



# NGFA

# Newsletter

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## Goals Altered for WTO Ministerial Meeting in Hong Kong

Any remaining expectations that considerable progress toward reaching a new agricultural trade agreement during the meeting of World Trade Organization (WTO) trade ministers in Hong Kong on Dec. 13-18 were dashed by the European Union's refusal to submit an improved offer on market access.

U.S. Trade Representative Robert Portman on Dec. 1 had indicated that it was unlikely that the current stalemate over agriculture could be resolved before or during the meeting of trade ministers from the WTO's 148-member countries to allow the crafting of a tentative agreement. The principal obstacle appears to be the EU's unwillingness to offer further concessions on reducing domestic agricultural supports and improving market access until developing countries commit to greater access for non-agricultural goods and services, and vice versa. "It's sad for me to see the EU, which is the world's largest and wealthiest trading block, hiding behind the least developed countries to explain why the EU cannot open its own market," Portman said during a press conference.

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## Kendell Keith Recognized for 25 Years of Service to NGFA



*NGFA President Kendell W. Keith is recognized for 25 years of dedicated service to the industry during the NGFA's Country Elevator/Feed Industry Conference. Congratulating Kendell are NGFA Chairman Steve Nail (left) and Executive Committee Chairman Rick Calhoun (center).*

## FDA Official Provides Additional Guidance on Bioterrorism Recordkeeping



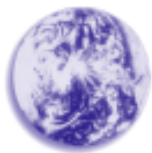
*Lou Carson (left), deputy director of the food safety initiative for the Food and Drug Administration's Center for Food Safety and Applied Nutrition, provided a comprehensive briefing on the agency's bioterrorism recordkeeping regulations and responded to numerous questions. He's shown with Jan Campbell, manager of regulatory services for Land O'Lakes Purina Feed LLC, Creve Coeur, Mo., who moderated the session.*

A key official with the Food and Drug Administration (FDA) on Dec. 6 provided some additional guidance to the grain, feed and processing industry on compliance with the agency's bioterrorism recordkeeping regulations during an address at the NGFA's 34<sup>th</sup> annual Country Elevator Conference and 9<sup>th</sup> annual Feed Industry Conference in St. Louis, Mo.

The Bioterrorism Act of 2002 requires that most commercial firms maintain records that are sufficient to identify the immediate previous source and immediate subsequent recipient of food, feed and other agricultural commodities and ingredients – in essence, a one-step forward, one-step-back recordkeeping. Under FDA's regulations implementing the law, affected firms are required to maintain records containing "reasonably available" information that links inbound deliveries with outbound shipments.

Among entities covered by FDA's recordkeeping regulations are companies that manufacture, process, store, pack, transport, distribute or import food, feed or feed ingredients, including grain elevators, feed mills, grain processors, grain exporters, pet food manufacturers, railroads, barge lines and trucks. The recordkeeping requirements take effect on Dec. 9, 2005 for companies with 500 or more employees; on June 9, 2006 for firms with 11 to 499 employees; and on Dec. 11, 2006 for companies with 10 or fewer employees. Importantly, the recordkeeping requirements are **not retroactive**, but apply to covered activities

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## "WTO" continued from page 1

Meanwhile, WTO Director General Pascal Lamy published a revised version of a draft ministerial text of the negotiations on Dec. 7. The text avoids including any specifics for a market-access formula, but reaffirms the WTO Doha Development Round's Framework Agreement of 2004. It also notes consensus for the three-band structure for domestic support reductions, and includes language citing a degree of consensus on the parallel elimination of all forms of export subsidies, and disciplines on all export measures by a date certain.

Despite the lack of progress, trade ministers from several countries, including the United States, continue to meet in an

attempt to devise a positive outcome for Hong Kong that would generate momentum for reaching an agreement by the end of 2006. Portman has indicated that the United States will be expending significant effort to stave off a watered-down version an agreement or one that only focuses on one aspect of the negotiations, such as the Development Agenda, rather than a broad agreement which includes significant market access gains and reductions in trade-distorting domestic support. "By trying to get through Hong Kong with a watered-down agreement, we would be robbing ourselves of this opportunity...to truly enhance global growth," he said.

