort to free-up barge availability. Offers are expected to be due within days after the announcement occurs.** The NGFA will keep members

updated through its *NGFA E-Alert* publication that is issued electronically several times a week.

### **USDA Summarizes Awards for Post-Hurricane Initiatives:**

Meanwhile, USDA reported that it has spent a total of approximately \$23.6 million thus far for its three primary initiatives designed to relieve storage and transportation congestion exacerbated by Hurricane Katrina.

Here’s a breakdown on the awards, by program:

► **Damaged Barge Corn:** USDA said it has spent nearly \$11 million thus far to relocate upriver and discharge a total of 204,918 short tons of damaged corn from barges. USDA said the awards were made to three companies for a total of five transfers of barge tows, at an average cost of slightly more than \$53.48 per short ton. This includes the three proposals accepted from two companies to discharge and relocate upriver approximately 45 barges containing 69,918 short tons of damaged corn that was announced by USDA and reported by the NGFA on Oct. 13; USDA had received offers from a total of six companies to move a total of 328 barges containing 2,470,508 bushels of damaged corn.

The total 204,918 short tons of barge corn incentive payments that have been approved thus far includes private agreements entered into by USDA in the immediate aftermath of Hurricane Katrina to relocate and discharge what it

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## FDA Expected to Decide Soon Whether to Exercise Enforcement Discretion on Aflatoxin in 2005-Crop Corn in Response to State Requests

The NGFA has been informed by the Food and Drug Administration (FDA) that it hopes to decide within a week whether to exercise its enforcement discretion to relax its “no-blending” policy in response to requests received from two states concerning the weather-induced presence of aflatoxin in new-crop corn.

Thus far, FDA has received requests from the states of Missouri and Iowa asking that the agency permit the blending of corn exceeding 300 parts per billion to achieve aflatoxin levels ranging from 20 to 300 p.p.b. in finished lots of corn – **provided that the resulting mixture be fed only to species**

**authorized under FDA’s action level guidelines.** Missouri is requesting that the enforcement discretion apply to Missouri corn shipped in interstate commerce, while Iowa’s request is silent on the matter.

**Importantly, FDA still is evaluating the requests, and has made no decisions yet whether to grant either state’s request.**

In previous years (such as 1988, 1992 and 1998) when the incidence of aflatoxin has exceeded the norm because of drought or other adverse weather conditions, FDA has

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## House Ag Committee Expresses Concern Over Post-Hurricane Recovery

The House Agriculture Committee used an Oct. 26 hearing to voice concerns over the pace of post-hurricane logistics recovery in the New Orleans region, and urged the U.S. Department of Agriculture to take more concerted action to relieve the backlog of stranded barges still containing damaged corn.

The hearing was a followup to a bipartisan trip to the Gulf Coast region two weeks ago led by House Agriculture Committee Chairman Robert Goodlatte, R-Va., which included a visit to a grain export facility in the region.

Deputy Undersecretary of Agriculture for Farm and Foreign Agricultural Services Floyd Gaibler was questioned on USDA's role in relieving the transportation and storage congestion to facilitate recovery in the region. The committee expressed particular concern that USDA had exhausted funds approved by the Office of Management and Budget (OMB) for the initiative to discharge and relocate barges containing damaged corn to enable the barges to move north to be loaded with newly harvested grain. In response, Gaibler said unused funds from some of the other hurricane-recovery initiatives potentially could be redirected to the damaged barge corn program. Goodlatte stressed to Gaibler that the committee strongly supported using those funds for the damaged barge corn initiative, and that it was important that USDA act expeditiously.

The importance of the program was buttressed by the testimony of NGFA Executive Committee member Tim Gallagher, senior vice president and general manager of the Grain Division for Bunge North America Inc., St. Louis, Mo., who was testifying on behalf of the North American Export Grain Association (NAEGA). "Despite weeks of recovery efforts, the industry continues to operate at a capacity below its norm," Gallagher said. "The disruption in the Gulf made a tight situation worse. After Katrina, barges awaited unloading

at closed grain elevators while vessels lined up at the Port of New Orleans waiting to be unloaded for shipment to northern destinations. The short-term inability to unload and move barges led to a severe shortage of capacity to move grain." Gallagher added, "[USDA] efforts to move cargoes of damaged corn from the Gulf and further efforts to provide incentives for storage utilization should relieve some of the short-term pressures."

