



NGFA

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Japan Requires Certification U.S. Corn Free of Bt10

Japan's Ministry of Agriculture, Fisheries and Forestry (MAFF) today (June 9) issued a notice requiring Japanese importers of U.S. corn to provide pre-advice of U.S. corn shipments and to include documentation certifying that cargoes are free of the Bt10 biotechnology-enhanced corn trait after detecting it in two separate U.S. shipments in early June.

In the notice, MAFF said the certification showing U.S. corn does not contain Bt10 must be based upon the results of sampling and analysis in the United States prior to shipment. Representative samples of lots not exceeding 5,000 metric tons are to be collected and analyzed using PCR tests. Laboratories performing the analysis are required to be accredited by a third-party organization operating under International Standards Organization (ISO) standards. Even if accompanied by a certificate stating that Bt10 is not present, MAFF's notice said it may sample and test inbound cargoes of U.S. corn.

During the transition to the certification approach, if vessels depart from the U.S. export port, the MAFF notice instructs that this circumstance be noted and that the Japanese importer extract samples for laboratory analysis upon arrival of the shipment in Japan. Any samples testing positive for Bt10 the

corn will be reanalyzed, and if reconfirmed as positive will result in rejection of the shipment.

MAFF's action follows the detection by Japan of the presence of Bt10 in two separate shipments – the first on May 26 involving a 390-metric-ton lot drawn from a shipment of U.S. corn, and the second on June 1. Japanese regulations require increased testing frequency when unapproved biotech events are detected in imported shipments. Since Bt10 is not approved for use in food or feed, MAFF said any U.S. corn or corn products tested and found to be positive for Bt10 will be rejected and may not be imported or distributed in Japan. The Japanese detections follow the May 25 detection of Bt10 in a shipment of corn gluten feed to Ireland. The European Commission subsequently issued a press release stating that Irish authorities were taking the "necessary measures to ensure that this consignment does not enter the feed chain."

Japan and perhaps other foreign countries are expected to take additional actions as they try to manage the presence of the Bt10 corn event that remains unapproved in their respective markets, and therefore subject to a zero tolerance. Testing to screen U.S. corn in the domestic market is complicated by

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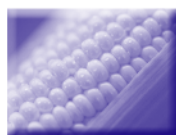
USDA to Tap Emerson Trust for Additional 500,000 Metric Tons

The NGFA has learned that the U.S. Department of Agriculture (USDA) soon may announce that the Bill Emerson Humanitarian Trust will be tapped for an additional 500,000 metric tons of wheat in response to the June 7 joint announcement by President Bush and British Prime Minister Tony Blair that additional emergency food aid will be provided to meet humanitarian emergencies in Africa.

USDA officials told the NGFA's Country Elevator Committee meeting in Washington on June 8 that the additional drawdown of the Emerson Trust likely would consist of a mix of CCC-owned winter wheat for Ethiopia and CCC-owned soft white wheat for Eritrea. The specific quantities of the two classes to be made available from the Emerson Trust will be announced once USDA receives a formal request from the U.S. Agency for International Development (USAID), which administers the P.L. 480 Title II food aid program. USDA said it anticipated that the releases from the Emerson Trust would begin sometime in July, with shipments likely to occur in October and November.

USDA on April 22 completed the sale of 200,000 metric tons (approximately 7,348,666 bushels) of soft white wheat that had been authorized for release from the Emerson Trust by then-Secretary of Agriculture Ann M. Veneman. The sales offset the purchase of an equivalent tonnage for use as emergency food aid under P.L. 480 Title II, mostly for the Darfur region of Sudan. CCC utilized buy/sell transactions, rather than swaps, in those instances. USDA officials said no decision will be made on release procedures from the Emerson Trust until the formal request is received from USAID.

USDA officials estimated that the new release could draw the Emerson Trust down to approximately 900,000 metric tons. As of April 22, the Emerson Trust consisted of roughly 52 million bushels of CCC-owned wheat, although CCC's total wheat inventory totals 54.6 million bushels. Of the Emerson Trust quantity, approximately 28.56 million bushels was hard red winter wheat and 19.7 million bushels was soft white.



