



NGFA

Newsletter®

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Grain, Feed, Processing Industry Converges on Charleston!

More than 530 registrants and guests – the highest tally since 2001 – will converge on Charleston, S.C., this weekend for the NGFA's 110th annual convention scheduled for March 5-7 at the Charleston Place Hotel.

The convention's keynote address will be presented by Senate Agriculture Committee Chairman Saxby Chambliss, R-Ga., who will provide a unique perspective on international affairs, the war on terror, and future farm and agricultural trade policy developments. Chambliss, elected to the Senate in 2004 after serving four terms in the House, also serves as a member of the Senate Armed Services Committee and Select Committee on Intelligence, the latter of which addresses terrorism and homeland security matters.



During the three-day event, leaders of the nation's grain, feed and processing industry also will be focusing on rail and waterway transportation, the increasing influence of commodity fund trading on grain and oilseed markets, animal disease-prevention and feed issues, agricultural biotechnology and

new developments in the U.S. Department of Agriculture's official grain inspection system. For the fourth consecutive year, the annual meeting of the North American Export Grain Association (NAEGA) will be conducted in conjunction with the NGFA convention.

The NGFA convention also will feature headline addresses by:

► **Ed Harris**, executive vice president of operations for the Canadian National Railway, Homewood, Ill., who will provide a perspective on the condition of the rail industry, including rail infrastructure and capacity challenges affecting agricultural transportation. He'll also discuss his railroad's strategy for addressing rail service and fuel surcharge issues.



NGFA Convention Keynote
Sen. Saxby Chambliss

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Pioneer Hi-Bred Expects Japanese Approval Soon of Herculex® RW Biotech Corn

In response to an inquiry from the NGFA, officials with Pioneer Hi-Bred International Inc., a subsidiary of DuPont, said on Feb. 25 that Japanese approval of its Herculex® RW biotechnology-enhanced corn is nearing completion and should be finalized within a matter of weeks.

Pioneer officials said that the Herculex® RW corn, which has been genetically enhanced to protect against the western and northern corn rootworm, has been approved by the Japanese Food Safety Commission for consumption in food.

Meanwhile, Japan's Ministry of Agriculture, Fisheries and Forestry (MAFF) on Feb. 20 completed the public comment period on the use of Herculex® RW corn in feed, Pioneer officials said, with no adverse comments having been received. Pioneer officials said that MAFF has begun the administrative process to prepare an announcement of approval of the

biotech trait for feed use in the *Official Gazette*, Japan's version of the *Federal Register*. Projections are that feed approval will be granted within several weeks, Pioneer officials said. The Herculex® RW corn trait already has received environmental approval in Japan, Pioneer said, but an official announcement to that effect will not occur under Japan's regulatory system until full food and feed approval is granted.

In anticipation of the biotech corn's approval by the Japanese government, the company has been marketing the seed to producers for planting this year. Officials with the Johnston, Iowa-based company said most of the Herculex® RW seed is in winter production in South America, and seed shipments to the United States have not begun yet. Once the seed arrives in the United States, it still will need to be conditioned, packaged and tagged at the company's plants before it

(Continued on page 4)



A Mixed Blessing

As administrator of the NGFA's Arbitration System, it's gratifying to see the industry rely so heavily on this system as an efficient, cost-effective method for equitably resolving trade disputes.

But the uptick in arbitration cases also points to the need for industry members to reinforce their ability to avoid disputes in the first place. That's a major reason the NGFA again this year – as it does every two years – is offering its widely acclaimed **Seminar on Trading, Trade Rules and Dispute Resolution**. This year's seminar is scheduled for **May 9-10** at the Kansas City Airport Marriott Hotel, Kansas City, Mo.

More on that in a minute.

So just what trends are we seeing in arbitration cases?

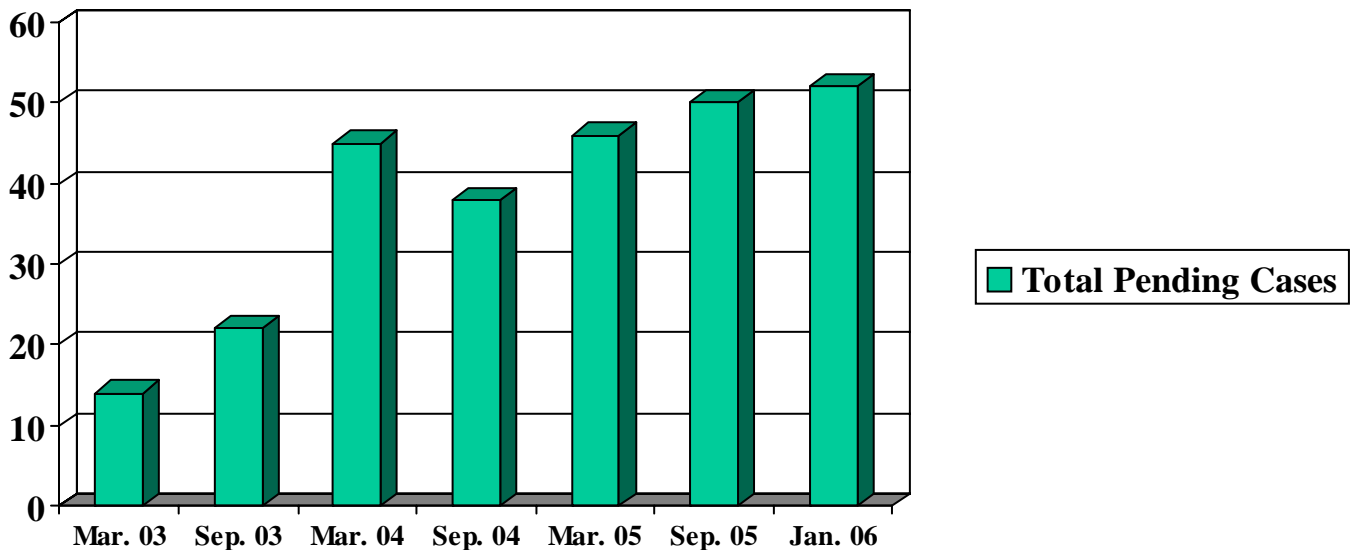
For starters, the number and dollar value of arbitration claims are on the rise. In 2005, 18 cases were adjudicated by arbitrators whose decisions were published in the *NGFA Newsletter* and posted on the NGFA website. Various other cases also went through the system but were settled or dismissed before they were submitted to an