In addition to the need for immediate action to get through the current crisis, committee members stressed the link between some of the issues highlighted by Hurricane Katrina and the need for a stronger long-term investment in U.S. transportation infrastructure. This point was underscored by the testimony of Royce C. Wilken, president of the American River Transportation Co. (ARTCO), who in testimony presented on behalf of the NGFA stressed the importance of the inland waterways to the U.S. agricultural economy. "Hurricane Katrina was a terrible blow to an already weakened inland waterway system," said Wilken. "The United States systematically has underinvested in its river system, failing to upgrade locks and dams on the Upper Mississippi River and its key tributaries, and failing to fund basic operations and maintenance costs, such as dredging. We cannot expect a 50-year-old inland waterway system to carry 21st century agriculture." Wilken emphasized the urgency of Congress approving this year the water resources development bill that would provide funding to renovate locks and dams on the Upper Mississippi and Illinois Waterway. The legislation was approved by the House in July by a resounding 406-14 vote, but still is pending in the Senate.

In a related development, the NGFA and NAEGA have been invited by the Senate Agriculture Committee to provide joint testimony at a Nov. 3 hearing concerning the impact of agricultural transportation, energy and fuel costs on U.S. agriculture.

## Congress Focuses on Federal Spending Reductions

Congress continues to identify potential budget reductions in mandatory federal programs over the next five years in an effort to compensate for some of the additional spending for hurricane relief.

The latest action occurred Oct. 26, when the Senate Budget Committee approved \$39.1 billion in savings from mandatory programs over the next five years. The 12-10 party-line vote, which includes \$3 billion in savings from agricultural programs, sets up 20 hours of debate followed by a Senate floor vote scheduled for Nov. 3.

Meanwhile, the House Budget Committee is scheduled to meet the week of Oct. 31 to consolidate the savings of the House authorizing committees into a budget reconciliation bill, with a floor vote anticipated during the week of Nov. 7. House and Senate leaders hope to convene a budget reconciliation conference committee shortly thereafter to work on a final bill before Thanksgiving. But both the House and Senate versions are expected to face significant hurdles before being finalized.

► **Senate Ag Committee:** The Senate Agriculture Committee,



by a razor-thin 11-9 vote on Oct. 19, approved a proposal from Chairman Saxby Chambliss, R-Ga., to generate \$3 billion in fiscal year 2006 savings under the budget reconciliation bill adopted by Congress this spring. The savings would be achieved over a five-year period through a 2.5 percent across-the-board cut in farm program spending [direct payments, loan-deficiency payments and marketing assistance loan gains (generating \$1.3 billion)]; \$1.1 billion in reductions to conservation spending (including a reduction in the Conservation Reserve Program's authorized cap to 36.4 million acres from the current 39.2 million acres); and a \$1 billion in savings through a reduction in advance income support payments to farmers (lowering the maximum from 50 percent to 40 percent in 2006, and to 29 percent in 2007-2011). Other conservation programs from which savings were generated include the Conservation Security Program (which provides payments for conservation practices on working farmlands), where expenditures would be capped at \$1.954 billion for fiscal years 2006-10, and to a total \$5.2 billion for fiscal years 2006-15; as well as the Environmental Quality Incentives Program (EQIP), where spending would be reduced to \$1.185 billion in fiscal 2006 and \$1.27 billion in each of fiscal years 2007-10, before being restored to \$1.3 billion in fiscal 2011.

Confronting significant pressure from many Republican committee members and unanimous Democratic opposition, Chambliss was forced to remove a provision that would have cut \$574 million over five years from the food stamp program. The bill also eliminates the upland cotton Step 2 program as of Aug. 1. The committee did approve an extension through Sept. 30 for the Milk Income Loss Contract (MILC), which provides subsidy payments to small- and medium-sized dairies.

► **House Wants Deeper Cuts:** Meanwhile, House Republican leaders have instructed their committee chairmen to make an additional \$15 billion in budget savings over five fiscal years – which would amount to \$50 billion compared to the \$34.7 billion previously agreed to by a joint House-Senate budget resolution. Under the House scenario, agriculture's share of the budget cuts would increase to \$4.25 billion over five years compared to the \$3 billion originally required under the budget resolution and adopted Oct. 19 by the Senate Agriculture Committee.

House Agriculture Chairman Bob Goodlatte, R-Va., has scheduled an oft-delayed committee meeting to approve the budget cuts for Oct. 28. Unlike its Senate counterparts, the House Agriculture Committee is

expected to call for cuts in the food stamp program and for an end to the MILC program. Goodlatte has indicated that all programs under the committee's jurisdiction will be subject to cuts, and the committee likely will consider an across-the-board reduction in commodity programs, as well as deeper cuts in conservation and rural development programs than the Senate in order to achieve greater budget savings.

