



Senate Ag Committee Begins Farm Bill Deliberations

The Senate Agriculture Committee, under new Chairman Sen. Tom Harkin, D-Iowa, today began work on writing a new farm bill with a hearing that addressed the future of U.S. agriculture.

In his opening statement, Harkin promised an “aggressive” series of hearings in July, culminating in the drafting of a comprehensive farm bill. He said the new farm bill should emphasize not only better producer returns on the food dollar, but also increase funding for conservation initiatives, improve food stamp and nutrition programs, and generate a better quality of life for all of rural America. He signaled his intent to “keep what worked” from Freedom to Farm, specifically citing the current farm law’s planting flexibility provisions.

Ranking Republican Sen. Richard Lugar, R-Ind., said that a new farm bill must maximize American producers’ opportunities for trade, and called for passage of presidential trade promotion authority. Sen. Wayne Allard, R-Colo., told the committee that Congress should pay closer attention to animal health and safety issues, given the outbreaks of “mad cow” and foot-and-mouth diseases in Europe. And Sen. Pat Roberts, R-Kan., the “father” of the Freedom-to-Farm law, said that the new farm bill should retain planting flexibility, assist producer income without violating U.S. commitments under the World Trade Organization, avoid acreage idling and supply management if possible, and also examine

environmental issues, such as carbon sequestration.

During testimony at the hearing, National Farmers Union President Leland Swenson advocated a new counter-cyclical income support program; creation of food and bio-fuel reserves, and a farmer-owned reserve to replace lost or damaged crops not covered by crop insurance. He also supported granting USDA discretionary authority to impose acreage-idling programs and the inclusion of a agribusiness anti-concentration title in the farm bill. American Farm Bureau Federation President Bob Stallman said that the new farm bill should ensure that any spending on agriculture programs not exceed the \$19.1 billion allowed under WTO rules for policies considered “trade distorting.” He also said that the farm bureau opposed any new acreage-idling programs. He said the farm bureau supported making oilseeds eligible for direct, fixed agricultural marketing transition act (AMTA) payments, and sought additional funding for conservation.

Toward the hearing’s conclusion, Sen. Harkin asked the witnesses to consider whether “every single bushel and bale” of farm program commodities should be eligible for government payments. Harkin pledged that the committee would stay in close contact with all groups interested in the farm bill as the rewrite process continued.

CFTC Nixes Review of Ag Trade Options Rule

The Commodity Futures Trading Commission has advised the NGFA that it will not reopen its rulemaking to amend its regulations governing agricultural trade options until a “clear consensus” emerges and there are “indications of support...by the various segments of agriculture and the futures and options industry....”

The CFTC conveyed its position in a June 20 letter to the NGFA that responded to a May 18 NGFA letter that urged the agency to make prudent changes to the rules to enhance participation and provide access to additional risk-management tools in the cash grain marketplace.

The NGFA had urged the CFTC to review the burdensome regulatory scheme currently applying to agricultural trade options so as to better balance the cost of regulatory

compliance with the limited risk agricultural trade options present to farmer-customers. [*See Issues and Actions, June 14, 2001.*] Only one company thus far as registered as an agricultural trade option merchant in the three years since the CFTC adopted rules restoring agricultural trade options.

In responding to the NGFA’s request, CFTC Commissioner David D. Spears wrote that there was “no clear consensus” for changing the rules along the lines suggested by the NGFA. He specifically mentioned the rules’ provisions that require CFTC reparations proceedings to be available to ag trade options participants and the \$10 million-per-party net worth requirement before an agricultural trade option transaction is exempt from CFTC regulation.



NGFA's Expanding Focus on Feed

Your National Grain and Feed Association has been recognized widely for its professional work in many areas, including trade rules/arbitration, warehousing, grain quality, food safety, biotechnology, transportation, safety and health, risk management, farm policy and trade, to list just a few.

Less visible to some members, but just as significant, has been the NGFA's work on feed issues.

In 1995, the NGFA initiated the first – and still only one-of-its-kind – Model Feed Quality Assurance Program, which is offered through regional workshops across the United States with the active support of Affiliated State and Regional Grain and Feed Associations. We just completed the 14th such seminar in Louisville, Ky., and attendance was the largest since the inception of the program.

