



## USDA Advisory Committee Submits Recommendations to Veneman Concerning International Team's BSE Report

### ...Changes to FDA Feed Rule Still Being Finalized...

The NGFA has learned that the U.S. Department of Agriculture may make public as early as next week the report and recommendations of its Animal and Poultry Disease Advisory Committee concerning the findings contained in an international panel's report that investigated the single case of bovine spongiform encephalopathy (BSE) diagnosed in Washington state.

The advisory committee's report was submitted to Veneman on Feb. 13. During a press conference today conducted in conjunction with USDA's Outlook Forum, Veneman said USDA still was evaluating the report's recommendation that the department increase the number of cattle tested for BSE beyond the 40,000 already planned for the current fiscal year. The 40,000 figure – which was determined prior to the diagnosis of the first U.S. case of BSE in December – was double the number conducted during the previous year.

The Feb. 4 report of the international team, which was established as a subcommittee of the Animal and Poultry Disease Advisory Committee, caused a stir by asserting that BSE was "indigenous" in North America and "was already circulating in ruminant feed" prior to the imposition of regulations in 1997 by the Food and Drug Administration and the Canadian Food Inspection Agency that banned the feeding of certain mammalian material to cattle and other ruminants. Concerning cattle testing, the panel recommended a very aggressive surveillance program that tests all high-risk animals (that is, nonambulatory animals and animals with central nervous system disorders) greater than 30 months of age for a one-year period. The results of such intensive surveillance then would be considered in evaluating the United States' overall BSE program. The panel also suggested that USDA consider random sampling and testing of an unspecified number of samples from animals greater than 30 months of age at slaughter, to encourage disease reporting at the farm level.

**Feed Recommendations:** Concerning feed, the five-member international panel recommended that the United States to implement, as a "reasonable, temporary compromise," a ban the use in all human and animal feed of specified risk material (SRM), which it defined as brain, spinal cord, skull and vertebral column of all cattle 30 months or older, as well as the entire intestine (large and small) of all cattle, regardless of age. Importantly,

the international panel also recommended as an additional redundancy to prevent cross-contamination that the United States ban all mammalian material (including pork and equine) and avian (poultry) protein in ruminant feeds, even though these substances have never been shown to be a vector for transmitting the BSE prion.

Several advisory committee members, as well as USDA and FDA officials and industry representatives, including the NGFA, raised questions and concerns about the international panel's findings and recommendations when they were presented, which may be reflected in the advisory committee's report. Like the report of the international team, the advisory committee's report is not binding on USDA or FDA, and both agencies are expected to take sufficient time to weigh the recommendations and how to reconcile them with the findings of the landmark Harvard Center for Risk Analysis report that found the risk of BSE in the United States was very low and called for much less Draconian measures than those recommended by the international panel.

For instance, following the issuance of the international panel's report, FDA issued a statement in which it requested that the panel members make available the scientific evidence supporting "some of their recommendations so we can better understand the reduction in risk to the health of the public that their proposals will achieve." FDA specifically cited the international panel's recommended ban on feeding all mammalian and poultry protein to ruminants as something the agency "do(es) not currently see...could be scientifically justified; poultry and swine are not susceptible to diseases like BSE, so protein derived from these animals could not transmit BSE back to cattle through feeding. Also, compliance with our feed rule is extraordinarily high, and the potential for mixing up feed is quite low," the FDA statement said. FDA concluded its statement by saying: "The bottom line is that, although we will examine the (international review panel's) recommendations carefully, at this time we remain convinced that the many new safeguards we announced (see page 4) provide the most comprehensive and scientifically justified

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## Energy Bill Likely to Be Considered on Senate Floor Next Week

Senate Majority Leader Bill Frist, R-Tenn., and Minority Leader Tom Daschle, D-S.D., have agreed “to make one last effort,” perhaps as early as Feb. 24, to secure Senate passage of a “slimmed-down” version of the energy bill, including its renewable-fuels (ethanol) mandate.

Frist said the bill would be considered under procedural rules that allow the majority leader to bring new legislation directly to the Senate floor for a vote without committee action. The bill to be voted on reduces by about half – from \$32 billion to \$14 billion – the energy tax breaks contained in the original version, primarily by delaying their effective dates by one year. Further, the excise tax break for ethanol was extended through 2010 and relocated to the highway bill that was passed by the Senate on Feb. 13.