► **International Trade:** The House Ways and Means Committee approved a repeal of the "Byrd amendment," which was enacted five years ago and directs duties collected from tariffs imposed in retaliation for the illegal dumping of goods to affected U.S. companies rather than to the treasury. The World Trade Organization has ruled that the Byrd amendment, named after Sen. Robert Byrd, D-W.Va., is an illegal trade practice and has authorized other countries to impose \$134 million in retaliatory duties against U.S. products. Free-trade proponents have opposed this provision since its inception, and a recent Government Accountability Office (GAO) report described it as protectionist, government waste and corporate welfare. If the provision ultimately is repealed, it would have two significant benefits: 1) Raise \$3.5 billion for the U.S. treasury over a five-year period; and 2) bring the United States into WTO compliance.

## Ag Appropriations Bill Approved

The House-Senate Conference Committee tasked with resolving the differences in the two chambers' agricultural appropriations bill reached agreement on a spending plan for fiscal year 2006 for the U.S. Department of Agriculture and U.S. Food and Drug Administration (FDA).

After reaching agreement on a funding level – \$100.2 billion – the conferees broke a weeks-long deadlock on two contentious provisions. In so doing, the conferees agreed to: 1) delay for another two years – until October 2008 – mandatory country-of-origin labeling for meat products; and 2) delete a House-supported provision that essentially would have allowed imports of prescription drugs from Canada.

Significantly for the industry, the measure does **not** include \$28 million in new user fees proposed by the Bush administration for the Grain Inspection, Packers and Stockyards Administration or the Agricultural Marketing Service. The NGFA had strongly opposed the user fees, which included a proposal to assess an additional \$6 million to finance the standardization activities of USDA's Federal Grain Inspection Service.



## "Aflatoxin" continued from page 1

exercised such enforcement discretion in response to specific written requests from states. When doing so, FDA typically has advised states that it will not object to the mixing or "blending" of corn with aflatoxin exceeding 20 p.p.b., including corn with aflatoxin levels exceeding 300 p.p.b., with other corn found to have lower or negative aflatoxin levels. However, the agency typically stipulates that the seller test the resulting mixture to determine its aflatoxin level, and obtain "some assurance" from the purchaser that the corn will be used for the appropriate animal species.

In addition, FDA typically in the past has required that the corn be labeled for use in animal feed only – not for human or dairy animals – and that it be treated with some coloring or other "marking" agent to prevent diversion to unauthorized uses. While not setting an upper limit on the level of aflatoxin in corn that could be mixed, FDA also typically has advised that grain with "very high levels" of aflatoxin may be inappropriate because the contamination may affect the nutritional quality of the corn.

## USDA Outlines Plans to Protect Against Avian Influenza

The U.S. Department of Agriculture on Oct. 26 outlined its plans for protecting the United States against highly transmissible forms of avian influenza.

In a briefing monitored by the NGFA, USDA noted that it has focused its efforts at "attacking the disease at its source overseas," and has implemented what it called "strict importation restrictions...and an elaborate surveillance system" to monitor U.S. bird populations. USDA noted that the strain of high pathogenicity avian influenza infecting both birds and humans in Asia – HPAI H5N1 – has not been detected in the United States in either birds or humans.

As the primary safeguard against highly pathogenic avian influenza in the United States, USDA's Animal and Plant Health Inspection Service (APHIS) maintains trade restrictions on the importation of pet birds, poultry and poultry products from AI-H5N1-affected countries. In addition, all birds, including pets, brought into the United States from countries experiencing avian influenza or other diseases of concern are quarantined and tested at an APHIS Animal Import Center for 30 days.

Further, in 2002, the USDA's Agricultural Research Service developed a rapid diagnostic test for avian influenza that diagnoses avian influenza within three hours, compared with up to two weeks required for previous tests. The test has been distributed to the National Animal Health Laboratory Network, which includes university and state veterinary diagnostic labs throughout the United States, to better enable laboratories to monitor for and respond to avian influenza outbreaks.

APHIS also maintains an avian influenza vaccine supply for poultry that can be used to create a buffer around an identified area, in the event of a large outbreak among poultry, to contain the disease while it is in the process of being eradicated. In addition, the agency has formed a national network of personnel to assist with surveillance and response in the event of an outbreak of HPAI or other foreign animal disease. That network includes more than 40,000 accredited private veterinarians to report any suspected disease outbreak to federal or state officials.

Additional information developed by USDA about its avian influenza efforts is available at [www.usda.gov/birdflu](http://www.usda.gov/birdflu).

## Appeals Court Denies R-CALF USA's Petition to Reconsider Decision in Canadian Beef Border Case

The U.S. Court of Appeals for the Ninth Circuit Court of Appeals on Oct. 13 denied R-CALF USA's request to rehear its case that overturned a preliminary injunction against the U.S. Department of Agriculture's final regulations and allowed the resumption of imports of certain Canadian beef products, as well as live cattle under 30 months of age.