arbitration committee for a decision.

As 2005 came to a close and the new year began, 52 cases were pending in the system:

- ▶ Two of those 52 active cases were before an Arbitration Appeals Committee, the forum for a party seeking reconsideration of an original Arbitration Committee's decision.
- ▶ Seven cases involved rail cases under the NGFA's unique Rail Arbitration Rules, which enable NGFA-member shipper/receivers to resolve specified types of disputes with rail carriers.
- ▶ More than 20 cases involved contractual disputes between producers and grain buyers.
- ▶ At least 10 cases involved issues specifically related to feed and feed ingredients.

For a comparative view, the chart below demonstrates how this level of arbitration activity has increased over the past three years.



The issues in dispute in these cases – as in NGFA Arbitration cases typically – cover the gamut of what can go wrong in a grain- or feed-related transaction. Typically, the trades in dispute involve an agreement that the parties put in writing, partially put in writing, or *should have* put in writing.

And there are real dollars at stake. The claims in the 2005-06 cases ranged as high as \$1.7 million, with an average claim amounting to \$146,000. For 2004-05 cases, the claims ranged as high as \$1.6 million, with an average claim of \$123,000.



Yes, NGFA arbitration remains a preferred alternative to litigation in court. It's less complex, extremely affordable, and the process is completely fair and transparent, with each case decided in writing by a group of three unpaid, unbiased arbitrators with expertise in the type of trade involved in the case.

But it's still better to avoid disputes in the first place.

Obviously, no matter how good the dispute-resolution system, avoiding disputes entirely is the best possible

outcome. And the best way to achieve that is through good contracts and sound trading practices, including referencing NGFA's Trade Rules – Grain Trade Rules, Feed Trade Rules, Barge Trade Rules, and Barge Freight Trading Rules – that are designed to facilitate trade and to reflect current trade practices. The NGFA Trade Rules contain numerous provisions, including specifications of what terms are anticipated to be included in a contract (date, quantity, quality, price, payment, transportation and other specific terms); procedures for how contracts may be confirmed, altered, and cancelled; and much more.

NGFA's Seminar on Trading, Trade Rules and Dispute Resolution

Even the most expert merchant can be ensnared in a trade dispute. But the chances of that happening can be minimized greatly by writing good contracts, implementing sound trading practices, and having a good grounding in the NGFA's Trade Rules.

That's precisely the objective of the **NGFA's Seminar on Trading, Trade Rules and Dispute Resolution** – a forum designed for both new and veteran merchants of grain, feed ingredients and transportation, as well as company managers, legal professionals and others in the grain, feed and processing industry.

It's also where participants can learn about the NGFA's Arbitration System, including how to increase the likelihood that arbitration will apply in disputes with non-members and steps winning parties can take to enforce an arbitration judgment.

The seminar is right around the corner – May 9-10, 2006 in Kansas City, Mo. – and **won't be offered again until 2008**. The program features hands-on interactive participation with case studies, question-and-answer sessions, and panel discussions led by a faculty of top managers from the industry and experts from the related legal and commercial fields. Participants receive extensive materials for future reference, and have the option of evaluation through a competency test at the end of the course. It's a rare and invaluable opportunity – as an introductory or refresher course – for merchandisers, managers, legal professionals, and others in the grain, feed and processing industry.

See the flyer and registration form enclosed with this edition of the *NGFA Newsletter*. I encourage you to take advantage of this opportunity!



Calendar

- March 5-7, 2006:** NGFA's 110th Annual Convention
The Charleston Place Hotel, Charleston, S.C.
- March 5, 2006:** NGFA Trade Rules Committee
The Charleston Place Hotel, Charleston, S.C.
- NGFA Country Elevator Committee
The Charleston Place Hotel, Charleston, S.C.
- NGFA International Trade/Agricultural Policy Committee
The Charleston Place Hotel, Charleston, S.C.
- NGFA Marketing & Business Development Committee
The Charleston Place Hotel, Charleston, S.C.
- NGFA Risk Management Committee
The Charleston Place Hotel, Charleston, S.C.
- March 6, 2006:** NGFA Waterborne Committee
The Charleston Place Hotel, Charleston, S.C.
- NGFA Rail Arbitration Rules Committee
The Charleston Place Hotel, Charleston, S.C.
- March 7, 2006:** NGFA Arbitration Appeals Panel
The Charleston Place Hotel, Charleston, S.C.
- NGFA's Feed Legislative/Regulatory Affairs Committee;
Feed Manufacturing/Technology Committee; and
Animal Agriculture Committee
The Charleston Place Hotel, Charleston, S.C.
- May 9-10, 2006:** NGFA's Trade Rules Seminar
Kansas City Airport Marriott, Kansas City, Mo.
- Aug. 1-2, 2006:** NGFA/GEAPS Safety, Health and Environmental Seminar
St. Louis Airport Marriott, St. Louis, Mo.
- Sept. 10-11, 2006:** NGFA Board of Directors Meeting
Inn and Spa at Loretto, Santa Fe, N.M.