The revised 1,242-page energy bill (S. 2095) also deletes the provisions that would shield manufacturers of MTBE – a fuel additive implicated in groundwater contamination – from product-defect liability lawsuits filed after Sept. 5, 2003. It was the MTBE provision, strongly backed by House Majority Leader Tom DeLay, R-Texas, as well as the cost of the original bill, that caused the Senate to filibuster the measure last year when it came up for Senate floor consideration. But the absence of the MTBE product liability waiver provision in the revised Senate bill will put it in direct conflict with a version passed last year by the House, as well as the version that emerged from a joint House-Senate conference committee last year that failed to win Senate ap-

proval. Since the conference committee bill died, the House also will need to reconsider and pass its version of the energy bill before the two chambers can resolve outstanding differences. Congressional sources believe the House may take action by early March.

An energy bill that contains the MTBE liability-waiver language and greater tax breaks passed the House last year. If the Senate measure is passed, it will necessitate a joint House-Senate conference committee to resolve the differences. House leaders already have served notice that they will insist on retention of the MTBE liability waiver in the final version of the bill.

**Renewable Fuels Provisions:** The revised Senate energy bill retains the mandate that would require refiners to produce fuels containing 3.1 billion gallons of ethanol starting in 2005. By 2012, refiners would be required to produce fuels containing 5 billion gallons of ethanol. The bill also retains the \$1-per-gallon excise tax credit for biodiesel fuel made with virgin soybean oil; the tax credit for biodiesel fuel made from other substances, such as animal fat and recycled cooking oil, would be 50-cents per gallon. Further, the bill retains a tax break for smaller ethanol manufacturers, as well as a small refiner/cooperative refiner 75 percent expensing credit and a 5-cent-per-gallon environmental tax credit for desulfurizing diesel fuel. The bill also retains tax incentives for boosting crude oil and natural gas exploration in the Gulf of Mexico and on federal lands, as well as federal loan guarantees to build a pipeline to transport natural gas from Alaska to the continental United States.

## Senate Approves Highway Bill Extending Ethanol Tax Credit

### ...Includes Hours-of-Service Truck Driving Exemption; Bill’s Prospects in House Uncertain...

The Senate voted 76-21 on Feb. 13 to approve a \$318 billion highway bill (S. 1072) that would authorize spending for highway construction and maintenance, as well as highway safety and transit programs.

The measure is designed to replace the previous highway authorization bill (TEA-21) that expired last fall but was extended through the end of February. However, the prospects for passage of a more expansive and expensive (\$375 billion) bill in the House is tenuous, given the Bush administration’s threat to veto a bill that

exceeds \$256 billion or includes increases in the federal excise tax on gasoline.

The Senate bill includes a provision that would extend the ethanol tax break through 2010 and shift its cost from the highway trust fund to the general fund. Under the bill, the current 13.2-cents-per-gallon federal excise tax on ethanol would be increased to 18.4 cents per gallon – equivalent to the tax for standard gasoline. In exchange, a new “volumetric ethanol excise tax credit” would be established for ethanol blenders at a rate of 52 cents per



gallon of ethanol blended (equivalent to the current ethanol subsidy of 5.2 cents per gallon on gasoline blends containing 10 percent ethanol). However, the new tax credit would be tiered to the amount of ethanol used in a gallon of motor fuel. Ethanol blenders would pay the tax at the pump, which would go into the highway trust fund, and then would apply for a tax credit that would be reimbursed from the general fund. The anticipated result is that \$1.4 billion annually would be reallocated from the general fund for deficit reduction to the highway trust fund for highway construction and maintenance.

**Hours-of-Service Exemption:** Included in the Senate highway bill is a NGFA-supported provision spearheaded by Sen. Conrad Burns, R-Mont., that would expand and codify the agricultural exemption from the U.S. Department of Transportation’s (DOT) hours-of-service truck driving rules. The hours-of-service amendment, introduced as a stand-alone bill (S. 1325) on June 24, previously was approved by a 16-6 vote by the Senate Commerce Committee. The legislation would grant states the right to determine which seasons or months of the year that the agricultural exemption applies. Importantly, the provision clarifies that the definition of “agricultural commodity” covered by the exemption includes **feed, poultry and other agricultural products** that DOT previously attempted to regulate under its hours-of-service regulations. The agricultural exemption also would apply to

farm supply and commodity businesses (including crop input dealers, custom harvesters and farmer-owned cooperatives).

The legislative language was necessitated by DOT’s issuance of hours-of-service regulations in April 2003 that provided only a partial agricultural exemption, excluding transport activities (such as feed transportation) that support livestock production. The Burns’ legislation would ensure that **all** agricultural activities qualify for the exemption, and also would prevent DOT from diminishing the exemption in the future.