The legal wrangling began last March, when U.S. District Court Judge Richard Cebull granted R-CALF USA's request for a preliminary injunction blocking USDA's final rule. In July, the appellate court – in a stinging rebuke of Judge Cebull – reversed the preliminary injunction. But R-CALF filed a petition in September with the appellate court seeking a rehearing of the case.

The same three-judge panel of the ninth circuit appellate court that reversed the injunction voted to deny a rehearing. In doing so, the judges issued a written decision noting that the full appeals court had been advised of the petition for a rehearing, and not one of the 47 judges requested a vote to decide whether such a rehearing should occur.

R-CALF USA responded by saying it plans to submit a motion to District Court Judge Cebull seeking a full trial on its challenge of the USDA final rule, including a permanent injunction against imports of most Canadian beef products and all live cattle.





## Mexico Begins Case Study for Biotech Labeling of Corn Imports

The Mexican government announced that effective Oct. 15, it initiated a three-month "case study" designed to demonstrate that labeling of shipments of biotech-enhanced corn with language that the shipment "may contain" living modified organisms is sufficient to protect the environment by ensuring that such corn is used for food, feed or further processing, and not for planting.

Under the case study, U.S. exporters of corn to Mexico, as well as Mexican corn importers, are being asked to voluntarily include on invoices the "may contain" language of a trilateral agreement between the United States, Canada and Mexico as a means for complying with the so-called "Biosafety Protocol." The Biosafety Protocol is an international environmental treaty signed in January 2000 by 135 countries, including Mexico (but not the United States or Canada), that is designed to protect against potential adverse effects of biotech-enhanced commodities on the environment or biological diversity of plant species. The Biosafety Protocol uses the term "living modified organisms" (LMOs) to describe novel combinations of viable genetic material obtained through the use of modern biotechnology.

The Mexican government developed the case study in consultation with the industry. While Mexico's case study is voluntary and focuses on imports of yellow corn, the International Grain Trade Coalition (of which the NGFA is a member) is urging all exporters to include the "may contain" language of the Biosafety Protocol on invoices of all corn shipments to Mexico that contain or may contain biotech-enhanced commodities. The specific language that should be inserted

reads: "*Cartagena Biosafety Protocol Provision: This shipment may contain living modified organisms intended for direct use as food or feed, or for processing, that are not intended for intentional introduction into the environment.*" When Mexican government import officials see the "may contain" provision on an invoice, they are to enter information on the shipment into an import database file. Mexican importers then will be requested to provide quarterly information through an end-use form to the Mexican government attesting that commodities contained in the shipment indeed have been used for food, feed or for further processing, and are not being planted or otherwise introduced into the environment. Click here to access a memorandum from the International Grain Trade Coalition concerning the case study and the Trilateral Agreement entered into between the United States, Mexico and Canada on documentation requirements for biotech-enhanced commodity shipments.

Importantly, the Mexican government intends to use information obtained through the case study to demonstrate to other countries that have signed the Biosafety Protocol that a nation's environment and biodiversity can be protected sufficiently without requiring more stringent and prohibitively costly biotech labeling (such as requiring the shipper to determine and state on invoices the specific biotech-enhanced event(s) and quantities present in each shipment).

Negotiations are to continue next March in Brazil among signatory countries on how to implement the Biosafety Protocol's requirement that shipments of LMO-enhanced commodities be labeled.

## Progress of WTO Negotiations Hinges on EU Offer on Market Access

The European Union (EU) today (Oct. 27) is scheduled to submit a revised market access proposal after being pilloried for its "timid" response to more ambitious agricultural trade reform proposals submitted last week by the United States and a group of 20 developing countries as part of the World Trade Organization's Doha Round.

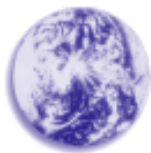
After the most recent round of negotiations, it is apparent that future progress toward achieving a draft text for agricultural trade reform hinges on whether the EU makes a more constructive offer on providing greater market access. Two days of intense negotiations last week among trade ministers from 10 significant WTO-member countries failed to substantively advance an agreement.

If the EU follows through on another market access proposal, EU Agriculture Commissioner Mariann Fischer Boel last week said in a statement it would be its "final offer" and would include a proposal to extend geographic indicators to certain foods. At an Oct. 20 press conference, U.S. Trade

Representative Rob Portman placed the responsibility for the lack of progress on the EU and its failure thus far to "come forward with a proposal that is meaningful and credible" on market access. "...[M]y colleagues in the EU...have nothing to offer," Portman said. "...[W]hat is more disconcerting to us was the lack of concern about the time crunch that we face" in developing a draft agreement prior to the Dec. 13-18 ministerial meeting in Hong Kong. Secretary of Agriculture Mike Johanns characterized the situation as "very grave" and termed the EU offers to date as "very timid."