"Herculex® RW corn" continued from page 1

is ready to be shipped to seed dealers for delivery to corn producers for planting. Because of this lag time, Pioneer officials said, they do not foresee any market disruption occurring as a result of still forthcoming Japanese approval.

U.S. government agencies last October completed their food, feed and environmental regulatory safety reviews of Herculex® RW corn. The product also has been approved in Canada, Mexico, Taiwan, Korea, Australia and New Zealand, company officials said, while approvals continue to be sought in the European Union, China and other countries with functioning biotech-approval systems. The Herculex® RW stacked event expresses a new family of *Bacillus thuringiensis* (Bt) proteins (*Cry 34Ab1* and *Cry 35Ab1*) that have a lethal effect on corn rootworm larvae.

At the time the developers of the trait – Dow AgroSciences LLC, Indianapolis, Ind., and Pioneer – received U.S. government authorization for the trait last October, they told the NGFA Japanese government approval was anticipated during the first quarter of 2006 and that they intended to make the product available in U.S. hybrids for the 2006 growing season in corn seed manufactured by Mycogen Seeds, Pioneer and Beck's Superior Hybrids Inc. Officials with both companies said at that time that hybrids containing the Herculex® RW trait would be labeled as "market choices" products – indicating they are not approved for use in the European Union and some other U.S. corn export markets – and that such seed would be shipped to growers after Japanese government import approval had been granted. [See NGFA Newsletter, Oct. 13, 2005, page 6.]

International Governments Urged to Retain Flexibility on Implementing Biosafety Protocol

The International Grain Trade Coalition (IGTC) has issued a new notice urging that grain industry members enter into discussions with their respective governments to encourage flexibility in implementing a key provision of the so-called Biosafety Protocol affecting the labeling of transboundary movements of biotech-enhanced commodities intended for use in food, feed or for further processing.

The IGTC appeal precedes a critical meeting in Curitiba, Brazil on March 13-17, where countries that are signatories to the Biosafety Protocol are to continue deliberations on an implementation strategy. The IGTC is a consortium of 21 organizations (including the NGFA and North American Export Grain Association) whose members consist of approximately 3,000 commercial entities operating in more than 80 countries.

The Biosafety Protocol – which uses the phrase "living modified organisms" to describe biotech-enhanced commodities – is an international environmental treaty signed in January 2000 that is designed to protect against potential adverse effects of biotech-enhanced commodities on the environment or biological diversity of plant species. The United States is not a signatory to the Biosafety Protocol. But the U.S. grain export industry is affected by the Biosafety Protocol's requirement that those countries that are signatories – 135 at last count, including Mexico and Canada – implement controls on transboundary movements to protect biodiversity and the environment from the unauthorized planting of

biotech-enhanced commodities. The mid-March meeting in Brazil will be the third such gathering among signatory countries to try to arrive at agreement on an approach for such transboundary requirements.

Among other things, the IGTC notice encourages governments to provide importing countries with maximum flexibility to implement labeling and other provisions of the Biosafety Protocol for bulk commodity shipments of grains and oilseeds intended for food, feed or further processing, consistent with their respective environmental biosafety objectives and economic needs. The IGTC has argued that biotech-enhanced commodities intended for use as food, feed or for further processing do not pose the same level of "risk" as other commodities covered by the Biosafety Protocol – such as seed intended for introduction into the environment (planting) or for laboratory research or field trials. The IGTC notice suggests that documentation (such as notification on invoices) should accompany "intentional" LMO shipments, and has suggested that the following notification language would be appropriate: "*Cartagena Protocol Biosafety Provision: This shipment may contain living modified organisms intended for direct use as food, feed or for further processing, that are not intended for intentional introduction into the environment.*" The IGTC also is asking companies of member organizations to urge their governments that adventitious presence of LMOs in non-LMO shipments should not trigger the LMO notification requirements. To access the complete IGTC notice, [click here](#).





Newsletter

by Randall C. Gordon
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- ▶ **Jerry Steiner**, president of food traits and executive vice president of commercial acceptance for Monsanto Co., St. Louis, Mo., who will preview the next generation of biotech-enhanced commodities currently in the pipeline, several of which contain traits designed to enhance human health and animal performance. He also has been asked to address efforts to enhance global acceptance of plant- and animal-based biotechnology, as well as whether additional government regulatory oversight is required to minimize the potential for unauthorized biotech commodities to enter food or feed channels.
- ▶ **Dr. W. Ron DeHaven**, administrator of USDA's Animal and Plant Health Inspection Service (APHIS), who will discuss the nation's strategies for safeguarding America's animal agriculture and feed industries from animal disease threats, including avian influenza. DeHaven also is to provide an overview of APHIS' future strategy for addressing agricultural biotechnology and sanitary and phytosanitary issues to minimize trade disruptions.
- ▶ **John Phipps**, an award-winning columnist with *Farm Journal* and *Top Producer Magazines*, and host of the *U.S. Farm Report* television program.
- ▶ **NGFA Chairman Steve Nail**, president and chief executive officer at Farmers Grain Terminal Inc., Greenville, Miss., who will preview industry challenges and report on accomplishments as he concludes his two-year term.
- ▶ **Sharon Sydow**, former director for agricultural trade policy at the U.S. Trade Representative's Office, who will provide an insider's perspective on the status of the World Trade Organization's Doha Round agricultural trade negotiations and other bilateral trade negotiations currently underway. She currently is vice president, Allen F. Johnson and Associates, Washington, D.C.