“Bt10 Certification” continued from page 1)

the fact that the only test for Bt10 currently available is the expensive and time-consuming PCR method. The North American Export Grain Association, with which the NGFA is co-located and has a joint operating agreement, is taking the lead in addressing the Bt10 issue’s growing impact on U.S. export markets.

The inadvertent release of the Bt10 corn event was announced publicly for the first time on March 21 by Syngenta AG, after the company said it had detected the unapproved event in five Bt corn breeding lines in the United States, three

of which were used between 2001 and 2004 primarily for “pre-commercial” development. Syngenta AG said seeds produced using the Bt10 lines potentially could have been planted on an estimated 37,000 acres in as many as eight U.S. states. The U.S. Environmental Protection Agency and Food and Drug Administration on April 27 posted notices on their respective websites attesting to the safety of the Bt10 corn event in food and feed, as well as for the environment. But the Bt10 corn event was never submitted for “official” approval by the U.S. government because its commercial release was never intended by Syngenta AG.

Canada Proposes Phytosanitary Requirements for Soybean Imports

The Canadian Food Inspection Agency (CFIA) has proposed to implement new phytosanitary requirements for imports of U.S. soybeans to prevent the spread of the soybean cyst nematode – prevalent in many U.S. soybean-producing areas – to uninfected parts of Canada.

Under the proposal, U.S. soybeans destined for consumption or processing could be imported by Canada if they have been cleaned prior to export and are free of plant debris and soil. A U.S. Department of Agriculture official told the NGFA that the cleaning and free-of-plant-debris requirements should be interpreted to mean that soybeans with a foreign material of 2 percent or less could be exported into Canada without a permit or phytosanitary certificate. Under the proposed regulations, foreign material is defined as: 1) fungus bodies such as ergot or other sclerotia, and smut balls of regulated pests; 2) plant debris, including chaff, loose hulls, empty seed pods, stems, knuckles, levels and similar material; 3) soil particles, stones, sand, dust and other material; and 4) seeds of any other crop (domesticated) or weeds (wild) of non-prohibited species.

For U.S. soybean shipments containing foreign material greater than 2 percent, the proposed regulations require the importer to obtain a “Permit to Import” issued by CFIA. USDA notes that this amendment is designed to allow shipments sold on destination grades (e.g., truck shipments or perhaps some rail) to enter Canada, provided the importer has obtained the required permit.

In 2004, the NGFA and NAEGA commented on an earlier version of this proposal, in which the CFIA proposed to allow U.S. soybean imports for non-propagative purposes into Canada provided they were accompanied by an official GIPSA grade certificate indicating that the soybeans were U.S. No. 2 or better, or a phytosanitary certificate stating that the shipment did not contain more than 2 percent foreign material as defined by the U.S. grain standards. The NGFA and NAEGA objected to these requirements as overly burdensome and potentially disruptive to trade. USDA officials claim that Canadian officials have tried to accommodate the industry’s concerns in the revised proposal. The NGFA/GEAPS Grain Grades and Weights Committee and NAEGA Grades and Inspection Committee are evaluating the Canadian proposal to assess its impact on U.S. exports to Canada.



House Passes Agricultural Appropriations Bill

The House on June 8, by a 408-18 vote, passed its \$100.3 billion version of the fiscal 2006 agricultural appropriations bill after defeating an amendment that would have required implementation of mandatory country-of-origin labeling for meat and meat products starting this October. In essence, the action means that mandatory country-of-origin labeling would be delayed until October 2006.

Importantly, the House-passed measure does **not** include \$28 million in new user fees proposed by the administration for the Grain Inspection, Packers and Stockyards Administration and the Agricultural Marketing Service. The administration had proposed that at least \$4 million of those new fees be used to finance the standardization activities of the official grain inspection system. The NGFA strongly urged Congress to reject those fees.