However, the Bush administration has objected to the expanded hours-of-service agricultural exemption, which was cosponsored by Sens. Chuck Hagel, R-Neb., Lindsay Graham, R-S.C., and Peter Fitzgerald, R-Ill. Specifically, DOT’s Federal Motor Carrier Safety Administration (FMCSA) has urged that the legislation be changed to: 1) maintain its authority to revoke the exemption; 2) limit the definition of agricultural commodities as products grown on and harvested from the land during a planting season determined by each state; and 3) limit the definition of farm supplies to mean products that are directly related to the harvesting and growing of agricultural commodities during those seasons as deemed by each state. Under the DOT’s position, the hours-of-service agricultural exemption would essentially revert back to the vulnerable position it currently holds.

## House to Form Waterways Caucus

Two congressmen – Reps. Mike McIntyre, D-N.C., and John Doolittle, D-Calif. – have launched formation of a Waterways Caucus in the House.

The two congressmen announced this week that they will circulate a letter to their colleagues when Congress reconvenes on Feb. 23 inviting them to join the caucus. McIntyre and Doolittle said the caucus will seek to provide congressional support for a national approach to navigation and flood control projects on the U.S. inland waterways system. The newly formed caucus is expected to work cooperatively with the Congressional Coastal Caucus, the Congressional Mississippi River Caucus and the Congressional Upper Mississippi River Task Force to galvanize congressional support for funding for inland waterway projects.

Such support is made even more imperative by the Bush administration’s fiscal 2005 budget proposal, which would reduce U.S. Army Corps of Engineers funding by \$690 million from what was spent a year ago. Members of Congress already have begun signaling their opposition to the administration’s proposal. Sen. Pete Domenici, R-N.M., chairman of the Energy and Natural Resources Committee and a key member of the Senate Appropriations and Budget

Committees, termed the administration’s proposed Corps’ budget “unsustainable” and grilled representatives of the White House Office of Management and Budget over OMB’s lack of support for inland waterways infrastructure during a budget hearing last week.



## 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.



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firewalls available to protect animals and the public health against BSE."

Meanwhile, the NGFA has learned that the specifics of FDA's previously announced changes to its so-called "feed rule" that prohibits the feeding of certain mammalian material to cattle and other ruminants still are being vetted and finalized within the agency. Predictions still are that the interim final rule will be issued within the next two weeks to two months. Those changes, announced on Jan. 26, are to:

► **Require Dedicated Equipment, Facilities or Production Lines:** To minimize the potential for cross contamination, rendering and feed manufacturing facilities (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.

Importantly, FDA officials previously 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 forthcoming dedicated fleet requirement.

► **Prohibit the use of bovine-derived blood and blood products in feed for ruminants:** FDA's interim final rule would 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.

Also continuing to be exempt from the ruminant feeding ban will be mammalian fats and tallow, since they are not considered 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 uneaten meat and other meat scraps currently collected from some large restaurant operations and rendered into meat and bone meal for animal feed. 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.

**Canada Initiates Feed Sampling to Verify Compliance with BSE-Prevention Feed Rule:** The NGFA has been notified that the Canadian Food Inspection Agency (CFIA) has launched a feed sampling and testing program to verify compliance with Canada's BSE-prevention feed rule. The agency plans to collect approximately 120 samples throughout the country of both ruminant feeds and ingredients used in ruminant feed that will be tested using feed microscopy to detect the possible presence of mammalian and other animal tissue.

The CFIA said the results of the sampling and testing program will be used to develop a valid sampling plan as part of what it termed a comprehensive compliance and enforcement program. The results also will be used to evaluate whether further changes are needed in Canada's BSE-prevention regulations, including whether to require dedicated facilities or separate lines for handling restricted-use materials if facilities manufacture ruminant feed or feed ingredients. If a sample tests positive for containing restricted-use materials that are prohibited from being fed to ruminants, the CFIA indicated it will conduct a follow up inspection of the facility to determine the source of the contamination. However, if there is evidence of "deliberate non-compliance" or appropriate control procedures have not been implemented to prevent cross-contamination, inspectors may seize and hold suspected violative products pending the outcome of

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laboratory analysis and followup inspections. In such cases, the manufacturer also may be asked to conduct a recall and prosecutorial enforcement action may result, the agency said.