In addition, the convention will feature a panel discussion on the growing influence of commodity fund trading on grain markets – one of the hottest topics facing the industry today. Panelists include **Kevin Rich**, managing partner and director of the commodity asset structuring group at Deutsche Bank, New York, N.Y.; **Dan Raab**, managing director of AIG Financial Products, Wilton, Conn.; and **Rob Ellis**, Managing Partner, Ridgefield Capital Asset Management LP, Ridgefield, Conn. The panel will be preceded by a discussion of new developments at the Chicago Board of Trade from **Bryan Durkin**, CBOT's executive vice president and chief operation officer.

The NGFA convention also will feature two concurrent open forum sessions on the afternoon of March 5:

- ▶ **A Rail Open Forum** will probe rail capacity, rail service and rail fuel surcharge challenges confronting shippers and

receivers of grain, feed and grain products. **Douglas Buttrey**, chairman of the federal Surface Transportation Board, Washington, D.C., will provide his perspective on rail policy issues, while **Kevin Kaufman**, vice president of the Agricultural Group for the BNSF Railway, Fort Worth, Texas, will discuss his railroad's changes to a mileage-based fuel surcharge formula. Meanwhile, **Anthony Hatch**, a New York City-based independent transportation analyst and consultant, will provide an analysis of rail capacity constraints, carrier profitability and growth projections for the nation's rail carriers, and what those trends may mean for agricultural shippers.



NGFA Chairman Steve Nail

- ▶ **A Grain/Feed Forum** will examine key agricultural biotechnology regulatory issues, as well as the future of USDA's official grain inspection system. Featured panelists are **Sean Darragh**, executive vice president for food and agriculture at the Biotechnology Industry Organization; and **David Shipman**, deputy administrator of USDA's Grain Inspection, Packers and Stockyards Administration, both of Washington, D.C.

Another special open forum – focusing on **International Grain Trade Issues** and the vision of USDA's Foreign Agricultural Service (FAS) – is slated for the afternoon of March 7. Featured speaker is **FAS Administrator W. Kirk Miller**, who will preview the Bush administration's plans to fundamentally restructure FAS's operations, including its foreign offices; an update on Iraq wheat trade developments; planned policy changes governing the U.S. approach to sanitary and phytosanitary regulation to facilitate trade; the impact of federal budget constraints on USDA's international trade programs; and an update on the World Trade Organization's Doha Round negotiations.

Most of the Association's 17 committees will conduct work sessions addressing the most pressing issues facing grain elevators, commercial feed mills, integrated livestock and poultry operations, and grain processors and millers. Most NGFA committee meetings are open to all convention registrants. The convention also features a golf tournament to benefit the National Grain and Feed Foundation, as well as an "Ag Village" trade show.

See you in Charleston!





USDA Exploring Ways to Reduce PCP Anomalies

The U.S. Department of Agriculture's Farm Service Agency has initiated a top-to-bottom review of its system for determining posted county prices (PCPs) under the marketing assistance loan program in an effort to further reduce the incidence of PCP anomalies in certain regions.

During the 2005-crop harvest and post-harvest period, FSA officials said that they encountered several problems in valuing commodities at local cash levels. Among the discrepancies cited were:

- ▶ **Corn:** 1) The spread in cash values between western and eastern Iowa; 2) higher relative values in interior counties in Illinois versus counties adjacent to the inland waterway; 3) southeastern counties in Kansas, where cash values were less than the PCPs; 4) the spread in loan deficiency payments between border counties in Colorado and Nebraska; 5) the LDP spread between border counties in Louisiana and Arkansas; and 6) the spread between southwestern counties in Arkansas compared to the remainder of the state.
- ▶ **Soybeans:** The spread between Arkansas, Tennessee and Mississippi, depending upon which terminal markets and differentials were assigned.
- ▶ **Sorghum:** 1) Texas and Oklahoma panhandle counties; 2) the spread between eastern and western counties in Kansas, which use different terminal markets; and 3) southeastern counties in Colorado.
- ▶ **Wheat:** Hard red spring and durum values in Montana, California and Southwest Plains.

- ▶ **Barley:** 1) The spread between western and eastern counties in Montana, where different terminal assignments exist; 2) southeastern counties in Idaho; and 3) northeastern counties in Utah.

USDA is conducting outreach with a wide range of producer and commodity organizations, the NGFA and others to gather information and ideas to determine if changes are warranted to further improve its existing PCP-determination system. As part of this outreach, the NGFA helped organize a Feb. 17 meeting in Kansas City, Mo., with USDA officials from Washington and the Kansas City Commodity Office to begin discussions with the grain warehouse and merchandising industry on this issue. The meeting was attended by several representatives from the NGFA's Country Elevator Committee, as well as grain merchants and market analysts with extensive knowledge of different commodities and regions. Participants agreed that USDA's current PCP-determination system is sound, but identified several potential terminal market adjustments and other refinements that USDA could consider to enhance its ability to more closely reflect local cash values. Participants also discussed ideas on how USDA could improve its ability to monitor PCP anomalies in a more timely way.