## Exporters Reminded About USDA Reporting Requirements

The U.S. Department of Agriculture has asked the NGFA to remind all exporters of corn, soybeans, wheat, wheat flour and other grains and oilseed products about their reporting obligations under its export sales reporting program.

In a Nov. 29 letter to the NGFA, USDA said it had been notified by "various sources" that some sales and exports of U.S. corn and soybeans to Canada and Mexico via truck and rail have not been reported as required by law. The letter requests that all exporters begin reporting their sales and exports to Canada and Mexico immediately.

Law requires that all exporters of wheat and wheat flour, feed grains, oilseeds, cotton, rice, cattle hides, skins, beef and any

products thereof, as well as some other commodities designed by the secretary of agriculture, are required to report sales on a weekly basis. Reportable information includes: 1) a list of any export contracts entered into or modified; 2) the type, class and quantity of commodity being exported; 3) the marketing year of the shipment; and 4) the destination. Those who knowingly fail to report are subject to possible fines of up to \$25,000 or one-year imprisonment, or both.

Individual reports are confidential and compiled each Thursday morning at 8:30 a.m. in USDA's U.S. Export Sales publication. The regulations, instructions and publication concerning export sales reporting are available on USDA's web site at: <http://www.fas.usda.gov/export-sales/esrd1.html>.

## U.S., EU Reach Agreement on Compensation for EU Enlargement

The United States and European Union (EU) announced on Nov. 30 that they had reached agreement on a package to compensate the United States for potential trade losses caused by the entry of 10 new countries into the EU on May 1, 2004.

The agreement includes a new U.S.-specific tariff rate quota for corn gluten meal amounting to 10,000 tons per year. Prior to the agreement, the EU maintained a prohibitive tariff of 340 Euros per ton on corn gluten meal. Under the new quota, the tariff will decline to 16 percent.

Under the compensation agreement, the EU also is to open country-specific tariff-rate quotas for U.S. exports of boneless ham and poultry. It also is to expand existing global tariff-rate quotas for beef, poultry, pork, rice, barley, wheat, corn, pet food, live cattle and other bovine animals and sheep, sugar, fructose, preserved fruits, fruit juices, pasta, chocolate, food preparations, and various cheeses and vegetables. Further, as part of broader discussions on EU enlargement, the EU effective in March 2005 agreed earlier to expand the maximum quantities allowed in licensing applications for imports of pork.

The compensation agreement also includes provisions to account for volumes of crystalline fructose that had

been sold to the 10 new EU-member states without restriction prior to the EU's enlargement. Under the agreement, the global quota for crystalline fructose is to be increased in an effort to avoid any overall trade loss to the United States.

The new quotas will take effect after formal adoption of the agreement by EU-member states, which is expected to occur by July 1. Under the General Agreement on Tariffs and Trade (GATT), the United States was entitled to receive compensation from the EU to offset some of the changes that the 10 new EU-member states were required to implement to conform to the EU's common external tariff schedule, which resulted in increased tariffs on certain products. The U.S. Trade Representative's Office said the expansion of EU quotas to account for the addition of the 10 new member states and more than 75 million new EU consumers was another "key element in the negotiations." If the U.S. and EU had not been able to reach agreement, the United States would have had the right to increase tariffs on an offsetting amount of imports of products for which the EU is the dominant supplier. The 10 new EU member states consist of Estonia, Latvia, Lithuania, Poland, Slovakia, the Czech Republic, Slovenia, Hungary, Cyprus and Malta.





## CFTC Reauthorization Bill Nears Final Passage

Final passage of legislation reauthorizing the Commodity Futures Trading Commission (CFTC) moved a step closer on Dec. 7 with unanimous approval by the House Agriculture Committee.

The Senate Committee on Agriculture, Nutrition and Forestry is expected to follow suit quickly, with final approval by the full House and Senate to follow. Although the agency's legislative authorization expired on Sept. 30, CFTC operations have continued unaffected pending final approval of the new legislation, which would remain in effect through Sept. 30, 2010.