In 1997, the NGFA launched its Feed Industry Council meeting held annually in conjunction with the Country Elevator Council meeting. That meeting provides practical information that feed mill managers and employees can take home and implement immediately.

On public policy issues related to feed, the NGFA has taken a leadership role in working with FDA, state feed control officials and the U.S. Department of Agriculture to prevent BSE and foot-and-mouth disease from entering the United States. The NGFA is representing the interests of feed manufacturers and integrators in responding to the Environmental Protection Agency's rules on concentrated animal feeding operations. Through cooperative effort with the Association of American Feed Control Officials, the NGFA has provided leadership to finalize a Voluntary Self Inspection Program for medicated feed mills – a program that should be launched by FDA late this year as a self-regulation pilot program. In response to the increased influence that international standards-setting bodies may have on feeding rules in the United States, the NGFA was named to the official U.S. delegation for the Codex Alimentarius Commission's task force on animal feeding practices.

The NGFA's expanded services in feed education and feed industry policy issues have been driven by industry demand. NGFA member companies – one-third of NGFA members are involved in feed operations of some type – have requested a higher level of involvement by the NGFA to represent the feed manufacturing and

livestock/poultry integrator segments of the industry before FDA, state feed control officials and other bodies.

Thus far, the NGFA's expanded efforts in feed have been driven mostly by a very active Feed Industry Committee, under the leadership of a series of proactive and visionary chairmen – most recently Joe Garber of Wenger's Feed Mill, Rheems, Pa. – and NGFA Vice President Randy Gordon. The Feed Industry Committee has a tremendous mix of energetic, professional people that participate by helping to draft and present policy statements and provide hands-on educational services. Added to this mix of industry leadership and staff support, we now have created a new staff position – Director of Feed Services – and selected to fill that post an extremely well-qualified individual, David Fairfield, who has 20 years of experience in feed mill management; mill operations; quality control; safety, health and environmental compliance; and human resource training with Cargill, Wayne Feeds and most recently Hubbard. With this new professional talent on staff, the NGFA plans to further expand its program to offer a complete menu of educational and government representation services to its members with feed interests.

Dave will join the NGFA staff on July 2. He will continue to be based in Atlantic, Iowa, about 60 miles east of Omaha, Neb. One of Dave's primary responsibilities will be to stay in close contact with the feed manufacturing and feeding industry to identify and respond to current business needs, as well as to expand NGFA's membership among feed companies whose interests we serve. He will be traveling to Washington as needed to communicate with the federal government on the policy issues most critical to the industry. Dave's expertise in operations will be highly useful in developing industry responses to FDA, EPA, USDA, OSHA and other government agencies that seek to regulate feed interests.

As a current NGFA member, if you know of feed-related companies that would benefit by becoming participating members, invite them to join. More than ever before, the NGFA has tremendous value to offer to feed manufacturers, integrators and other feed-related companies!



APHIS Expands Regulated Area for Karnal Bunt in Texas

The U.S. Department of Agriculture's Animal and Plant Health Inspection Service has expanded the regulated area for Karnal bunt in Texas.

The agency on June 19 added Archer County, Texas, to the regulated area after it said wheat seed stored in four of five bins at a local grain elevator tested positive for the fungus. On June 21, the agency also "temporarily" designated Baylor County, Texas, as a regulated area because of suspicions that harvested wheat that may contain Karnal bunt had been transported to elevators in the adjacent county. The agency said the temporary designation in Baylor County will be lifted if the grain tests negative for bunted kernels; but the county will be added to the list of regulated counties if the grain tests positive. The APHIS action also prohibits any wheat harvested in Baylor County from leaving the field until it has tested negative for Karnal bunt.

On June 8, the agency had expanded its Karnal bunt quarantine area to include all of Throckmorton and Young Counties, located in north central Texas about 100 miles northwest of Dallas/Fort

Worth. San Sabo County, Texas, has been quarantined since 1996 by the agency because of the presence of Karnal bunt. Archer County is located directly north of Young County.

Wheat from areas regulated for Karnal bunt are required to be tested by APHIS before being shipped. Wheat that tests negative for the presence of bunted kernels is allowed to be transported under a limited permit to a milling facility under a compliance agreement with APHIS, provided there is concurrence by state plant health officials in the receiving state. Wheat testing positive for Karnal bunt is not permitted to move outside the county, and can only be used for animal feed within the county after it is heat-treated. A team of 30 federal and state specialists has been assigned to the North Texas area to enforce the Karnal bunt-containment effort and to trace wheat seed that tested positive for bunted kernels back to the fields of origin.