FSA Deputy Administrator for Commodity Operations Bert Farrish will be discussing USDA's PCP review and summarizing some of the ideas generated at the Feb. 17 meeting during the Country Elevator Committee's open forum meeting on March 5 at the NGFA's convention.

USDA Announces Completion of Emerson Trust Wheat Sales

The U.S. Department of Agriculture announced that as of Feb. 21, it had completed wheat sales to offset the purchases of 500,000 metric tons (approximately 18.37 million bushels) released from the Bill Emerson Humanitarian Trust by Secretary of Agriculture Mike Johanns on June 22, 2005.

The wheat was requested by the U.S. Agency for International Development (USAID) to meet emergency food aid program needs in Africa, particularly Ethiopia and Eritrea. USDA's Commodity Credit Corporation purchased and made available for food aid 54,810 metric tons of wheat on June 22, 2005; 256,000 metric tons on July 11, 2005; and 189,190 metric tons on Sept. 22, 2005.

It offset those purchases with sales of an equivalent quantity of wheat from the Emerson Trust.

As of Feb. 21, USDA said 915,349 metric tons (approximately 33.6 million bushels) of wheat remained designated as part of the Emerson Trust, as well as approximately \$107 million in cash. USDA officials told the NGFA that it had not been made aware of any further requests from USAID for additional releases from the Emerson Trust. Nor did USDA's fiscal 2007 budget proposal indicate any plans for purchasing commodities to replenish the Emerson Trust. By law, the Emerson Trust may contain up to 4 million metric tons of wheat, corn, sorghum and/or rice. The law also authorizes the trust's assets to retain cash in lieu of commodities in the Trust.





USDA Requests Comments on Emergency Storage for Cotton

...Anticipated Notice Seeking Input on Rules for Emergency, Temporary Storage for Grain Delayed...

The U.S. Department of Agriculture has issued a *Federal Register* notice seeking comments by April 14 from the cotton industry on whether the Farm Service Agency (FSA) should permit short-term outside storage of baled cotton eligible for loans under the marketing assistance loan program.

During the NGFA's Country Elevator Committee meeting in December, USDA said it also anticipated issuing a notice early this year requesting comments from the grain warehouse industry on policies that should govern the emergency storage program for grain. At that time, USDA said it was considering seeking comments on whether different rules for emergency storage should apply to different commodities. However, such a notice for grain has not been issued yet. FSA's Warehouse and Inventory Division Director Steve Gill is scheduled to provide an update during the Country Elevator Committee's meeting on March 5 during the NGFA's convention.

For cotton, USDA's Feb. 13 notice stated that the Commodity Credit Corporation typically has required that baled cotton be stored inside approved warehouses as a

condition of eligibility for marketing assistance loans. However, it noted that when quantities of 2004- and 2005-crop upland cotton exceeded warehouse capacity in some southern-plains states, CCC established requirements under which warehouses could request approval of short-term outside storage. "Because some localized shortages of inside storage appear likely for coming crops, CCC is reviewing whether its storage requirements for loan cotton should be revised," the notice said. However, the agency this year had several incidents in which "water-packed" cotton bales exceeding the industry maximum 7.5 percent moisture had been receipted for loan.

Among the issues on which CCC sought comments on cotton were whether it should strictly require that all upland cotton be stored inside approved cotton warehouses without granting exemptions for any outside storage; or formalize a process for allowing approved cotton warehouses to request CCC approval for short-term use of outside yard storage, and if so, under what circumstances. Members receiving the *NGFA Newsletter* electronically may access the *Federal Register* notice by [clicking here](#).

USDA Announces Second 2005-Crop Counter-Cyclical Payments

The U.S. Department of Agriculture (USDA) has announced that it has begun making the second partial counter-cyclical payments for 2005-crop corn, sorghum, barley, upland cotton, rice and peanuts.

Under the 2002 farm law, counter-cyclical payments are made when effective prices for various commodities are less than the statutory target price. Effective prices equal the direct payment rate, plus the higher of either: 1) the national average market price received by producers during the marketing year; or 2) the national average loan rate for the commodity.

The second counter-cyclical payment provides producers with up to 70 percent of the total projected rate, less any amount received in the first payment. USDA's second partial counter-cyclical payment rates for

2005 crops are: 1) corn, 28 cents per bushel (out of a projected total payment of 40 cents); 2) sorghum, 18.9 cents per bushel (out of a projected total payment of 27 cents); 3) barley, 10.5 cents per bushel (out of a projected total payment of 15 cents); 4) rice, 24.5 cents per hundred-weight (out of a projected total payment of 35 cents); and 5) upland cotton, 9.61 cents per pound (out of a projected total payment of 13.73 cents).

Producers of 2005-crop soybeans, other oilseeds and oats are ineligible for second partial counter-cyclical payments because the effective prices for those commodities equaled or exceeded their respective target prices. Final counter-cyclical payments are determined after the end of the marketing year for each commodity (May 31 for wheat, barley and oats; July 31 for rice, upland cotton and peanuts; and Aug. 31 for corn, sorghum and soybeans).



FDA Anticipates Issuing Final BSE-Prevention Feed Regulations by July 1

In response to questions during his testimony on the Food and Drug Administration's fiscal 2007 budget proposal at a House subcommittee hearing on Feb. 16, Acting FDA Commissioner Dr. Andrew von Eschenbach said final regulations would be issued by July 1 amending the agency's feed regulations that are designed to prevent the establishment or spread of bovine spongiform encephalopathy (BSE).