The House-passed appropriations measure includes \$16.8 billion in discretionary funding, nearly identical to the previous year, but would increase overall spending by 17 percent through increases in food stamps and farm program spending. Spending specifics include \$837 million for the Food Safety and Inspection Service (FSIS), a \$20 million increase over last year; \$849 million for the Animal and Plant Health Inspection Service, a \$35 million

increase over last year; \$1.5 billion for the Food and Drug Administration (FDA); and \$90 million for BSE prevention and detection activities. The bill also would reduce conservation programs by \$37 million—to \$794 million.

Senate action on its version of the appropriations bill has lagged, and may drag on into the summer.

Hill Highlights

Highway Bill Prospects Remain Unclear: An ongoing battle over the overall funding level for a multi-year highway reauthorization bill continues to be the major roadblock to passage as a joint House-Senate conference committee prepares to begin deliberations on June 9. The House-passed version would earmark \$284 billion through fiscal 2009, while the Senate version proposes to spend \$295 billion. The administration has threatened to veto any bill whose expenditures exceed \$284 billion. The same debate over the funding level doomed the bill last year.

Both the House- and Senate-passed versions include the NGFA-supported codification of the agricultural exemption from the U.S. Department of Transportation's hours-of-service (HOS) truck driving regulations, and expand the definition of covered commodities to include feed. The NGFA has urged Congress to include this provision in the final version. The NGFA also has actively opposed a provision included in the House-passed version that would mandate truck diesel fuel surcharges. Joining the NGFA in actively opposing the mandatory diesel fuel surcharge provision are the Ag Retailers Association, the National Cotton Council, the National Cotton Ginners Association, and the Agricultural and Food Transporters Conference of the American Trucking Associations.

Senate Committee Increases Renewable Fuels Mandate: Prior to recessing for the Memorial Day holiday, the Senate Energy and Natural Resources Committee on May 25 approved a significant increase in the renewable fuels standard that would be included in the Senate's version of the energy bill. The committee approved a graduated increase in the standard that would require oil refiners by 2012 to blend at least 8 billion gallons of renewable fuels annually (which includes ethanol and biodiesel) into gasoline. The energy bill already passed by the House contains a 5-billion-gallon annual renewable fuels standard. The Senate's renewable fuels provision, which was championed by Sens. Jim Talent, R-Mo., and Tim Johnson, D-S.D., would mandate the following production levels: 4 billion gallons annually by 2006; 4.7 billion gallons by 2007; 5.4 billion gallons by 2008; 6.1 billion gallons by 2009; 6.8 billion gallons by 2010; 7.4 billion gallons by 2011; and 8 billion gallons by 2012.

However, there appears to be some dissent on the higher renewable fuels standard within the Senate. Sen. James Inhofe, R-Okla., chairman of the Senate Environment and Public Works Committee, in a May 24 letter to Energy and Natural Resources Committee Chairman Pete Domenici, R-N.M., warned that the overall energy bill could be delayed if the renewable fuels standard

was increased to the 8-billion-gallon level. Inhofe's committee previously had approved a 6-billion-gallon renewable fuels mandate. In addition, Sen. Dianne Feinstein, D-Calif., succeeded in attaching an amendment to the energy bill that would partially exempt California from the requirement to use ethanol blends from April through October, arguing that the state already has a gasoline blend that helps it meet the Environmental Protection Agency's air quality standards during warm months. But even under the Feinstein amendment, California's refiners still would be required to use 900 million gallons of ethanol annually by 2012. Sen. Maria Cantwell, D-Wash., also won approval of an amendment mandating that at least 250 million gallons of ethanol by 2012 be cellulose-based or derived from plant material that is not sugar-based.

The bill is scheduled to be debated on the Senate floor starting the week of June 13. But much work remains to be done to resolve differences before a final comprehensive energy bill will secure enough votes to pass Congress.

Senate Agriculture Committee Conducts CAFTA-DR Hearing: The Senate Agriculture Committee on June 7 conducted a hearing to weigh the impact of the Central American-Dominican Republic Free Trade Agreement (CAFTA-DR) on U.S. agriculture. The agreement was roundly criticized by members of the committee from both sides of the aisle, primarily over the sugar issue. The agreement would allow a small quantity of sugar imports while significantly opening growing markets to U.S. corn, wheat, soybean, livestock and poultry exports. While representing a very small portion of U.S. agriculture, sugar retains a large influence in many congressional offices.