Congressional action had been slowed through the summer and fall while industry groups and the Bush administration tried to achieve consensus on a handful of difficult issues. Chief among those was how to resolve what most perceived as a gap in the CFTC's enforcement authority over certain foreign exchange transactions. A recent court decision against the CFTC, as it sought to act against what it believed were fraudulent activities in foreign exchange markets, prompted calls from Congress for enhanced and clarified CFTC jurisdiction. The NGFA, while very supportive of reauthorizing the CFTC, had cautioned legislators against an overly broad solution that might pose unintended consequences for other futures markets, including agriculture, during testimony presented to Congress this spring by NGFA Risk Management

Committee Chairman Tom Coyle, general manager of Chicago & Illinois River Marketing LLC.

Instead, the House legislation adopts a relatively narrow approach to resolving the question of CFTC's jurisdiction over foreign exchange instruments recommended by the President's Working Group on Financial Markets, comprised of representatives from the Securities and Exchange Commission, the Department of the Treasury, the Federal Reserve System and the CFTC.

Other provisions of the House legislation would expand the CFTC's anti-fraud authority to include principals, thereby providing CFTC authority to pursue principals, as well as their agents, in the event of fraud. The bill also would require the SEC and CFTC to develop a regulatory division of authority to authorize risk-based portfolio margining for security options and security futures products by Sept. 30, 2006, and authorize trading of certain debt and foreign security indexes by June 30, 2006.

In addition, House Agriculture Committee Chairman Bob Goodlatte, R-Va., offered an amendment to clarify surveillance and recordkeeping authorities to make natural gas futures markets more transparent. The amendment charges the CFTC with preventing and detecting manipulation of natural gas markets, outlines increased recordkeeping requirements for people who operate on the exchanges, and increases the penalties for violations.

## House Approves Four Tax-Cut Bills

As the congressional session comes to a close, the House on Dec. 8 and 9 passed four tax-break measures intended to spur economic growth. Three moved easily through the House but the fourth, the Tax Relief Extension Reconciliation Act of 2005 (H.R. 4297), is the largest and most controversial. Here's a brief look at each:

▶ **H.R. 4297:** This measure includes tax cuts totaling \$56.1 billion that are not included in the Senate version and face an uncertain future. The bill would extend the capital gains and dividend tax breaks for two years beyond their current 2008 expiration date. The current law taxes both dividends and capital gains at a 15 percent level for most taxpayers, and at 5 percent in the lowest tax brackets (which would decline to zero in 2008). That compares to the previous capital gains tax rate of 10 to 20 percent, depending upon income, which it would revert to without an extension. The increase in the small business expensing deduction limit from \$25,000 to \$100,000 also would be extended for two years. The extension also applies to the eligibility for expense allowances for capital purchases up to \$400,000.

▶ **Gulf Opportunity Zone Act of 2005 (H.R. 4440):** This bill, approved by a 415-4 margin, creates a "Gulf Opportunity Zone" in the areas of Louisiana, Mississippi and Alabama hardest hit by Hurricane Katrina to rebuild and revitalize

affected areas. Among other things, the measure would increase the rehabilitation tax credit from 10 to 13 percent to assist in the restoration of commercial buildings within the zone. The bill would allow companies to claim an additional first-year bonus depreciation claim of up to 50 percent of the cost of new property investments inside the zone area. Small businesses would be eligible to expense up to \$200,000 in investments made in the zone, double the current expensing amount. Businesses inside the zone would also be able to expense 50 percent of cleanup and demolition costs. The measure also creates a tax-exempt bonding authority to rebuild infrastructure on the zone. In addition, provisions from earlier Katrina-related measures are extended, such as the employee retention tax credit for small businesses (those with less than 200 employees).

▶ **AMT Exemption Level:** Approved by a 414-4 margin, this bill (H.R. 4096) would extend the higher Alternative Minimum Tax (AMT) exemption another year and index the amounts to inflation.

▶ **Tax Revision Act of 2005:** The measure, passed by a 423-0 margin, extends several expiring tax breaks, including those related to combat pay, rum excise taxes and Puerto Rico manufacturing deductions.