Von Eschenbach's statement came in response to critical questioning from Rep. Rosa de Lauro, D-Conn., ranking member of the House Appropriations Committee's Subcommittee on Agriculture, Rural Development, FDA and Related Agencies. DeLauro has repeatedly chastised the agency for delaying issuance of final regulations to strengthen existing safeguards against BSE, and has urged the agency to pursue actions it previously has considered but long since abandoned as being unscientifically justified or ineffective, including banning the use of restaurant plate waste, poultry litter and blood products in all animal feed.

FDA on Oct. 6 proposed several changes to its 1997 BSE-prevention feed regulations, most notably a ban on the use of brain and spinal cord from cattle 30 months or older from all animal feed. The agency also proposed to ban brain and spinal cord from nonambulatory or dead cattle of any age unless brain and spinal cord were removed. Further, tallow derived from brain and spinal cord and other cattle material prohibited from use in feed could not contain more than 0.15 percent insoluble impurities – consistent with guidelines from the World Animal Health Organization (known by its French acronym, "OIE"). FDA also proposed to ban the feeding of mechanically separated beef derived from nonambulatory or dead cattle material from which brain and spinal cord have not been removed. [See *NGFA Newsletter*, Oct. 13, 2005.] The NGFA

submitted extensive comments to the agency on Dec. 20, in which the Association strongly supported FDA's proposal to ban brain and spinal cord from cattle 30 months or older, but recommended changes to reduce further the environmental and cost impacts of the agency's proposal.

Japan Continues Delay in Reopening Beef Market: Meanwhile, Japan continued to call for more information from the U.S. Department of Agriculture after receiving USDA's 475-page report of its investigation of the shipment of U.S. veal that caused Japan to again suspend imports of U.S. beef. USDA's investigation, contained in the report issued Feb. 17, found that not only did the shipment from Atlantic Lamb and Veal of Brooklyn, N.Y., and its sister company, Golden Veal of Ohio, contain spinal material banned under the U.S.-Japan agreement that permitted resumption of beef trade, it also contained quantities of veal offal from Golden Veal (the actual supplier) that exceeded the quantity that could have been produced prior to the company's being certified to ship to Japan on Jan. 6. As a result of the investigation, USDA said it would provide additional training to inspectors. It also said it would end the practice of granting blanket export permits to slaughtering plants; instead, plants will receive export certificates for shipping specific cuts or products.

Japan's Ministry of Agriculture, Forestry and Fisheries is reviewing the report and is then to submit its findings to Japan's Food Safety Commission for review. But after receiving a briefing from MAFF Minister Shoichi Nakagawa, Prime Minister Junichiro Koizumi was quoted by the Japanese press as saying the USDA report was insufficient in terms of both the thoroughness of the investigation and the measures being implemented to prevent a recurrence.

Canada Says Feed Investigation Nearly Complete on January BSE Case

The Canadian Food Inspection Agency indicates that it is nearing completion of its feed investigation concerning the approximately six-year-old cross-bred Alberta cow diagnosed with bovine spongiform encephalopathy (BSE) on Jan. 23.

The case is potentially significant because it is the first North American BSE case in which an animal was born after the United States and Canada implemented their similar BSE-prevention feed regulations in 1997. The January 2006 BSE case was the fifth involving a Canadian-born cow, which includes the Canadian-born cow diagnosed in Washing-

ton state in December 2003 that became the first of two U.S. cases of BSE.

CFIA said it has completed its animal investigation into the January 2006 case. It said 156 cattle from all of the affected animal's birth cohort were identified and traced, and all tested negative for BSE. As for the feed investigation, CFIA said a final analysis of records collected at the farm, retail and feed mill levels is underway. CFIA said it would prepare and publicly release a report summarizing the results of the entire investigation once it is complete.





FDA Considering Summer Meeting on Animal Feed Safety System

The NGFA has learned that the Food and Drug Administration's Center for Veterinary Medicine (FDA/CVM) is considering conducting a public meeting sometime this summer near its headquarters in Rockville, Md., to provide an update on its development of a comprehensive, risk-based Animal Feed Safety System.

The initiative, launched by FDA in September 2003, represents the most fundamental reconsideration of the agency's approach to regulating animal feed and feed ingredients since the establishment of the so-called "second generation" medicated feed current good manufacturing practice regulations in 1986. FDA envisions shifting its regulatory focus from an "end-product" oriented approach to a "preventive, process-based" approach, which could entail mandatory hazard analysis and critical control point (HACCP) regulations for feed and feed ingredients. Under the concept being considered by FDA, risk-based preventive measures could require that manufacturers of feed ingredients and commercial and on-farm feed, as well as distributors and transporters, thoroughly analyze their operations and identify potential risks that could

adversely affect human or animal health; implement measures to control those risks; maintain records that validate that control systems are effective in controlling cited risks; and conduct employee training. The agency's stated goal has been to implement a new regulatory approach in 2007.

An internal work group consisting of FDA and state feed control representatives currently is developing a risk-ranking model of various biological, chemical and physical feed safety "hazards" that may pose a danger to human or animal health. The assessment is attempting to determine the levels at which such contaminants may pose a hazard, as well as appropriate intervention points in the feed system for addressing them. FDA officials told the NGFA that they plan to present a draft of the risk-ranking model at the summer meeting.