**FDA Issues Updated Inspection, Compliance Data on BSE Feed Rule Enforcement:** FDA on Feb. 6 issued an update of its inspection and enforcement activities for compliance with the agency's BSE-prevention feed rule, reflecting the most recent inspections reports received as of Jan. 23. The report found that four feed manufacturers – all non-licensed mills – had substantive violations that caused the agency to classify the inspection as official action indicated (OIA) and triggered the issuance of warning letters. Those firms represented 0.003 percent of the 1,069 active feed manufacturing firms currently handling restricted-use materials prohibited from being used in ruminant feed.

Of all firms inspected, including commercial feed and pet food manufacturers, renderers, protein blenders, on-farm feed mills, animal feed salvagers, distributors, retailers and transporters, FDA said only five of the 1,949 firms that currently handle restricted-use materials were classified as OAI based upon their most recent inspection. The complete report is available from FDA's web site at: <http://www.fda.gov/cvm/index/updates/BSE0206up.htm>.

**USDA Inspector General Investigating Claims BSE-Infected Cow Not 'Downer':** In a related development, Veneman said today that USDA's Office of the Inspector General is investigating allegations that the Washington state Holstein diagnosed with BSE was ambulatory at slaughter and was not a "downer." The allegations were raised in sworn affidavits submitted by an organization devoted to reporting claims of government whistleblowers – known as the Government Accountability Project.

The organization's allegations were conveyed to Veneman in a Feb. 17 letter from the House Government Reform Committee's chairman and ranking member – Reps. Tom Davis, R-Va., and Henry Waxman, D-Calif., respectively. They cited sworn statements by the co-manager of the slaughter plant and two other eyewitnesses who claimed that the BSE-infected cow stood and walked on the day of slaughter. "If this information is true, it could have serious implications for both the adequacy of the national BSE surveillance program (which in accordance with international guidelines focuses on non-ambulatory cattle and those exhibiting central nervous system disorders) and the credibility of USDA," Davis and Waxman wrote.

Davis and Waxman stated that "contrary to USDA's assertions, the cow appears to have been tested only because USDA had an agreement" (with the Washington slaughter plant) to collect brain samples for testing for

BSE from up to 1,000 cows, regardless of whether the animals were healthy, injured or diseased. "If the aforementioned is true, the information received...could have major ramifications (since it) challenges a key principle guiding USDA's (BSE) surveillance program...." they said.

During today's USDA Outlook Forum, Veneman responded that USDA's records from the USDA veterinarian on site at the plant on the day the BSE-infected cow was slaughtered "clearly state that the cow was a downer." She noted that USDA's Office of Inspector General "has been looking into this issue...and I think that's the appropriate place for it to be addressed."

**USDA Concludes BSE Field Investigation:** Meanwhile, the U.S. Department of Agriculture on Feb. 9 announced the completion of its epidemiological investigation into the single case of bovine spongiform encephalopathy (BSE) involving the Holstein cow in Washington state.

The tracing found a total of 225 so-called "animals of interest" on 10 premises in the Pacific Northwest. Included were 28 cows that entered the United States with the index cow. An additional seven animals out of 17 heifers that came from the source herd in Canada also were identified. USDA said it did not believe all of those 17 heifers entered the United States, but they all would be considered minimal risk and insignificant to the investigation. USDA's investigation focused on 25 of the 81 animals also born into the birth herd of the index animal, since BSE guidelines established by the Organization of International Epizootics (OIE) – the international animal health standard-setting organization – state that animals born on a premises within one year (before or after) a BSE-affected animal should be considered of greater risk to the country reporting the BSE detection. Based upon normal culling practices of local dairies, USDA's Animal and Plant Health Inspection Service estimated it would be able to locate approximately 11 of those 25 animals. APHIS definitively located 14, including the index cow.

All of the "animals of interest" were depopulated and all tested negative for BSE. USDA officials stated that they were confident the remaining animals that may have entered the United States at the same time as the index cow represent little risk, particularly given USDA's implementation of interim final rules on Dec. 30 that prohibit the use of specified risk materials in human food. In all, USDA said 255 samples had been taken from animals depopulated from facilities in Washington, Oregon and Idaho, and each had tested negative for BSE.

USDA said more than 2,000 tons of meat and bone meal being held because of potential contamination with protein from the BSE-positive cow is being detained and will be disposed of in a landfill.





## WTO: Canadian Wheat Board Legal, but Practices Discriminatory

The United States and Canada each claimed vindication in the split decision issued Feb. 10 by a World Trade Organization (WTO) panel that upheld the legality of the Canadian Wheat Board (CWB), but ruled it unfairly subsidizes the Canadian grain and the rail sector.