# Country/Terminal Corner

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

*"Bioterrorism" continued from page 1*

(such as grain receiving, storage and load-out; feed manufacturing; and grain processing; etc.) that occur on or after the effective dates. Most facilities in the grain and grain processing industry are required to retain records for two years, although feed and pet food manufacturers are required to maintain records for one year.

Lou Carson, deputy director of the food safety initiative at FDA's Center for Food Safety and Applied Nutrition, told those attending the NGFA conference that grain handling facilities receiving grain from producers should track and record the inbound transporter information **if** such information is reasonably available. But in cases where the producer is arranging his or her own transportation, he acknowledged, such information may not be readily available. In these situations, he noted, the grain receiver should ensure that records designate the producer as being both the immediate previous source of the product and the transporter – by indicating “same” or repeating the producer’s contact information rather than leaving the transportation record field blank.

At another point, Carson was asked about whether grain handlers receiving grain from producers need to obtain information on a specific address in instances when the producer utilizes a rural route number or Post Office Box number as the farm’s address. In these situations, he advised the industry to do “as well as you can” to obtain complete address information. But if such information is not available, he said FDA would recognize and accept the listing of a rural route address or P.O. Box number. He noted that in these situations, FDA would rely on the phone number of the producer to locate the farm if there ever were a need to conduct a trace-back investigation. “We’re asking you to maintain records for required information that is reasonably available by exercising due diligence,” Carson said. “We’re not asking you to research or find out information that is not reasonably available, but to keep records (of information available) from normal business transactions that you should have known.”

Carson’s remarks are consistent with FDA’s most recently updated guidance document issued on Nov. 10, which included responses to several questions involving situations concerning the responsibility of the seller of agricultural commodities or feed to keep records of the transporter if the buyer or broker is the entity that arranges for and contracts with the transporter. FDA responded that in these situations, it plans to exercise “enforcement discretion” to allow the seller to keep records identifying the buyer (the next subsequent recipient of the commodity), in lieu of the identity of the transporter, if it is the buyer that contracts for the transporter used to haul the agricultural commodity or product. A separate, but similar, question raises a situation in which a feed mill buys feed ingredients from a supplier, with the vendor arranging transportation to the manufacturer’s facility. FDA responds that it “intends to exercise enforcement

discretion...if the feed manufacturer identifies (as the transporter) the vendor that made the contractual arrangement for the transport of the feed....” [See *NGFA Newsletter*, Nov. 22.] Members receiving the *NGFA Newsletter* electronically may click here to access the updated 51-page version of FDA’s guidance document.

**FDA’s Procedures for Accessing Records:** Carson also detailed the “high threshold” FDA needs to meet before it has authority to access records under the Bioterrorism Act, as well as the internal multi-step evaluation process the agency would undertake before officially seeking access to records. Under the bioterrorism law, FDA has access to such records only when it has a reasonable belief that an article of food or feed is adulterated and presents a threat of serious adverse health consequences or death to humans or animals. He also noted that even if this threshold is met, FDA under the law does **not** have access to recipes, financial, pricing, personnel or research data, or to sales data other than shipment data regarding sales. Importantly, in response to a question, Carson said that Congress did **not** provide FDA with “audit authority” to review such records as part of routine inspections, and that the agency is examining ways to ensure that affected industry sectors remain cognizant of the recordkeeping requirements. He said as part of FDA’s routine inspections of the food and feed industries, inspectors may ask whether the company is aware of the bioterrorism recordkeeping regulations and is “prepared to respond to a request for records access” if such a request is ever made by FDA. But, he said, FDA will **not** take the next step to request a chance to see such records unless it meets the statutory threshold for accessing such records. FDA in previous guidance noted that the records “may be in any format (including paper and electronic formats) and at any location, so long as access is provided as soon as possible and in no case later than 24 hours after requested.

As with most other presentations made at the NGFA’s Country Elevator and Feed Industry Conference, Carson’s PowerPoint is available on the NGFA’s website at [www.ngfa.org](http://www.ngfa.org).