The House Ways and Means Committee and Senate Finance Committee are expected to conduct "mock" markup sessions over the next couple of weeks to review the agreement and pass it on the House and Senate floors for final action. They are "mock" markups because the trade-promotion authority granted to the president prohibits Congress from amending an agreement; it only can be voted up or down. Projections are that there still are insufficient votes to pass the measure in both chambers. Many members of Congress are working to strike a compromise with the administration that would help the sugar industry adjust to the imports without suffering economic damage. If such a side agreement is achieved, it may be sufficient to garner the necessary votes for passage. Congressional Republican leaders would like to conclude action before the July 4 recess.



Industry Expresses Major Concerns Over FDA's Intended Implementation of Certain Aspects of Bioterrorism Recordkeeping Rules

Industry members, many from NGFA-member companies, registered major concerns with the Food and Drug Administration (FDA) concerning its intended implementation of several aspects of its bioterrorism recordkeeping final regulations during the first of five public meetings being conducted by the agency that began June 7 in Kansas City, Mo.

FDA's bioterrorism recordkeeping regulations require firms to maintain records that are sufficient to identify the immediate previous source and immediate subsequent recipient of food, feed and other agricultural commodities and ingredients – in essence, a one-step forward, one-step back recordkeeping. Among entities covered by FDA's recordkeeping regulations are companies that manufacture, process, store, pack, transport, distribute or import food, feed or feed ingredients. Included are commercial feed, feed ingredient and pet food manufacturers; country, terminal and export grain elevators; grain processors; flour and dry corn millers; and transporters (including commercial truckers, railroads and barge lines).

Among major issues drawing extensive concern from industry members during the initial public meeting were:

- ▶ FDA's intent to require grain handlers, feed manufacturers, processors and others to maintain records of the transporter of inbound deliveries from farms. Concerning FDA's requirement that grain, feed and processing facilities keep records of the transporters of inbound commodities – including the transporter's name, address, telephone number and, if available, fax number and e-mail address – industry members explained the impracticalities of doing so for deliveries from farms, where the transporter can vary from a producer's family, to a contract hauler, to a neighbor, to a custom harvester. Further, the NGFA noted that since farms are exempt from the recordkeeping requirement, they are under no obligation to provide such information on the transporter to the grain handler or feed manufacturer.
- ▶ FDA's intent to require grain handlers and others to maintain records of the bins and flat storage structures into which grain was unloaded, and to link those records to outbound shipments from those same bins or storage structures. FDA noted that the bioterrorism recordkeeping rules require firms to link incoming products to outbound shipments. But industry members explained in detail to FDA that this requirement would result in the individual facilities maintaining potentially thousands of records that would be largely meaningless in terms of providing the agency with useful information to trace an intentional or unintentional contamination incident, since such structures often contain grain delivered and stored over the course of several years. FDA's recordkeeping rules only require

that such records be maintained for two years, which means that the records that link a particular inbound delivery could be gone by the time the grain associated with that record is ever shipped. FDA's initial response was that the industry "should take another look" at whether having large bins that may store commodities for three years or longer is a prudent business practice because of the potential associated liability to downstream users.

FDA officials asked the NGFA to serve as a central point for conveying to the agency the industry's concerns in these and other areas that were highlighted at the initial public meeting.

In one positive development, FDA officials said that they would consider information on farm deliveries already being captured on scale tickets and settlement sheets that identify the landowner, tenant or name/location of the farm – or a combination of this information – to be sufficient for meeting the "reasonably available" standard that is required under the bioterrorism recordkeeping rules.

Additional public meetings occurred on June 8 in Los Angeles, Calif., and June 9 in College Park, Md. The final two public meetings are scheduled for:

- ▶ **June 14, Minneapolis, Minn.:** Minneapolis Airport Embassy Suites Hotel (Bloomington, Minn.)
- ▶ **June 15, Atlanta, Ga.:** Renaissance Waverly Hotel, 2450 Galleria Pkwy.