The ruling was the result of a March 6, 2003 U.S. request that a WTO panel be formed to resolve its allegation that the CWB engaged in unfair trading practices and that Canadian grain trade policies discriminated against U.S. wheat. Concerning the CWB, the WTO panel found that Canada had not violated its WTO obligations related to the operation of state trading enterprises. However, the panel ruled that some aspects of the Canadian grain handling and transportation system do unfairly discriminate against U.S. wheat.

On the rail rate question, the WTO panel ruled that Canada must modify its rail revenue cap and change its regulations that prohibit the mixing of eastern and western grain for export. Specifically, the panel ruled that Canada allow eastern and foreign grain to be included in the rail cap, which is designed to limit the revenue of the Canadian National and Canadian Pacific railways on shipments of western Canadian grain, while excluding grain from eastern

Canada or the United States from those cost benefits. The United States and Canada have 60 days after the WTO panel issues its written findings, which is expected in March, to decide whether to appeal the decision.

This WTO ruling represents the latest in a series of outcomes involving cross-border trade disputes between northern U.S. wheat growers and the CWB. In addition to the WTO case, the U.S. International Trade Commission ruled in an anti-dumping/countervailing duty case that Canadian spring wheat was dumped into the U.S. market but durum wheat was not. The ruling resulted in the imposition of a 14.16 percent duty on imports of Canadian spring wheat. This was preceded by a section 301-trade case brought to the U.S. trade representative by the North Dakota Wheat Commission in 2001.

U.S. trade officials indicated that they would renew efforts in the current round of WTO negotiations to reform what they termed the unfair monopolistic trade practices of state trading enterprises like the CWB. For their part, Canadian officials indicated they would review the ruling to find if any adjustment in the Canadian system needs to occur to bring it into compliance with the ruling.

## U.S.-Australian Trade Agreement Contains Exclusions

The United States and Australia concluded a trade agreement on Feb. 8 that contained market access for U.S. manufactured goods – Australia will remove its 5 percent tariff on 99 percent of U.S. manufactured goods immediately – but contained troubling exclusions for agricultural commodities like sugar and failed to reform Australia's agricultural state trading enterprises, such as the Australian Wheat Board.

Under the accord, all U.S. agricultural exports to Australia (totaling approximately \$400 million in 2003) will receive duty-free access once the agreement is ratified and signed by the legislative bodies and heads of state of the two countries. That will benefit U.S. soybean and oilseed product exports. Further, the United States and Australia agreed to develop a mechanism for resolving sanitary and phytosanitary barriers that have disrupted trade in pork, corn and other agricultural products between the two countries.

The mechanisms include establishment of a standing technical working group comprised of representatives from USDA's Animal and Plant Health Inspection Service (APHIS) and their Australian counterparts in the agency known as Biosecurity Australia. However, the agreement limits the growth in Australia's duty-free exports of beef and dairy products, and freezes Australia's quota for

sugar exports to the United States at levels negotiated under the Uruguay Round of the General Agreement on Tariffs and Trade – all in response to what the U.S. Trade Representative's Office called "concerns expressed by some members of Congress and some U.S. farm sectors." In response to U.S. concerns over the operation of the Australian Wheat Board, Australia agreed to work with the United States during the current Doha Round of WTO negotiations "to develop export competition disciplines that eliminate restrictions on the right of entities to export."

**USTR Notifies Congress of Intent to Initiate Free Trade Agreement with Thailand:** U.S. Trade Representative Robert B. Zoellick on Feb. 12 notified Congress of the United States' intent to negotiate a free trade agreement with Thailand, triggering a 90-day period after which negotiations can begin. "An FTA with Thailand would be particularly beneficial for U.S. agricultural producers who have urged us forward," Zoellick wrote in the letter to Congress, noting that Thailand is the United States' 18th largest trading partner with \$19.7 billion in total trade during 2002. He said that elimination of Thailand's "high duties and other barriers in the agricultural sector would create new opportunities for U.S. farmers in this major market."





## U.S. Government Unveils Combined Biotech Information Web Site

Several federal agencies have created a single web site to provide information on the U.S. regulatory system for reviewing and approving biotech-enhanced commodities for planting and commercial release.