## Calendar

**Dec 13, 2005:** NGFA/GEAPS Grain Grades & Weights Committee  
NAEGA Grades & Inspections Committee  
NGFA/NAEGA Conference Room, Washington, D.C.

**March 5-7, 2006:** NGFA's 110th Annual Convention  
Charleston, S.C.

**May 9-10, 2006:** NGFA's Trade Rules Seminar  
Kansas City Airport Marriott, Kansas City, Mo.





# NGFA's 34th Annual Country Elevator Conference and 9th Annual Feed Industry Conference

## ...A Pictorial Review of Conference Highlights...

More than 600 country elevator and feed mill managers and their key employees used St. Louis, Mo., as their "Gateway to Success" by attending the NGFA's 34<sup>th</sup> annual Country Elevator and 9<sup>th</sup> annual Feed Industry Conference on Dec. 5-6 at the Hyatt Regency at Union Station. The conference included a diverse array of topics important to both country elevators and commercial feed manufacturers and integrators. PowerPoint presentations of the speakers are available on the NGFA's website at [www.ngfa.org](http://www.ngfa.org).

Mark your calendars now for the next Country Elevator/Feed Industry Conference – **Dec. 3-5, 2006** at the Hyatt Regency Crown Center in Kansas City, Mo.



*The more than 610 attendees are welcomed to the conference by NGFA Country Elevator Committee Chairman Roger Krueger, director of grain marketing for South Dakota Wheat Growers Association, Aberdeen, S.D.*



*Steve Freed, director of research for ADM Investor Services, Chicago, Ill., provides a comprehensive market outlook for grains, oilseeds, feed ingredients and livestock and poultry. Freed also said that funds have a record amount of money invested in agriculture markets – particularly corn and soybeans.*



*NGFA Executive Committee Chairman Rick Calhoun (right), vice president, Grain and Oilseed Supply Chain, North America for Cargill Inc., discusses transportation capacity challenges confronting U.S. agriculture. He noted that non-grain traffic on the nation's railroads has "exploded," and said the U.S. transportation system is at a critical juncture. "It would be a shame to let transportation drift from being an asset to a liability for U.S. agriculture," Calhoun said. "I hope Hurricane Katrina serves as a wake-up call on the fragility of the U.S. transportation system." Also shown is Bailey Ragan, vice president, Bunge North America Inc., St. Louis, Mo., who moderated the session.*



*"From Managing to Leading" was the theme of Jim Doyle, president of P.E.G. Consulting, Elkhart, Ind., who provided tangible suggestions that managers can use to recruit and retain good employees. Among other things, he encouraged managers to "hire attitudes and train skills," and to use open-ended questions when interviewing to gauge a prospective employee's attitude, enthusiasm and communication skills.*





# NGFA's 34th Annual Country Elevator Conference 9th Annual Feed Industry Conference ...A Pictorial Review of Conference Highlights...



*William Motes, senior vice president for international consulting for Informa Economics Inc., McLean, Va., discusses the impacts that ethanol, biodiesel grain utilization and the Conservation Reserve Program potentially will have on the planting decisions of U.S. producers.*



*Dr. Steve Johnson, farm and ag business management specialist at Iowa State University, discusses producer perspectives on new generation grain contracts.*



*Dr. Keith Collins, chief economist at the U.S. Department of Agriculture, reviews the status of the World Trade Organization's negotiations on agricultural trade reform, and prospects for the 2007 farm bill.*



*Jude DeJean, regional operations manager for Consolidated Grain and Barge Co., Cincinnati, Ohio, outlines steps that managers can take to preserve the quality of grain stored in emergency ground piles following the bumper harvest.*





# NGFA's 34th Annual Country Elevator Conference 9th Annual Feed Industry Conference ...A Pictorial Review of Conference Highlights...