EPA Seeks Comments on Aventis Petition to Set Tolerance for StarLink™

The Environmental Protection Agency in the June 20 *Federal Register* published a notice requesting public comment by July 20 on the petition filed by Aventis CropScience USA seeking a 20-part-per-billion tolerance in human food products for residues of the Cry9C protein found in StarLink™ corn.

In its petition, Aventis maintained that the level of Cry9C protein in the whole corn grain is 0.0129 percent, "a very low level of total protein expression in the plant compared to most allergens which are present at 1 to 40 percent of the total plant protein," Aventis said it chose the 20 p.p.b. level because it is the limit of detection for the quick test strips developed by Envirologix and Strategic Diagnostics Inc.,

both of which have been validated by the U.S. Department of Agriculture's Grain Inspection, Packers and Stockyards Administration. The Aventis-proposed tolerance is among the agenda items to be considered when EPA's Scientific Advisory Panel meets on July 17-18 near Washington. [See *NGFA Newsletter*, June 14, 2001.]

Submitting Comments: Comments on the petition are to be submitted to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., N.W., Washington, D.C., 20460; or electronically to: opp-docket@epa.gov.

China Begins Next Step to Joining WTO

Multilateral negotiations were scheduled to begin today to review the accord on agriculture and services struck between the United States and the People's Republic of China earlier this month as part of China's effort to gain accession to the World Trade Organization yet this year.

The new discussions – which are dubbed the "China Working Party" – involve other countries that have been negotiating with China as part of a comprehensive package of commitments to which China will be asked to agree before the WTO General Council votes to adopt the accession package. China then is scheduled to present a "document of ratification" approved by its Congress that describes how it will bring its domestic laws into conformance with its WTO commitments. China would become a WTO member 30 days after filing such a notice of acceptance.

Under the U.S.-China agricultural accord, China agreed to limit its use of trade-distorting domestic agricultural subsidies to 8.5 percent of the total value of its agricultural production – less than the 10 percent level allowed for developing countries under the WTO but higher than the *de minimis* 5 percent level that applies to developed countries. But as part of the accord, China agreed to forego its right to a separate, unlimited exemption allowed for developing countries for supporting programs intended to encourage agricultural and rural development for resource-poor farmers. Instead, any support of this kind that China provides – which currently amounts to \$156 million per year – will be included as part of the overall 8.5 percent cap that applies to trade-distorting domestic agricultural subsidies.



House Approves \$5.5 Billion 'Emergency' Ag Spending Bill

...Bill Also Raises Payment Limit to \$150,000 for 2001 Crop Year...

The House on June 27 passed by voice vote legislation (H.R. 2213) to provide \$5.5 billion in "emergency" assistance for agricultural producers for the current 2001 crop year.

Floor action occurred a week after the House Agriculture Committee voted June 20 – by a 24-23 margin, with five members not voting – for an amendment that retained the \$5.5 billion in additional agricultural spending for fiscal 2001 agreed to earlier this year as part of the congressional budget plan (H. Con. Res. 83).

The action came during a sometimes contentious meeting in which House Agriculture Committee Vice Chair Rep. John Boehner, R-Ohio, and Ranking Democrat Rep. Charles Stenholm, D-Texas, garnered passage of a substitute amendment that turned back an attempt by Committee Chairman Rep. Larry Combest, R-Texas, to increase spending by another \$1 billion. As approved by the committee, the bill (H.R. 2213) would designate: 1) \$4.6 billion in "supplemental market loss assistance payments" to be provided in the form of direct Agricultural Marketing Transition Act (AMTA) payments for wheat, feed grains and cotton producers; 2) \$423 million for 2000-crop oilseed producers; 3) \$54.2 million for peanut producers; 4) \$16.9 million for producers of wool and mohair; 5) \$84.7 million for producers and first-handlers of cottonseed; 6) \$129 million in supplemental payments for tobacco quota holders; 7) \$10 million for direct and indirect costs associated with the processing, transportation and distribution of commodities; 8) \$500,000 to each state and \$1 million to Puerto Rico to promote agriculture; and 9) \$134 million in direct payments and grants to individual states to purchase specialty crops.