In a statement issued this week, the Ag Trade Coalition, of which the NGFA is a member, said, "[we] urge the European Union to join the United States in demonstrating the leadership in these negotiations that the world expects and by presenting a proposal that truly reflects the scope of market access improvements intended by the Doha Declaration." The coalition noted that EU officials previously have indicated that any new proposal will contain new demands rather





than additional concessions, which the group termed “unacceptable.”

Last week’s negotiations involved trade and agricultural ministers from a group dubbed the “Five Interested Parties (consisting of the United States, EU, Brazil, India and Australia), plus those from Canada, China, Japan, Malaysia and Argentina. The U.S. proposal to eliminate export subsidies and substantially reduce trade-distorting domestic supports, coupled with another proposal from a group of 20 (G-20) developing countries led by Brazil to reduce tariffs of developed and developing countries put significant pressure on the EU to make a meaningful proposal on market access. The G-20 nations proposed to limit sensitive products that would not be subject to formula tariff reductions to 1 percent of total tariff

lines for developed countries, and 1.5 percent of tariff lines for developing countries. But even as the pressure mounted, the EU indicated that the U.S. and G-20 proposals on market access were too ambitious.

The next critical meeting of trade ministers is scheduled for Nov. 7 in London. EU Trade Commissioner Peter Mandelson is being battered by criticism from France and some other EU member states for allegedly exceeding his negotiating mandate for reform.

Meanwhile, the U.S. proposal continues to generate relatively positive reviews, although some countries question the extent to which it would force reductions in U.S. farm program expenditures and whether such cuts should depend upon substantial improvements in market access.

## Japanese Food Safety Panel Sets Next Meeting for Oct. 31 on U.S. Beef

A panel of Japan’s Food Safety Commission has scheduled its next meeting for Oct. 31 as part of its continuing deliberations on whether to recommend a reopening of trade for U.S. beef products derived from cattle 20 months or younger.

The panel delayed a decision during an Oct. 24 meeting after four of its 12 members failed to attend. In addition, some other members of the panel who did attend raised questions regarding other transmissible spongiform encephalopathy-type diseases and their potential relationship to bovine spongiform encephalopathy (BSE). Still others questioned whether U.S. meat processors could meet the requirements likely to be imposed as a condition for resuming beef trade for cattle 20 months or younger, including the requirement to remove all specified risk materials (such as brain, spinal cord and eyes) from all beef products prior to shipment.

The chairman of the commission’s panel, Yasuhiro Yoshikawa, said following a three-hour meeting that he did not want to reach a conclusion without the concurrence of the absent panel members. But he did say the subcommittee was “in the final stages of wrapping up our discussion,” and generally had agreed that beef and beef offal from U.S. cattle 20 months or younger posed an “extremely small” risk of transmitting BSE. The panel on Sept. 27 had issued a preliminary report to that effect. But some of the panel members suggested revisions at an Oct. 4 meeting that were implemented in the version discussed at the Oct. 24 session.

Once the panel’s report is finalized, it is to be submitted to the full Japanese Food Safety Commission for adoption. After that, the proposal will be subject to a month-long public comment period before being presented to Japan’s agriculture and health ministries for final approval and implementation.

President Bush is scheduled to meet with Japanese Prime Minister Junichiro Koizumi on Nov. 15-16 in Tokyo

prior to the Nov. 18-19 Asia-Pacific Economic Cooperation forum in South Korea. During remarks to the Japanese Parliament on Oct. 26, Koizumi said the Bush visit did not represent a deadline for making a decision on the resumption of U.S. beef imports. But he did call for further deliberations by the Food Safety Commission “so that Japanese can soon eat safe foreign beef, including U.S. beef.”

**Senators Introduce Bill Calling for Retaliatory Tariffs on Japanese Products:** On Oct. 26, a group of 21 U.S. senators introduced legislation (S.1922) that would require the imposition of tariffs on Japanese products if Japan does not lift its nearly two-year ban on U.S. beef imports by the end of 2005. Principal sponsors of the bill are Sens. Kent Conrad, D-N.D., and Pat Roberts, R-Kan. Other cosponsors include Sens. Wayne Allard, R-Colo., Max Baucus, D-Mont., Christopher (Kit) Bond, R-Mo., Sam Brownback, R-Kan., Conrad Burns, R-Mont., Saxby Chambliss, R-Ga., Norm Coleman, R-Minn., John Cornyn, R-Texas, Larry Craig and Mike Crapo, both R-Idaho, Byron Dorgan, D-N.D., Mike Enzi, R-Wyo., Tim Johnson, D-S.D., Blanche Lincoln, D-Ark., Harry Reid, D-Nev., Ken Salazar, D-Colo., Jim Talent, R-Mo., Craig Thomas, R-Wyo., and John Thune, R-S.D.