*Steve Duea (right), president of Personnel Power, Mankato, Minn., is congratulated by NGFA Feed Manufacturing and Technology Committee Chairman David Kier, president of DFS Inc., Newell, Iowa, following his address on key account marketing and sales strategies.*



*Bernard Walschots, global head of financial market research at Rabobank International in Utrecht, The Netherlands, provides projections on financial markets for 2006. Among other things, he projected a continued rebound in the Japanese economy and said it was likely that the Bank of Japan would begin slowly raising interest rates during the second half of 2006 to stem inflation. He also projected that the U.S. dollar will continue to appreciate against the Euro during the first half of next year.*



*Feed safety initiatives underway by the Food and Drug Administration, the Association of American Feed Control Officials (AAFCO) and in Canada were the focus of a panel consisting of Dr. Dan McChesney (not pictured), director of the Office of Surveillance and Compliance at FDA's Center for Veterinary Medicine, Rockville, Md.; Kathleen Sullivan, general manager of the Animal Nutrition Association of Canada, Ottawa, Ontario, Canada; and Eric Nelson (right), AAFCO president-elect and feed specialist for the Wisconsin Department of Agriculture, Trade and Consumer Protection in Madison, Wis. Also pictured are (from left): NGFA Director of Feed Services David Fairfield and Feed Legislative and Regulatory Affairs Committee Chair Joe Garber, nutrition services coordinator for Wenger's Feed Mill Inc., Rheems, Pa.*



*Duane Kriener (left), merchandiser for the distillers Grains Marketing Group at Land O'Lakes Purina Feed LLC, Shoreview, Minn., visits with NGFA Director of Feed Services David Fairfield following his presentation on quality factors in utilizing distillers grains in feed.*



## FDA Hopes to Launch Voluntary Self-Inspection Program in Early 2006

A top Food and Drug Administration (FDA) official this week said the agency is in the final stages of approving a guidance document that would authorize a one-year pilot program to evaluate the concept of a Voluntary Self-Inspection Program (VSIP) for medicated feed manufacturers.

During the NGFA's 9<sup>th</sup> annual Feed Industry Conference on Dec. 5-6 in St. Louis, Mo., Dr. Dan McChesney, director of the Office of Surveillance and Compliance at FDA's Center for Veterinary Medicine, said the VSIP guidance document had cleared the division and was under final review at FDA headquarters. He said the agency hoped to issue the guidance document by early spring.

The VSIP concept was developed by the NGFA in concert with FDA and the Association of American Feed Control Officials (AAFCO), the professional association of state and federal feed regulatory officials. Under VSIP, medicated feed manufacturers with a history of compliance with FDA's current good manufacturing practice regulations (CGMPs) would be allowed to conduct an annual self-inspection and submit a summary checklist report to FDA

and the pertinent state feed control agency verifying compliance with FDA's CGMPs. Participating facilities would be subject to spot-check verification audits by FDA. Under the VSIP guidance document currently under review by FDA, the agency would utilize its enforcement discretion to designate participating VSIP facilities as a low priority for FDA inspection. The VSIP concept is designed to reward and encourage medicated feed manufacturers that have implemented quality-assurance programs and that have a good inspection history, while enabling FDA to better allocate inspection resources.

Once published, the FDA guidance document will be open for public comment for 60 calendar days before being finalized and implemented. If that schedule is maintained, FDA anticipates that the actual pilot project will be launched sometime during the first half of 2006. It is expected that the pilot program will involve up to 50 medicated feed manufacturing facilities, allocated evenly between the five FDA district offices that have indicated a willingness to participate in the pilot.

## Japan's Food Safety Commission Recommends Lifting Ban on U.S. Beef

Japan's Food Safety Commission today (Dec. 8) voted unanimously to recommend to the country's agriculture and health ministries that the ban on U.S. beef imports from cattle 20 months or younger be lifted.

There were indications that an official announcement could be issued as early as Dec. 12 by the Japanese government lifting the import ban and stating the conditions that would apply to beef imports from the United States and Canada. Those conditions are expected to include procedures for certifying the ages of cattle from which products are eligible for import. Before imposing its import ban in December 2003, Japan was the largest export market for U.S. beef, valued at about \$1.5 billion per year.