The bill also would increase the payment limit on marketing loan gains and loan deficiency payments to \$150,000 per person for the current 2001 crop year.

The Senate Agriculture Committee's timetable for drafting its version of the 2001 supplemental ag spending bill is uncertain.

House Ag Committee Action: As approved by the House, the ag spending bill earmarks \$1 billion less than the bill originally introduced by Combest, which would have provided \$6.5 billion in emergency payments in the current fiscal year, with the additional \$1 billion being borrowed from the \$73.5 billion in additional agricultural spending "baseline" for fiscal years 2002-11 approved as part of the congressional budget resolution earlier this year – which brought the total "baseline" for ag spending during the period to \$170 billion. The Combest version would have allocated \$5.5 billion in direct payments to eligible producers equal to their 1999 AMTA payments, while providing an additional \$500 million in direct payments for oilseed producers; \$220 million to purchase "surplus" stocks of fruits and vegetables; and \$129 million for tobacco

producers.

Combest warned that failure to adopt a \$6.5 billion package would short-change dairy and sugar producers, and not allow sufficient funds to provide loan deficiency payments to non-contract commodities. Under the Combest version, the extra \$1 billion would not have been available until Oct. 1, which coincides with the start of fiscal year 2002.

But Stenholm and others objected to obligating any of the fiscal 2002-11 funding allocation prior to considering the new farm bill. Stenholm pointed out that the many groups with interest in the farm bill had submitted proposals that would cost far more than even the new budget baseline would allow. He said the committee was going to have to "make hard choices," and that to dip into the new funding baseline now would only leave the panel with less money to work with in July, when the farm bill will be debated. Boehner concurred, warning that obligating future year funds now would "open the door" to a host of other proposals to do the same.

The committee vote on the Stenholm-Boehner amendment reflected a regional split, with seven Republicans joining 17 Democrats representing primarily grain and specialty-crop states. Four Democrats and 19 Republicans voted with Combest. The White House Office of Management and Budget had indicated it would recommend a presidential veto of any bill exceeding \$5.5 billion in additional fiscal 2001 ag spending.

Combest previously has announced his intent to have the House Agriculture Committee complete action on at least the commodity provisions of the new farm bill by August to secure access to the additional ag spending agreed to as part of this year's congressional budget resolution.

NGFA Calendar

- July 16-17:** Country Elevator Committee Meeting, Henley Park Hotel, Washington, D.C.
- July 26:** Food and Feed Safety Committee Meeting, NGFA's Conference Room, Washington, D.C.
- Sept. 9-10:** Board of Directors Meeting, Waterfront Hotel, Vancouver, BC
- Dec. 2:** Leadership Conference, Marriott Hotel Downtown, Indianapolis, Ind.
- Dec. 3-4:** Feed Industry Council Meeting, Marriott Hotel Downtown, Indianapolis, Ind.



USDA Alerts WTO About 'Trade-Distorting' U.S. Farm Payments

The U.S. Department of Agriculture on June 22 announced that it plans to notify the World Trade Organization that U.S. domestic agricultural supports for the 1998/99 marketing year included \$10.4 billion in trade-distorting "amber box" payments.

The "amber box" payments were provided to U.S. producers through market price support programs, loan deficiency payments and marketing loan gains, USDA said. WTO rules require that any domestic support payments linked to prices or production be considered as trade distorting, and designates such payments as "amber box."

The \$10.4 billion figure is half the ceiling allowed under the WTO for the United States during the 1998/99 marketing year, and did not include non-trade-distorting "green box" payments provided by USDA that are not subject to WTO limits.

"Under WTO rules, these market-loss assistance payments must be classified in the amber box," Secretary of Agriculture Ann M. Veneman said in making the announcement. "By classifying them properly, we set the right precedent for other nations in the way they classify their own trade-distorting subsidies, and we set an open and above-board tone as we move toward a challenging new round of trade negotiations in the WTO."

Bush Issues 'Call to Arms' for Trade-Promotion Authority

At a White House gathering to which the NGFA was invited, President Bush on June 18 issued a "call to arms" for U.S. agricultural groups to urge Congress to approve legislation that would grant the president trade-promotion (formerly called "fast-track") authority to engage in a new round of world trade negotiations under the auspices of the World Trade Organization.