**Thailand Reopens Market to U.S. Beef:** Meanwhile, South Korea may well reach a decision to reopen its market to U.S. beef before Japan, having recently received additional BSE-prevention information from the U.S. government. In addition, Thailand on Oct. 20 lifted its ban on most U.S. beef imports. By dollar value, Thailand is the 17<sup>th</sup> largest U.S. agricultural export market, and was a growing market for U.S. beef exports before it imposed a ban in December 2003 after the United States discovered its first BSE case involving a Canadian-born cow. The United States and Thailand are in the midst of negotiations on a free trade agreement, with talks scheduled to resume in November.





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now says were about 100 barges containing 110,000 short tons of damaged corn from the Mississippi/Center Gulf region.

► **Alternative Storage:** USDA said it had entered into 26 separate agreements with 19 companies to provide "alternative storage" for 41,373,000 bushels of corn and wheat to relieve bulk grain and soybean storage conditions. USDA said the "alternative storage" agreements – all of which consisted of ground piles or bunker-type storage – cost a total of \$10,693,920, representing an average one-time payment of 25.8 cents per bushel. As reported previously by the NGFA, each of the accepted offers involved entities offering to provide alternative storage within a 25-mile radius of the Mississippi and Illinois Rivers, and the majority involved storage of corn. All told, USDA officials said that more than 200 proposals were submitted offering to provide 327 million bushels of alternative storage for bulk grain and oilseeds.

USDA has delayed a decision on whether to award alternative storage agreements in response to offers submitted along the Ohio and Missouri Rivers. USDA initially had allocated funds to cover up to 50 million bushels of alternative storage incentive payments. But it now is considering shifting to the damaged barge corn initiative some or all of those unused funds, which already have been approved by the White House Office of Management and Budget.

► **Transportation Freight Differential for Alternative Ports:** USDA announced it spent \$1,942,710 in transportation freight

differential payments to redirect a total of 294,770 metric tons of bulk corn, wheat and soybeans through Great Lakes and Pacific Northwest ports – an average of \$6.59 per metric ton. The transportation differential payments were made to three companies for seven separate movements. All told, eight companies had submitted a total of 23 offers to redirect to various export ports 829,359 metric tons of commodities (including some bids for sorghum and dry peas that were ineligible for consideration). USDA initially had invited offers for transportation differential incentives to move up to 200,000 metric tons through regions other than the Mississippi River/Center Gulf. But USDA said it awarded a greater quantity because it could do so for less than the \$5 million limit authorized by the White House Office of Management and Budget.

► **Emergency/Temporary Storage:** USDA also provided an update on its approval of applications from commercial warehouse operators for use of emergency and temporary storage for the 2005 harvest. Nationally, USDA said as of approximately Oct. 17, it had approved 222 million bushels of temporary storage and 273 million bushels of emergency storage. At that time, USDA said more than 71 million bushels of temporary and emergency storage space requests still were in the approval pipeline from upper Midwest states tributary to the Mississippi River. Areas tributary to the Illinois River had submitted requests for more than 43 million bushels of temporary and emergency space at that time, while facilities along the Missouri and Ohio Rivers had submitted requests for 115 million bushels and 40 million bushels of such space, respectively.

## Cutting Corners

The following are brief reports on other issues of interest:

► **USDA Announces First Partial 2005-Crop Counter-Cyclical Payments:** USDA on Oct. 26 announced the first partial 2005-crop counter-cyclical payments for grains, cotton, rice and peanuts. The first partial payments, which amount to 35 percent of the total projected payment rate, amount to: 14 cents per bushel for corn; 9.45 cents per bushel for sorghum; 5.25 cents per bushel for barley; 4.81 cents per pound for upland cotton; 19.25 cents per hundredweight for rice; and \$36.40 per short ton for peanuts. Producers of wheat, soybeans, oats and other oilseeds were not eligible for an initial payment since "effective prices" for each of those commodities currently are projected to equal or exceed the respective target price. The "effective price" equals the direct payment rate, plus the higher of either: 1) the national average market price producers receive during the marketing year; or 2) the national

loan rate for the commodity. Partial installments of the counter-cyclical payments are made in October and February, with a final installment at the end of the marketing year for each crop.