The public meetings are free but advance registration is encouraged, which can be done electronically by clicking [here](#); scroll to the bottom of this website link to access the registration form.

FDA's bioterrorism recordkeeping regulations take effect on **Dec. 9, 2005** for larger companies with 500 or more employees; on **June 9, 2006** for firms with 11 to 499 employees; and on **Dec. 9, 2006** for firms with 10 or fewer employees. FDA confirmed at the Kansas City public meeting the NGFA's understanding that the recordkeeping regulations are **not retroactive, but apply only to inbound or outbound shipments, as well as storage, manufacturing, processing and other activities, that occur on or after the effective dates.** That means that such records will **not** be required of inbound deliveries or shipments during this fall's harvest.

Further, by both law and regulation, FDA does **not** have routine access to these records. Instead, the Bioterrorism Act and the agency's implementing regulations state that FDA's authority to access such records is contingent upon the agency receiving a "credible threat of serious adverse health consequences or death" to humans or animals. If FDA





receives such a "credible threat" against a particular segment of the food or feed chain and requests access to available records, firms are required under the final rule to make such records available within 24 hours.

For more information on the FDA bioterrorism

recordkeeping regulation, see the NGFA/GEAPS Facility Security website that is found on the NGFA homepage at www.ngfa.org. Once the public meetings are concluded, the NGFA will be developing additional guidance for the grain, feed and processing industry on complying with FDA's bioterrorism recordkeeping regulations.

UGRSA Not Required for Licensed Grain Warehouses to Issue Basic LDPs

The U.S. Department of Agriculture's Farm Service Agency (FSA) has issued a notice clarifying that licensed grain warehouses are **not** required to have a Uniform Grain Storage and Rice Agreement (UGRSA) contract with its Commodity Credit Corporation to process basic loan deficiency payments (CCC 633-LDPs), so long as the facility is licensed and the producer retains beneficial interest in the commodity.

The notice (LP-1994), available to members receiving the *NGFA Newsletter* electronically by clicking [here](#), was issued on May 25 after FSA received inquiries from several FSA offices questioning whether grain storage facilities licensed under state law were required to have a UGRSA before processing CCC-633 LDPs. Citing a section in its loan program handbook that says storage requirements for LDPs are waived, FSA's notice said that producers who "deliver eligible commodities to a grain warehouse that is licensed within the state to store agricultural commodities and retain beneficial interest in the stored commodity may request a CCC-633 LDP." FSA noted that certified CCC-633 LDP quantities are subject to spot check audits, in which case production evidence must be submitted.

A previous notice (LP-1990), issued on April 28, had implied that federal- and state-licensed grain warehouses were required to have UGRSAs to be eligible to process CCC-633 LDPs. While the new FSA notice specifically addresses only state-licensed grain warehouses, the USDA officials told the NGFA's Country Elevator Committee on June 8 that the same policy applies to federally licensed grain facilities. FSA is considering the NGFA's request to issue a comparable notice or clarification to its loan program handbook to clarify equivalent policy treatment for federally licensed grain warehouses.

The major benefit of the initial notice (LP-1990) was to assert and clarify FSA's policy that producers who deliver commodities to non-storage facilities, such as an ethanol plant, grain processor, feedlot, feedyard or dairy, lose beneficial interest upon delivery because the producer loses control over the commodity. That policy is reiterated in the new LP-1994 notice. *[Note: These facilities still can issue field-direct LDPs (CCC-709), but the LDP rate is established on the date of delivery since that's when the producer loses beneficial interest.]*

Notice LP-1990 also clarified circumstances under which producers maintain beneficial interest for marketing assistance loan and LDP purposes for grain placed in "open storage," which had been the subject of various misinterpretations by some state and county FSA offices during the 2004 harvest. The new notice also reiterates a section of previous notice LP-1990 that directs FSA state and county offices to refer to state licensing or other applicable authorities for guidance on specific state warehouse storage requirements for storing agricultural commodities. "Depending on the applicable state law, restrictions may apply when the commodity is delivered for storage...that may cause the producer to lose beneficial interest in the commodity upon delivery or fulfillment of a contract." For instance, some state laws require that producer deliveries be applied to any open contracts that may exist with the grain warehouse, even if the producer directs that the grain be placed in "open storage."