Bush and other administration officials urged support for a "clean bill" that would not contain provisions related to labor rights and environmental standards. During the meeting, Bush called labor and environmental issues "codicils" that represent "excuses not to trade."

Bush's stance drew an immediate – and harsh – reaction from some congressional Democrats. House Minority Leader Rep. Richard Gephardt, D-Mo., said House legislation (H.R. 2149) introduced by Rep. Phil Crane, R-Ill., chairman of the House Ways and Means Committee's Trade Subcommittee, on June 13 "isn't even getting us to first base.... We are a long way from having an agreement," Gephardt said. "I don't intend to vote for a new trade round that does not make it clear that labor and environment will be included in the core text."

The House bill would grant trade promotion authority to the president through June 1, 2005, with opportunity for an additional two-year extension, which could be revoked by congressional action. The bill would restrict trade promotion authority only to those agreements that are directly concerned

Combest Rescinds Support for Fast Track: House Agriculture Committee Chairman Rep. Larry Combest, R-Texas, reacted by expressing "stern displeasure" with USDA's action, and said he was withdrawing his name as a cosponsor of legislation that would grant President Bush trade-promotion authority, formerly known as "fast-track." Combest maintained that the market loss assistance payments classified as "amber box" were made late in the crop year and could not have influenced producers' planting decisions. Combest also said that since the market-loss payments are based on Agricultural Market Transition Act (AMTA) payments, USDA's action could bring into question whether all AMTA payments are non-trade distorting.

"This decision will have a profound impact on U.S. farmers and the ability of Congress to help farmers deal with financial stress," Combest wrote in a June 22 letter to Veneman. "This brings into question whether agriculture is well served by future trade negotiations.... Abandoning the principle of assistance to our farmers does not instill any faith that the outcome of trade negotiations will be fair to U.S. agriculture."

USDA maintains that the amber box classification for these payments will not affect the classification of regular AMTA payments provided under the 1996 farm law.

with trade. Labor and environmental issues would be required to be addressed through side agreements.

The House Republican leadership is attempting to obtain a House floor vote on the measure before the August recess. It has been estimated that House Republicans may need to persuade up to 30 Democrats to support the bill for it to pass.

Senate Action: Meanwhile, in the Senate, Finance Committee Chairman Max Baucus, D-Mont., whose committee has jurisdiction over the bill, said he is increasingly pessimistic that Congress will grant the president trade-promotion authority this year. "No bill is preferable to a bad bill," Baucus said during a committee hearing on the issue. "If it means working beyond this year, I believe we must take the time to do it correctly."

Sen. Bob Graham, D-Fla., is attempting to craft a bipartisan bill with Sen. Frank Murkowski, R-Alaska, that would give labor and environmental goals parity with other trade-negotiating objectives, and include an "enforcement toolbox" that does not preclude sanctions against offending countries. Two Republican senators already have introduced trade-promotion authority bills. Sen. Phil Gramm, R-Texas, introduced a bill (S. 136) that would restore such authority through 2004, while Sen. Pat Roberts, R-Kan., has introduced legislation that would grant permanent authority to the president.





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The CFTC conveyed its position in a June 20 letter to the NGFA that responded to a May 18 NGFA letter that urged the agency to make prudent changes to the rules to enhance participation and provide access to additional risk-management tools in the cash grain marketplace.

The NGFA had urged the CFTC to review the burdensome regulatory scheme currently applying to agricultural trade options so as to better balance the cost of regulatory compliance with the limited risk agricultural trade options present to farmer-customers.

Among other things, the NGFA recommended that the CFTC consider amending the agricultural trade options rules to: 1) replace the agricultural trade option merchant registration requirement with a notification requirement so that participants in ag trade option transactions could contractually agree to resolve any disputes through mutually agreeable mechanisms, including arbitration, rather than through CFTC reparations proceedings; 2) permit agricultural trade option contracts to include a pre-

dispute agreement on the venue for resolving any subsequent disputes, similar to what is allowed for other cash contracts; 3) establish a more reasonable monetary threshold governing when parties to an agricultural trade option contract are exempt from CFTC regulation (current CFTC rules require both parties to have a minimum net worth of \$10 million); 4) maintain current restrictions on the types of agricultural trade option contracts available to producers during the pilot program; 5) limit the regulations that apply to the format of agricultural trade options; 6) increase the flexibility of reporting account information to customers; and 7) substantially modify the recordkeeping requirements that apply to agricultural trade option merchants, which currently are patterned after costly requirements that apply to futures commission merchants.