FDA/CVM officials also told the NGFA that they hoped to soon create a separate website on the Animal Feed Safety System initiative, and to post revised versions of its "framework" of the project and definitions of what the agency considers a "comprehensive" and "risk-based" approach to future feed safety regulation.

PFI, NGFA Co-Host Meeting with FDA on Future Regulation of New, Novel Materials in Feed

The NGFA is teaming up with its strategic partner – the Pet Food Institute – to co-host a special meeting with the Food and Drug Administration (FDA) to discuss its current thinking concerning the use and future regulation of new or novel materials in animal feeds or supplements.

The roundtable discussion-format meeting is scheduled for **March 30 from 8:30 a.m. to approximately 4:30 p.m. at the Hyatt Regency Hotel Crystal City, Va.**, located just outside Washington and adjacent to Washington Reagan National Airport.

The meeting is designed to provide FDA with an opportunity to inform and solicit feedback from affected industry stakeholders about its current regulatory thinking concerning the future regulation of new or novel materials used as, or in, animal feeds and supplements. Many of these products have been marketed previously as dietary supplements for humans, and their principal marketing thus far in feed has been for equines and pets. This issue has been a source of concern for several years for the feed industry, as well as federal and state feed control officials. During NGFA committee meetings in 2005 and during PFI's annual meeting in October, FDA officials

indicated that the agency was considering regulating these products as animal drugs because of "drug-like claims" being made by sponsors of such products (e.g., that the products alter the structure and function of the animal). That, in effect, would result in FDA classifying products in which they are contained as medicated feeds.

A wide range of stakeholder groups and companies within their memberships are being invited by PFI and NGFA to attend, including representatives of the Association of American Feed Control Officials, American Pet Product Manufacturer's Association, American Feed Industry Association, Animal Health Institute (whose members manufacture animal drugs), American Veterinary Medical Association and National Animal Supplements Coalition (whose members manufacture such supplements). A registration fee of \$115 per person is being charged to offset hotel meeting room and meal costs. Advance registration is required to this invitation-only event. NGFA member companies wishing to receive invitations should contact Randy Gordon at rgordon@ngfa.org, or register directly to info@petfoodinstitute.org by no later than **March 10**.





Farm Groups Outline Market Access Demands as Trade Talks Advance

Market access for U.S. agricultural products is seen as a linchpin to successfully getting a World Trade Organization (WTO) multilateral agreement through Congress, and 16 U.S. commodity groups outlined some of their demands in that regard in a letter to U.S. Trade Representative Robert Portman and Secretary of Agriculture Mike Johanns this week.

The timetable put forward by WTO trade negotiators slates the end of April as the deadline for agreeing on the basic formulas (termed “modalities”) of an agreement, with the final deal to be completed by the end of 2006.

U.S. farm groups warned that they would “find it difficult” to support an agreement that includes substantial cuts in domestic farm program supports without commercially meaningful gains in market access for U.S. products abroad. A particular concern identified by the U.S. producer groups is developing countries that have at least 5 percent of the world market share of a particular commodity or semi-processed product. The letter stressed that countries in that category

must reduce their tariffs and subsidies in the same manner as developed countries. Prime examples cited include soybeans in Brazil, wheat in Argentina, corn in China and beef from India. Developing countries are sure to balk at this proposal, claiming that their developing-country status is imperative to their ability to grow and succeed in the competitive world market that is dominated by developed countries that provide hefty domestic supports for their producers.

The urgency of the letter is a sign that negotiations are heating up in advance of the April 30 modalities deadline. Significant issues remain outstanding, but U.S. negotiators are hopeful that with an increased work schedule the deadline can be met.

In addition, President Bush’s trip to India secured agreement between the U.S. and India to work together to advance the talks and meet the prescribed deadlines. U.S. Trade Representative Portman stated, “India and the U.S. have decided to work together at the WTO on services, agriculture and non-agricultural market access.”

Farm Bill Field Hearings Continue as Bush-Proposed Budget Cuts Fall Flat

The House Agriculture Committee announced plans to conduct additional field hearings in early March as part of its preparation for developing the 2007 farm bill.

The first field hearings were held on Feb. 6 in Fayetteville, N.C. and on Feb. 7 in Auburn, Ala. The additional hearings are scheduled for March 3 at 8:30 a.m. PST in the Stockton Arena in Stockton, Calif., and on March 4 at 9 a.m. CST at the Lied Lodge and Conference Center in Nebraska City, Neb.

The House Agriculture Committee’s stated intent is to “hear from all those involved in agricultural policy, including farmers, ranchers, agribusiness and government officials.” The committee said its review would encompass “all aspects” of the 2002 farm law to “determine the status of U.S. agricultural policy in anticipation of writing the next farm bill later next year.”

Committee Chairman Bob Goodlatte, R-Va., said that since the 2002 farm law, “U.S. farmers and ranchers have experienced significant challenges and opportunities in the world market, and it is important that our domestic policies reflect and adapt to this changing environment. Our producers are working on the frontlines, and their daily lives are affected by agricultural policy,” he continued. “Therefore, the feedback we gather from our producers will give us a good sense of

how these policies work in practice.” The committee anticipates additional field hearings will be conducted before beginning a series of hearings in Washington.

As the farm bill hearings continue, the congressional agriculture committees are likely to reject the Bush administration’s fiscal year 2007 budget proposals to cut spending on a variety of programs under their jurisdiction. The House Agriculture Committee on Feb. 16 voted to adopt a budget letter to the House Budget Committee chairman recommending “that any substantive budget changes be considered only when the farm bill is up for reauthorization in 2007.”