Among other things, the web site contains a searchable database covering biotech-enhanced crop plants intended for food or feed that have completed all of the recommended or required U.S. governmental reviews for food, feed or

planting use in the United States. The site also includes sections on U.S. laws and regulations applying to biotech-enhanced crops; the respective roles of the Environmental Protection Agency, Food and Drug Administration and U.S. Department of Agriculture in reviewing and approving biotech-enhanced commodities; frequently asked questions; key government contacts; and capacity building efforts undertaken by the U.S. State Department and other agencies.

## USDA Extends Comment Period to March 11 on Proposal to Discontinue Approval of Compilation Financial Statements

The U.S. Department of Agriculture on Feb. 10 officially extended the comment period by an additional 30 days – to March 11 – on its proposed regulations that would discontinue the acceptance of compilation financial statements prepared by a management firm or commission house under warehouse storage agreements entered into with the Commodity Credit Corporation.

The NGFA in January had reported USDA's intention to extend the comment period on the proposal, which would affect warehouses operating under the Uniform Grain and Rice Storage Agreement (UGRSA) contract, as well as similar storage agreements offered by CCC for cotton and processed commodities. Under the proposal, warehouse operators still would be allowed to submit audit or review reports prepared by an independent Certified Public Accountant or independent public accountant in accordance with the standards established by the American Institute of Certified Public Accountants. Importantly, it would **not** mandate a CPA-audited financial statement. Federally licensed ware-

houses operating under the U.S. Warehouse Act already are required to submit audited or review-level audited financial statements that would be required under the proposal for warehouses operating under the UGRSA and other storage agreements.

CCC's proposal also would amend the standards for approval for warehouses handling CCC-interest (i.e., loan commodities) by: 1) eliminating the option of providing a legal liability insurance policy as a form of financial assurance to meet deficiencies in the minimum net worth requirement. In its proposal, CCC noted that such policies are rarely used for such purposes. This change would require that calculated deficiencies in net worth be met with bonds, cash, negotiable securities, irrevocable letters of credit or alternative financial instruments acceptable to CCC; and 2) requiring warehouses to have "adequate and operable fire-fighting equipment" as required under state and local fire codes for the type of warehouse and commodity stored.

## OSHA Issues Advisories on Employer Posting of OSHA Form 300A Log

The Occupational Safety and Health Administration (OSHA) has issued interpretive letters clarifying that while employers are required to complete the full OSHA 300 Log reporting on injuries and illnesses in the workplace, only the summary – the OSHA Form 300A – is required to be posted on Feb. 1 of each year.

The clarification was issued in response to a complaint from the American Civil Liberties Union citing a lack of medical privacy for employees if the full OSHA 300 log is posted in a publicly accessible common area. In responding, OSHA Administrator John Henshaw wrote that the agency's regulations "do not prohibit an employer from posting the Form 300 along with the Form 300-A." But Henshaw advised that employers who choose to post the full log should do so in an area only accessible to those allowed under OSHA rules to have access to the information, such as employees or their representatives. If the posting area is

accessible to the public, the OSHA letter said, the employer must remove or hide all names of injured or ill workers. OSHA said the agency also prohibits employers from including an employee's name if doing so "is a privacy concern" as defined by the agency's recordkeeping standard, such as when the injury or illness involves HIV infection, mental illness, an intimate body part, or other illnesses if the affected employee voluntarily requests that his or her name not be entered on the log.

In a second interpretive letter, OSHA wrote that employees, former employees, their personal representatives and their authorized employee representatives have the right to access the OSHA 300 log form and the OSHA 300-A summary form. The letter also advised that employers have until the end of the next business day following the date of request to make such information available to the requester.





# Membership Matters

by Todd Kemp  
Director of Marketing/Treasurer  
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## Three Weeks of Membership Recruiting Left!

Only three full weeks remain until the NGFA's annual convention in San Antonio. And that means just three weeks until the end of our current membership year!

Historically, we experience a rush of new members in the final days prior to convention, and this year is no exception. Over the past several weeks, NGFA recruiters successfully persuaded potential members to join our association!

We need a big push over the final three weeks to conclude a successful membership year. Please take a few minutes to think about a prospective member that might join now – then pick up the phone and call your prospect. And let NGFA's staff know if you need materials sent or any kind of back-up.

**Membership Prizes:** A number of fabulous membership prizes will be awarded in San Antonio during our Tuesday morning general session. Here's a run-down on some of the major awards:

◆ **Savannah Sojourn:** Two luxurious "low-country" nights at the Westin Savannah Harbor Resort & Spa, courtesy of the resort. Plus airfare for two, 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 signed up, 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!

Call those prospects now – and don't forget to show up in San Antonio to claim your prize!



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