In responding to the NGFA’s request, CFTC Commissioner David D. Spears wrote that there was “no clear consensus” for changing the rules along the lines suggested by the NGFA. He specifically mentioned the rules’ provisions that require CFTC reparations proceedings to be available to ag trade options participants and the \$10 million-per-party net worth requirement before an agricultural trade option transaction is exempt from CFTC regulation.

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



Feed Facts

FDA Develops New Procedures for Registering Licensed Medicated Feed Establishments

NGFA members are reminded that the Food and Drug Administration has implemented a new system for the annual registration of licensed medicated feed manufacturing establishments for 2001.

Under the new procedures, FDA’s Center for Drug Evaluation and Research no longer will send to registered owners and operators of drug establishments the computer-generated printout of the Form FDA 2656e (“Annual Registration of Drug Establishment”). Instead, the new renewal procedure requires registered establishments to obtain, complete and submit a Form FDA 2656 (“Registration of Drug Establishment”) using one of the following two formats:

➤ **No Change Since Previous Registration:** If there is no change from the previously filed registration form, the licensed medicated feed manufacturing

firm is to fill out the new form with only the registration number, reporting firm name, and signature, title and date. In addition, the “reason for submission” box is to be filled out to read “Annual – No Change.”

➤ **Change Since Previous Registration:** If there has been a change from the registration form currently on file, the licensed medicated feed manufacturing firm is to fill out the registration number, reporting firm name, and signature, title and date, as well as any applicable sections where a change has occurred. In the “reason for submission” box, firms are to insert the word “Annual.”

Further information on filling out the annual FDA 2656 registration form is available by calling FDA’s Center for Veterinary Medicine at (301) 594-1086, or on the Internet at: <http://forms.psc.gov/forms/FDA/fda2656.pdf>.





Ohio Court Case Demonstrates Need for Clear Contract Language

An Ohio appellate court held recently that simply referring to the NGFA Trade Rules in a contract was insufficient to indicate that the parties had consented to arbitrate disputes arising from the contract.

The case – *Blanchard Valley Farmers Cooperative Inc. v. Carl Niese & Sons Farms Inc.* [Case No. 5-2000-42, Ohio Ct. of App., 3d App. Dist., June 18, 2001] – involved a series of hedge-to-arrive (“HTA”) contracts between Blanchard Valley Farmers Cooperative, a NGFA member, and a producer of corn, soybeans and wheat. As a result of increasing grain prices in 1995 and 1996, the producer elected to roll each contract several times. When the producer was unwilling to provide assurances that he would perform under the HTAs, the grain firm cancelled the contracts and billed the producer for the costs incurred to hedge the HTAs.

When the producer refused to pay the costs, the grain firm sought to have the dispute arbitrated at the NGFA. However, the producer refused to participate. The grain firm then filed a complaint in an Ohio state court maintaining, among other things, that the dispute was subject to arbitration. The court agreed and issued an order compelling the parties to arbitrate the claims.

But the producer appealed and claimed, among other things, that he had not consented to NGFA arbitration when he entered into the HTAs.

The contractual language included in the HTAs did not expressly provide for the arbitration of disputes, but did provide that, “[t]his purchase is made subject to the trade rules of the National Grain and Feed Association.” The court concluded that since the dispute involved a non-member producer, and that the contract did not specifically reference arbitration, he was not required to arbitrate the case since the producer was not a NGFA member.

While unrelated to this specific dispute, it should be noted that the NGFA Arbitration Rules and Trade Rules were amended in 1999 so that a simple reference to “NGFA Rules” in a contract sufficiently indicates that the parties have consented to arbitrate any disputes arising under the contract, even if one of the parties is a nonmember. NGFA Arbitration Rule 3 reads, in part:

“(c) Rules of Contract Interpretation: The following general rules of contract interpretation shall apply in NGFA arbitration cases:

“...(4) A general reference to NGFA rules shall be deemed to incorporate all rules of this Association including the Bylaws,

Trade Rules and Arbitration Rules, and all definitions included in the Trade Rules shall apply under these Arbitration Rules, likewise.”