Bottom Line: The **bottom-line** importance of the combined effect of the two FSA notices is that **producers who deliver eligible commodities to grain warehouses that are either federal- or state-licensed retain beneficial interest (unless otherwise dictated for state-licensed warehouses by state law) until such time as they make an affirmative marketing decision or enter into a written or verbal contract under whose terms title, control or risk-of-loss in the commodity is relinquished. The same goes for non-licensed grain warehouses that have a UGRSA contract with CCC.**



Calendar

June 14-15, 2005: NGFA Grain Grades and Weights Committee
NGFA Conference Room, Washington, D.C.

July 27-28, 2005: Operations, Management & Technology Seminar - "Grain Quality Management"
Airport Marriott Hotel, Kansas City, Mo.
(Joint Seminar Series with the Grain Elevator and Processing Society)





USDA Cautions Warehouse Operators on Storage Obligations Created if Differentiating Between Spring, Winter Varieties of Hard White Wheat

A notice to the trade (BCD-98) was issued June 3 by the U.S. Department of Agriculture's Farm Service Agency (FSA) cautioning warehouse operators of the obligations they incur if they differentiate between spring and winter varieties of hard white wheat.

FSA officials told the NGFA that the notice was precipitated by producers requesting that warehouse operators issue documents differentiating between spring and winter varieties of hard white wheat because of the significant difference in marketing assistance loan rates and loan deficiency payments between the two varieties – amounting to a 15-cent-per-bushel or greater benefit for hard white spring wheat in some Pacific Northwest counties.

The FSA notice states emphatically that there is **no obligation** under the Uniform Grain and Rice Storage Agreement (UGRSA) contract or the U.S. grain standards – there are no subclasses for hard white wheat – for warehouse operators to differentiate between spring and winter varieties of hard white wheat. Further, the notice states, there are other ways for producers to document that they are eligible for the additional price support provided for hard white spring wheat, namely: 1) the producer is required to certify all cropland uses on their annual acreage reports (form FSA-578), which includes information on whether wheat was planted in the spring or fall; and 2) producers of hard white wheat stored on-farm or in a

commercial warehouse are required to certify the variety when requesting a loan or LDP. “Accordingly, documentation from a warehouse that does **not** include the variety of hard white wheat will **not** cause a producer to be ineligible for (a) loan or LDP,” states the notice. [*Emphasis added.*] This “documentation” obviously includes warehouse receipts, scale tickets, settlement sheets and other documents issued by warehouse operators.

Significantly, however, **if** the warehouse operator voluntarily decides to designate spring or winter varieties of hard white wheat on documents, FSA's notice states that he/she then is **obligated** to: 1) maintain a separate daily position record (DPR) for quantities of spring and winter varieties so-denoted; and 2) store the two varieties separately, since the warehouse operator will have incurred a storage obligation for the quantities of the two varieties specified on the DPR. “Warehouse operators who indicate **only the kind and class** (and do not differentiate between spring and winter varieties) are **not** required to store spring and winter varieties separately,” the FSA notice states. The clear message is that warehouse operators should be mindful of the obligations created if specifying more than the kind and class of hard white wheat on documents.

The notice also reminds warehouse operators of the requirement to specify protein content for all CCC-interest hard wheat (marketing assistance loan and CCC-owned).

USDA Schedules June 24 Public Meeting on CRP Contract Extensions

A June 24 public meeting has been scheduled by the U.S. Department of Agriculture's Farm Service Agency to focus on two major questions concerning the looming expiration of 16 million acres of Conservation Reserve Program (CRP) contracts. The NGFA will be participating extensively in the meeting.