In its recommendation to the Japan's Ministry of Agriculture, Forestry and Fisheries and Ministry of Health, Labor and Welfare, the Food Safety Commission Chairman Masaaki Terada reiterated the group's view of a month ago that the risk of Japanese consumers contracting new variant Creutzfeldt-Jakob (v-CJD) disease – the degenerative brain disease linked to consumption of beef infected with bovine spongiform encephalopathy (BSE) – is "very small" and no greater than consuming domestic beef, provided certain conditions are met. Those conditions include ensuring that beef is derived from age-verified cattle that are 20

months or younger, and that the brain, spinal cord and heads of such cattle are effectively removed prior to processing. But the Japanese Food Safety Commission's new determination was significant, in that it occurred after the expiration of the Nov. 29 comment period and public meetings conducted by the Japanese ministries to obtain views on lifting the beef import ban.

Efforts already are underway by the U.S. government and U.S. meat processors and cattle producers to urge that Japan amend the 20-month age limit on cattle products that would be eligible for export to be more in line with World Animal Health Organization guidelines. The American Meat Institute and National Cattlemen's Beef Association have noted that the U.S. Department of Agriculture estimates that cattle 20 months or younger represent only 7 to 8 percent of U.S. domestic production, and that there is no scientific justification for a 20-month-old age restriction.

Meanwhile, South Korea's animal quarantine committee in late November delayed an expected decision to resume imports of U.S. beef and beef products. The delay came after Korean farmers threatened to initiate nationwide demonstrations, and after some of the agency's representatives voiced alleged concerns about U.S. slaughter practices. The agency's next meeting is scheduled for mid-December.





## FDA Issues Update on Compliance with BSE-Prevention Feed Regulations

As it prepared for an onslaught of comments due on Dec. 20 on proposed changes to its feed regulations designed to prevent the spread of bovine spongiform encephalopathy (BSE), the Food and Drug Administration on Dec. 5 issued an update of its report on compliance with its existing feed rules implemented in 1997.

The inspection results continue to show extraordinarily high compliance with the agency's BSE-prevention feed regulations among firms inspected that are handling prohibited mammalian material, which includes renderers, feed mills, pet food manufacturers, protein blenders, ruminant feeders, animal feed salvagers, distributors and retailers.

FDA reported that based on the most recent reports filed as of Nov. 26 involving inspections of 6,576 renderers, feed mills and protein blenders, 539 firms (8.2 percent of the total) were using mammalian protein prohibited from being fed to cattle or other ruminants. Of those 539 firms, three (0.6 percent) had violations significant enough to warrant an "official action indicated" (OAI) inspection status from FDA. Of those firms, two were unlicensed feed mills and one was a renderer. Examples of OAI infractions include potential cross-contamination of prohibited and nonprohibited mammalian material in feed or ingredients intended for use in ruminants.

Another 23 firms (4.3 percent of the 539 handling prohibited mammalian material) had "voluntary action indicated" (VAI) inspection results. Such infractions include technical violations, such as minor recordkeeping lapses and conditions involving nonruminant feeds, that warrant advisory actions and correction.

For **licensed feed mills**, FDA said inspection results had been submitted on 1,079 firms. Of those, 426 (39 percent of total active firms) were handling prohibited mammalian protein as of their most recent inspection. None were cited for OAI violations, while

eight (1.9 percent of those handling prohibited mammalian material) were cited for VAI infractions. For **non-licensed feed mills**, 5,165 firms have been inspected. Of those, 2,036 (39 percent of total active firms) were handling prohibited mammalian protein as of their most recent inspection. Two of those 2,036 firms (0.1 percent) were classified as OAI, while 24 (1.2 percent) were classified as VAI. For **renderers**, FDA reported that 185 active firms out of a total of 274 (68 percent) were handling prohibited mammalian material as of their most recent inspection. Of those 185 firms, one (0.5 percent) was classified as OAI while 11 (5.9 percent) were classified as VAI. Importantly, FDA notes that the categories of different industry segments are not mutually exclusive, since a single firm can operate as more than one type of establishment.

**USDA Completes BSE Testing of 'Healthy' Cattle:** In a related development, the U.S. Department of Agriculture's Animal and Plant Health Inspection Service (APHIS) reported on Dec. 7 that it had completed testing 21,216 clinically normal adult cattle as part of its BSE surveillance program. All cattle tested negative for BSE. USDA had pledged following the diagnosis of the first positive native-born case of BSE to conduct random testing of a subpopulation of up to 20,000 healthy cattle 30 months or older.