Further, Grain Trade Rule 29, Feed Trade Rule 27, and Barge Freight Trading Rule 17 all contain an arbitration rule that reads as follows:

“Where a transaction is made subject to these rules in whole or in part, whether by express contractual reference or by reason of membership in this Association, then the sole remedy for resolution of any and all disagreements or disputes arising under or related to the transaction shall be through arbitration proceedings before the National Grain and Feed Association pursuant to the NGFA Arbitration Rules; provided, however, that at least one party to the transaction must be a NGFA member entitled to arbitrate disputes under the NGFA Arbitration Rules.”

While the existence of this language in the NGFA Arbitration Rules and Trade Rules might have yielded a different result from that rendered by the Ohio court, the case demonstrates the need for clear contract language.

For this reason, members wishing to ensure that disputes with nonmembers are subject to NGFA arbitration are encouraged to include a NGFA arbitration clause in their contracts. A model contract arbitration clause that members may wish to consider is as follows:

“NGFA® ARBITRATION OF DISPUTES: The parties to this contract agree that the sole remedy for resolution of any and all disagreements or disputes arising under or related to this contract shall be through arbitration proceedings before the National Grain and Feed Association (NGFA) pursuant to the NGFA® Arbitration Rules. The decision and award determined through such arbitration shall be final and binding upon the Buyer and Seller. Judgment upon the arbitration award may be entered and enforced in any court having jurisdiction thereof. (Copies of the NGFA® Arbitration Rules are available from the National Grain and Feed Association, 1250 Eye Street, N.W., Suite 1003, Washington, D.C. 20005; Telephone: 202-289-0873; Website: <http://www.ngfa.org>.)”



Membership Matters

by Todd Kemp
Director of Marketing

Membership Month Announced! **... Prize Packages for Recruiters and New Members!...**

New Membership Network Chair Byron Ulery, president and chief executive officer of Farmway Co-op, Beloit, Kan., has announced that the 2001 version of *Membership Month* will occur **July 16-Aug. 17**. During that time period, NGFA members will be asked to place special emphasis on recruiting new members to the NGFA.

Recruiter Prize Package: As in previous years, all successful recruiters during *Membership Month* will be eligible for a random prize drawing, to be conducted at close of business on Aug. 17. The winner will receive a fabulous **San Francisco weekend** that includes: 1) airfare for two to San Francisco; 2) luxurious accommodations in the GATX corporate apartment; and 3) additional local attractions like sports tickets, dinner at one of San Francisco's fabulous restaurants, and more. Stay tuned for more details!

New Member Prize Package: A new feature for this year's *Membership Month* is a prize package for which all paid new-member applicants are eligible, consisting of: 1) airfare for two to Hilton Head, S.C.; 2) three nights' accommodations at the beachfront Westin Hilton Head Resort; and 3) complimentary registration (including spouse/guest registration) for the NGFA's 106th annual convention. To qualify, an applicant need only submit a new membership application and initial dues investment between July 16 and Aug. 17. This package is a great way to entice prospects that have been interested but have not committed yet!

What You Can Do Now: A second new initiative will set the stage for a successful *Membership Month*. Here's how it will work:

➤ All NGFA members are invited to nominate prospects to receive a complimentary subscription to *NGFA E-Alerts* and the *NGFA Newsletter* beginning immediately and continuing through *Membership Month*. Inserts will publicize membership benefits and the Hilton Head prize package. Newsletters will be sent via regular mail or e-mail (or both), whatever your prospect prefers. To the extent possible, please provide your prospects' mailing address and e-mail address.

➤ After nominating a prospect, recruiters are asked to call their prospects to let them know of their complimentary subscriptions and to invite them to join the NGFA during the *Membership Month* drive.

➤ All nominated prospects will receive follow-up calls from NGFA staff to answer additional questions or provide more information.

Each of the past two years, *Membership Month* has resulted in at least **20 new members**. To attain that level again, we need the active participation of all recruiters. Don't hesitate to call staff if you have questions or need additional materials!



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TIME SENSITIVE