In a *Federal Register* notice published June 3, FSA said it received more than 5,000 comments from 570 individuals, agencies and organizations in response to its August 2004 notice requesting input on several issues related to the large number of CRP contracts scheduled to expire starting in 2007. But before proceeding with changes to its implementation of the CRP, FSA Administrator James R. Little said additional comments were needed concerning the following two major topics that generated the most input in response to the agency's original request for comments:

- ▶ How should USDA address the large number of expiring CRP contracts and their associated acres in a way that achieves the most environmental benefits but also is

administratively feasible and cost-effective? FSA's notice specifically requests input on how it could stagger CRP contract expirations over several-year intervals and the criteria that should be used to select and extend contracts.

- ▶ How should USDA ensure that the CRP's environmental benefit program goals are achieved if it offers reenrollment without a competitive-bidding process? FSA asks how it could determine which contracts and acres would be most environmentally valuable to enroll in the CRP without the competition provided through a standard Environmental Benefits Index ranking process.

In the *Federal Register* notice, USDA said it “is committed to full enrollment up to the authorized level of 39.2 million acres” in the CRP. “To ensure that the environmental benefits of CRP continue, and because of the significant number of contract expirations beginning in 2007, the FSA will offer early reenrollments and extensions of existing contracts to current CRP participants,” the notice said.



South Korean Vet Team Visits U.S. in Preparation for Resuming Beef Trade

A team of South Korean veterinary experts visited the United States this week to discuss the safeguards in place to protect against bovine spongiform encephalopathy (BSE).

The mission, the third such session between the two countries, was widely anticipated to be a precursor to an eventual lifting of South Korea's ban in U.S. beef imports. Meat industry officials believe that South Korea is closer to lifting its ban than Japan is.

At the request of the U.S. Meat Export Federation, the NGFA provided information to the South Korean veterinary team responding to questions about the U.S. feed manufacturing industry and the safeguards in place to protect against potential cross-contamination of prohibited mammalian material in ruminant feed to prevent the establishment or spread of the disease in the U.S. cattle herd. The South Koreans specifically had asked about the quantity of feed produced by on-farm and commercial manufacturers, as well as the production of rendered feed ingredients and consumption by various species. The NGFA also provided U.S. Census of Agriculture

data that show that most U.S. livestock and poultry operations – particularly operations that grow and market the vast majority of U.S. cattle and dairy animals – are specie-specific operations, which dramatically reduces the potential for misfeeding of properly labeled prohibited mammalian material to ruminants. The South Koreans also inquired about the number of feed mills dedicated to production of only ruminant feeds, as well as the procedures utilized by feed manufacturers that mix both ruminant and non-ruminant feed to protect against cross-contamination when utilizing mammalian material banned from ruminant feed.

Japan Confirms Two New Cases of BSE: In quick succession, Japan on June 2 and June 8 confirmed two more new cases of bovine spongiform encephalopathy (BSE), bringing its total to 20. The 19th case was a nine-year-old Holstein cow from the northern island of Hokkaido born well before the country banned the feeding of mammalian meat-and-bone meal to ruminants. The cow was diagnosed with BSE after being tested at a slaughtering plant. The 20th case was a nearly five-year-old Holstein cow, also from Hokkaido.

World Animal Health Organization Approves Revisions to BSE Code

The World Animal Health Organization, comprised of 167 nations and known by its French acronym "OIE," approved significant revisions to the bovine spongiform encephalopathy (BSE) chapter of its Terrestrial Animal Health Code during its May 22-27 meeting in Paris.

The OIE establishes sanitary standards on animal health and disease to assist in international control and eradication efforts. While the OIE's standards are viewed as recommendations by member countries, the organization plays a critical role in facilitating science-based trade in animals and animal products because its standards are recognized by the World Trade Organization under the Sanitary and Phytosanitary Agreement as the basis for resolving trade disputes. The major changes to the BSE code include the following:

▶ Adding deboned skeletal muscle meat from beef (excluding mechanically separated beef) to the list of animal products that can be traded regardless of the BSE-risk status of a country. To be eligible, shipments must be derived from cattle less than 30 months or age, and must be inspected and accompanied by an export veterinary certificate. There also must be an ante- and post-mortem inspection, which is standard practice for beef exports, and no meat can be derived from a BSE-positive animal or one suspected of having BSE. Meat also cannot be from cattle that have been stunned with air guns or using a pithing technique that could dislodge brain or other central nervous system tissue. All meat from such animals also must be processed

in plants where practices are in place to prevent any contamination of the meat from so-called specified risk materials (SRMs).