In accordance with World Animal Health Organization (OIE) guidelines, USDA's BSE testing is focused on cattle that are of higher risk of having the disease, particularly non-ambulatory (downer) cattle exhibiting central nervous system disorders and dead cattle. Since USDA began its enhanced surveillance of the U.S. cattle herd on June 1, 2004, it has tested 542,103 animals with only one testing positive for BSE. The other U.S. BSE case involved a Canadian-born cow in Washington state.

## AAFCO Official Publication Available for Purchase

The Association of American Feed Control Officials (AAFCO) – the professional association of state and federal feed regulatory officials – is soliciting orders for the 2006 edition of its **Official Publication**.

The AAFCO publication is an authoritative reference book that is important to feed and ingredient manufacturers. Among other things, it contains AAFCO-approved definitions for feed terms and feed ingredients that are approved for use. The publication also contains AAFCO's model feed law and regula-

tions; contact information for feed regulatory officials in the United States, Canada, Costa Rica and Puerto Rico; labeling information for medicated and nonmedicated feeds; AAFCO's model national medicated feed program, enforcement guidelines and biosecurity protocols; and other important information. You may obtain an order form for the AAFCO **Official Publication** at [http://www.aafco.org/2006\\_OP\\_INVOICE.pdf](http://www.aafco.org/2006_OP_INVOICE.pdf), or by calling Jackie Congress at the NGFA at 202-289-0873. The cost is \$50 per copy, including postage.



## EPA Proposes Changes to Oil Spill Prevention Rule

The Environmental Protection Agency (EPA) on Dec. 2 proposed two amendments to its so-called spill prevention, control and countermeasure (SPCC) regulations to streamline the regulatory requirements for qualified facilities and equipment regulated under rule, as well as extend the SPCC compliance dates for all facilities.

Concurrently, EPA released guidance designed to assist regional inspectors in reviewing a facility's implementation of the SPCC Rule and to foster a consistent national policy on several SPCC-related issues. The guidance document – available online at <http://www.epa.gov/oilspill/guidance.htm> – also is available to owners and operators of facilities that may be subject to the requirements of the SPCC rule to assist in determining how the agency intends to implement the regulation.

EPA's first amendment proposes streamlining options under the SPCC regulation for qualifying facilities and equipment. Among other things, the proposal would allow owners/operators of facilities that store less than 10,000 gallons of oil and meet other qualifying criteria to self-certify their SPCC Plan, in lieu of review and certification by a professional engineer. The amendment also proposes to remove certain SPCC requirements for animal fats and vegetable oils (AFVOs) from the rule specifically related to onshore and offshore oil production facilities because these sections do not apply to facilities that handle, store or transport animal fats and vegetable oils.

Of importance to the grain and feed industry industry, the proposed regulation does **not** contain language to differentiate AFVOs from petroleum and other oils. Instead, EPA states that it will seek suggestions for additional amendments that would differentiate AFVOs from other classes of oils in the SPCC rule, along with scientific support for those amendments, as part of its on-going consideration of this issue. In this regard, the NGFA is working with other trade organizations – principally the National Oilseed Processors Association, National Cotton Council and Pet Food Institute – in a continuing effort to urge EPA to exclude the feed and food industry from its new SPCC Plan requirements and to develop specific regulations applicable to food and feed industry that reflect the greatly reduced environmental risk associated with animal fats and vegetable oils compared to petroleum-based oils.

EPA's second amendment proposes to extend to Oct. 31, 2007 for all regulated facilities the compliance dates in the rule for both amending and implementing a SPCC plan. The current rule would require regulated facilities in operation on or before Aug. 16, 2002 to amend their existing SPCC plans, if necessary, to ensure compliance to the current SPCC regulations on or before Feb. 17, 2006. More details on the proposed amendments are available on EPA's website at: <http://www.epa.gov/oilspill/nprm.htm>.



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