► **USDA Announces Final 2004-Crop Corn, Sorghum Counter-Cyclical Payments:** USDA on Oct. 4 announced that the counter-cyclical payment rate for 2004-crop corn totaled 29 cents per bushel, while the total for sorghum was 27-cents per bushel. The payments reflected the final marketing-year price for 2004-crop corn (at \$2.06 per bushel) and sorghum (at \$1.79 per bushel). Producers previously were eligible to receive preliminary counter-cyclical payments in two installments totaling 28-cents per bushel for corn and 18.9 cents per bushel for sorghum. If producers took those preliminary payments, they will be eligible for a final payment rate of 1-cent per bushel for corn and 8.1 cents per bushel for sorghum.



## National Grain Car Council Reviews Railroad Performance

The National Grain Car Council, which advises the federal Surface Transportation Board, met on Oct. 25 in Minneapolis to review the performance of railroads in the aftermath of hurricane interruptions to logistics, larger than expected crops and other factors.

During the meeting, several shippers reported problems with cycle times being reduced, loaded trains not being pulled for four days or longer, and lack of power and crews to allocate to agricultural shipments.

BNSF Railway representatives reported that average car velocity was lower than last year, and likely would not improve because of the volume of traffic now being handled. The Union Pacific representative reported overcoming the effects of heavy rains in northeastern Kansas in September had been its greatest challenge, and that cycle times had declined as a result. Both Canadian Pacific and Canadian National representatives reported that average velocity was improving and was higher than last year. The CP reported some shipping capacity problems related to embargoes in place on some locations in the Pacific Northwest.

The Kansas City Southern noted that September rains had slowed the speed of trains, and the railroad now was averaging only one turn per month, compared to an average of 1.4 turns in the past. In the east, both Norfolk Southern and CSX representatives reported that cycle times had begun

to decline as congestion has grown.

Several rail customers at the meeting noted that because of increasing tariffs, car premiums and higher fuel surcharges, overall freight rates were much higher than last year and considerably more challenging to predict on forward sales. As for railroad efforts to improve service, Norfolk Southern representatives stated that as unemployment continues to decline, it has become increasingly difficult to hire train crews, which spend considerable time away from home. BNSF representatives noted that intermodal tariff rates have increased to a level that intermodal business is at least as profitable as agricultural business. Further, they said, intermodal business was expanding so rapidly that the BNSF will have a very difficult time improving service to agriculture.

During the meeting, NGFA President Kendell Keith reported the results of an informal survey of rail customers that provided some *ad-hoc* information regarding various railroads' performance. State Grain and Feed Association executives participating in the meeting and providing comments on rail performance were: Steven Strege, executive vice president, North Dakota Grain Dealers Association, Fargo, N.D.; Carl Anderson, executive secretary, South Dakota Grain and Feed Association, Aberdeen, S.D.; and Robert Zelenka, executive director, Minnesota Grain and Feed Association, Minneapolis, Minn.

## BNSF Proceeding with Switch to Mileage-Based Fuel Surcharge

The Burlington Northern Santa Fe (BNSF) Railway has confirmed that it will proceed with plans to implement a mileage-based fuel surcharge for agricultural product and coal shipments as scheduled on Jan. 1.

In so doing, BNSF becomes the first carrier to shift its fuel surcharges to a mileage-based approach. In an announcement issued Oct. 20, BNSF said an effective date for implementing a mileage-based fuel surcharge program for intermodal, automotive and other carload customers will be determined later. "Customer feedback indicated that while a mileage-based fuel surcharge program is considered more fair and equitable than the current percentage-based program, some customers need more time to make adjustments to their own information systems to accommodate the new program," said BNSF Executive Vice President and Chief Marketing Officer John Lanigan.

For shippers of agricultural products, including grains and oilseeds, the mileage-based fuel surcharge

will reflect rail mileage between origin and destination points based on BNSF's on-line rail mileage inquiry tool, which is available by clicking [here](#).

For coal unit-train shipments, BNSF said it will base the fuel surcharge on rail mileage between origin and destination points as originally announced. The mileage-based fuel surcharge applies to shipments that originate and terminate on the BNSF, and to the BNSF portion of Rule 11 shipments – a type of interline movement where each carrier bills the customer separately for their services.

The mileage-based fuel surcharge also will apply to certain movements involving BNSF and one or more short line carriers, it said. But joint-rate interline movements with other Class I railroads will continue to be covered by BNSF's existing percentage fuel surcharge because of limitations resulting from current interline billing systems and practices.





## Carriers Laud Implementation of Staggers Act; Shippers Voice Concerns

Predictably, rail carriers lauded the implementation of the Staggers Rail Act of 1980 while shipper groups voiced significant concerns over rail service and rail practices during an Oct. 19 public hearing conducted by the federal Surface Transportation Board (STB).

More than 40 witnesses from approximately 35 different organizations and companies testified at the hearing, which was billed as an opportunity to assess the "impact, effectiveness and future" of the Staggers Act.