The letter from Committee Chairman Goodlatte and Ranking Member Rep. Collin Peterson, D-Minn., went on to state, “[r]est assured that this committee will have a full, fair, open and comprehensive farm bill debate in 2007 with participation by all stakeholders. We want to ensure that our programs deliver appropriate benefits and do so as effectively and efficiently as possible. We understand current budget concerns and are prepared to do our part – in concert with other committees – to address these concerns. We are not afraid of consolidation and change if such actions are needed. If we are to meet these challenges, however, we must have the time do it right without rushing to make premature changes just before a new farm bill.”



Meanwhile, Senate Committee Chairman Saxby Chambliss, R-Ga., has stated on numerous occasions that he expects his committee to recommend to the Senate Budget Committee that no cuts in agriculture spending be made as part of a budget reconciliation bill. Chambliss has indicated that any cuts to programs should be made during a comprehensive review of the farm bill that the committee intends to undertake over the next year.

Further lessening the chances of the president’s budget resembling anything approved by Congress, Senate Budget Committee Chairman Judd Gregg, R-N.H., used the words “unrealistic” and “irresponsible” in discussing the budget proposal. While personally supporting budget cuts, Gregg noted that he sees little inclination on the part of the House to pass another budget reconciliation bill and added that “there’s not a lot of appetite for it” in the Senate either.

Congress Reviews Missouri River Spring Rise Impact on Crop Insurance

The House Agriculture Committee’s Subcommittee on General Farm Commodities and Risk Management conducted a field hearing in Jefferson City, Mo., on Feb. 28 to review the effects of the spring rise of the Missouri River on crop insurance.

Subcommittee Chairman Jerry Moran, R-Kan., announced the hearing following the release of the U.S. Army Corps of Engineers’ 2006 operating plan for the Missouri River. That plan orders “spring rises” to be conducted in March and May in an effort to comply with the Endangered Species Act.

Producers along the river have voiced concerns that the increased water levels associated with the rises could damage agricultural land and that the damage would not be covered by crop insurance. Risk Management Agency (RMA) Administrator Eldon Gould confirmed that crop insurance covers disasters, but not damage occurring from man-made events. Gould noted that RMA had been working with the Corps to minimize any risk to producers from the spring rises, and that at this time the agency does not anticipate “that these upcoming releases will cause damages to crops or cropland along the Missouri River system.”



St. Louis OSHA District Begins Inspections of Grain-Handling Facilities

The NGFA has been alerted by Missouri Ag Industries Council, the NGFA’s Missouri affiliated association, that the St. Louis district office of the Occupational Safety and Health Administration (OSHA) is launching a local emphasis inspection program to reduce workplace safety and health hazards associated with grain handling facilities beginning March 1.

Grain handling facilities, as defined by the OSHA grain handling standard, include: grain elevators, feed mills, flour mills, rice mills, dust palletizing plants, corn mills, soybean flaking operations and the dry grinding operations of soy cake. There are approximately 90 companies with these types facilities within the jurisdiction of the St. Louis OSHA district office, which encompasses roughly the eastern third of the state.

The St. Louis OSHA district office told the NGFA that the local emphasis inspection program – slated to run for two years

– is required because of an “above-average” number of injuries and illnesses occurring at grain handling facilities in the region. The office also states that the program is justified by adverse findings during recent OSHA inspections of some facilities.

During the program, all operational grain handling facilities located within the St. Louis OSHA district office area will be subject to random inspections to determine compliance with agency regulations. Inspections will focus primarily on the OSHA grain handling standard requirements, but will touch on other standards, as well. As a precursor to commencing the program, the district office on Feb. 1 distributed a **Grain Handling Compliance Checklist** to affected facilities that summarizes the safety and health requirements for the grain handling industry. NGFA members may contact Jackie Congress at the Association’s office at 202-289-0873 to obtain a copy of the checklist.



February Frenzy a Huge Success!

...McCoy Wins Windy City Weekend Grand Prize...

February Frenzy yielded 14 new NGFA member companies, making it one of the most fruitful membership recruiting months in recent memory.

Great credit goes to all the NGFA members who hit the recruiting trail and brought them in!

Each sponsor of a new member qualified for the *Windy City Weekend* grand prize, awarded in a random drawing after close of business on Feb. 28. The winner receives:

- ▶ Airfare for two to Chicago: Sponsored by **R.J. O'Brien**, Chicago, Ill.
- ▶ Two nights' lodging at the Marriott Mag Mile: Courtesy of the **Marriott**.
- ▶ Dinner at Gibson's Steak House: Sponsored by **Rand Financial Services**, Chicago, Ill.
- ▶ Two Cubs Tickets: Sponsored by **ABN AMRO Inc.**, Chicago, Ill.

Thanks to these generous NGFA-member sponsors for making our Windy City Weekend possible!

And the winner is...

Scotty McCoy, White Commercial Corp., Sandersville, Ga.!

Scotty qualified for the prize drawing by sponsoring the membership application of The I.L. Richer Co., Sangerfield, N.Y. This new member is a good example of how persistence pays off, as Scotty had been working to get them to join for more than a year. The company became convinced that access to the NGFA Arbitration System was an important business service and completed the application process.

Again, thanks to all the NGFA recruiters who made February Frenzy a major success.



And the winner is...Scotty McCoy! NGFA Meetings Manager Stacey Royston pulls out the winning entry for the February Frenzy Membership contest as NGFA Director of Marketing/Treasurer Todd Kemp looks on.



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