During the hearing, rail carriers repeatedly maintained that shippers have benefited from better and more efficient service at lower rates during the post-Staggers era, contrasting that with what they termed the precarious financial condition and overcapacity that characterized the pre-Staggers rail system. Carrier representatives also generally urged the STB not to change its policies or procedures, arguing that doing so would constitute "re-regulation" and a return to the pre-Staggers era.

Meanwhile, shipper organizations, including the NGFA, focused on rail service levels; the common-carrier obligation of rail carriers to provide reasonable service upon reasonable demand; rail fuel surcharges; and railroad treatment of privately owned or leased railcars. As the lead-off shipper witness, the NGFA urged the STB to provide more balanced regulatory oversight of the rail industry. NGFA President Kendell Keith noted that while the Staggers Act had several positive outcomes, including improving the railroads' profitability and flexibility to better compete for freight business with other modes, agricultural shippers were experiencing major problems obtaining reasonable rate and service levels. The NGFA and National Industrial Traffic League discussed how rail shippers have found it necessary to invest heavily in private cars and other equipment to secure service. The NGFA and other shipper groups urged the STB to provide rail customers with balanced, transparent and cost-effective recourse to challenge unreasonable rail practices and rates. A summary of the NGFA's testimony is reported in the enclosed edition of *Issues and Actions*.

Virtually every shipper witness expressed alarm over rail carriers' ability to unilaterally assess fuel surcharges, which exceed even the total cost of fuel for some shipments. Shipper groups said carriers' fuel surcharge policies were another indication of a lack of effective competition among carriers and other modes.

Other shipper witnesses urged the STB to reconsider a 1986 decision in a case [*MidTec Paper Corp. v. Chicago & N.W. Transp. Co. (1986)*] that had the effect of preventing captive shippers located in terminal areas from obtaining competitive access to another carrier that also serves the same terminal area. In the *MidTec* decision, the Interstate Commerce Commission (the STB's predecessor) determined that before a shipper is able to obtain competitive-access remedies, it first must demonstrate that a carrier used its market power to extract unreasonable terms, or that the carrier showed disregard for the shipper's needs by rendering inadequate service because of its monopoly position. Some shippers also were critical of STB decisions that have created "bottleneck" situations, in which carriers are allowed to deny quoting a rate over a bottleneck segment when they can provide service for the entire movement.

In addition to the NGFA, other shipper witnesses included those representing the American Chemistry Council, United Parcel Service and several organizations representing coal shippers. Also testifying were officials from each of the Class I rail carriers, as well as various smaller regional railroads. Others included witnesses representing rail labor unions, financial analysts and transportation consultants.

### Trade Show Space, Sponsorship Opportunities Still Available!

The annual Country Elevator/Feed Industry Conference and Trade Show will occur Dec. 4-6 in St. Louis, Mo. There are a very limited number of trade show booths still available. Take advantage of this excellent opportunity to display your products and services to the grain, feed and processing industry. The NGFA show is an excellent value compared to many other national shows.

In addition, conference sponsorship opportunities are available. Put your company name on a reception, a coffee break, the dessert station or some other high-profile event. Sponsors are well-recognized and much appreciated by all conference participants.

Contact Todd Kemp at [tkemp@ngfa.org](mailto:tkemp@ngfa.org) or at 202-289-0873 for more information on the Trade Show or sponsorship opportunities.





## New November Membership Recruitment Incentives Announced

### ...Win Handsome NGFA-Logo Merchandise!...

Before the predictable membership-recruiting lull that accompanies the holiday season, it's time for one more burst of activity during November.

Effective on publication of this *NGFA Newsletter* through the end of November, each sponsor of a new NGFA member will receive 250 bonus points on the NGFA Leaderboard. The annual Leaderboard standings, calculated using a formula based on new-member dues paid, determine winners of fabulous prizes at the NGFA annual convention in March.

In addition, the first four successful recruiters will receive coveted NGFA-logo polo shirts! The logo is tastefully embroidered on the left sleeve, along with the legend "NGFA Recruiter." Traditionally awarded to members of the NGFA Board of Directors who recruit new members, these limited-edition shirts are the envy of the industry. This year's color scheme is especially appreciated by University of Illinois fans,

but will look smashing on anyone, regardless of collegiate loyalties!

**Current Membership Statistics:** The NGFA membership year runs from convention-to-convention. Here are current statistics since last March's San Diego convention:

- ▶ New members: 30
- ▶ Non-renewals: 39

Traditionally, more than half of the NGFA's new members are recruited between Jan. 1 and the next convention, so we actually are well-positioned to have a strong membership showing. But we need a burst during November.

Make it a priority to bring home a polo shirt and those bonus points!



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**TIME SENSITIVE**