- ▶ Blood and blood products were reclassified to be listed as products that can be traded regardless of the BSE risk of the origin country, again so long as the animals are not stunned with air guns or using a pithing technique that could dislodge brain or other central nervous system tissue.
- ▶ A new three-category BSE risk-classification code was adopted to replace the current five-category approach. The United States strongly supported the changes to the BSE code. One of the major problems with the previous code – which used the five categories of "BSE-free," "provisionally free," "minimal risk," "moderate risk" or "high risk" – was that countries could declare themselves to be BSE-free even though they conducted no or only limited surveillance and testing for BSE. Under the new classification code, which took effect immediately, countries will be allowed to seek classification as:
 - **Negligible Risk**, which will include counties or zones within countries that either have not detected any BSE cases; or whose only case(s) involve an imported animal; or whose last native-borne case was diagnosed more than seven years ago. Countries or regions within a country categorized as such would be required to conduct a risk assessment to identify historical and existing



Feed Facts

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BSE risk factors that may be present. Such countries also are required to demonstrate that: 1) generic risk-mitigation measures (including a ban on feeding ruminant-derived protein to ruminant animals) have been in place for at least eight years, and 2) sufficient surveillance is occurring to detect BSE.

- **Controlled Risk**, which will include countries or regions within a country where: 1) no cases of BSE have been detected; or 2) BSE has been detected only in an imported animal; or 3) there has been a native-born case of BSE, but it can be demonstrated that adequate controls have been implemented to prevent the feeding

of ruminant protein to ruminant animals, but not necessarily for eight years. A higher level of risk-assessment and surveillance also is required for countries or regions under this category.

- **Undetermined Risk**, which will include all countries and/or regions within countries that do not meet one of the aforementioned two categories. For instance, this category would encompass countries that may or may not have BSE, but which do not conduct sufficient surveillance of their native herds to warrant a judgment.

AAFCO Reports on 'Summit' with NGFA, Other Feed Groups

The Association of American Feed Control Officials (AAFCO), the 96-year-old professional organization comprised of state and federal feed regulators, solicited input on its new 2005-09 strategic plan from the NGFA and five other national trade organizations representing the commercial feed, feed ingredient and pet food sectors during a day-and-a-half "summit" conducted in Chicago on May 25-26.

In addition to the NGFA, other stakeholder organizations invited to the summit were the American Feed Industry Association, American Pet Products Manufacturers Association, National Oilseed Processors Association, National Renderers Association and Pet Food Institute, the latter with which the NGFA has a strategic alliance. Attending on behalf of AAFCO were its officers and Board of Directors, its Food and Drug Administration adviser, and other senior AAFCO officials who had been involved in the development of its previous strategic plans.

AAFCO's 2005-09 strategic plan, which was adopted by its Board of Directors in 2004, contains objectives for both internal organization, outreach to stakeholders and program development. Emphasis areas include feed safety; ensuring working partnerships with stakeholders; promoting and enhancing member participation; enhancing communications; promoting organizational growth; and promoting internationally the North American system of feed safety, labeling and ingredient approval.

During the meeting, industry groups offered considerable input to refine the plan's objectives. In addition, both AAFCO and industry representatives identified potential action items to implement the plan in an effective, timely manner. Considerable discussion was devoted to ways to enhance participation in AAFCO by state feed control officials, who encounter both time and financial resource constraints, as well as ideas for streamlining and enhancing the productivity of the organization's two major meetings conducted each year.

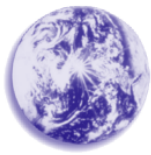
On organizational objectives, AAFCO was encouraged to promote the contribution it makes in maintaining a safe feed supply with other stakeholders and the public, as well as the role it plays in professional development and as an information resource for feed regulatory officials.

Commercial feed industry representatives also recommended strongly that AAFCO develop an action plan to proactively promote internationally the North American approach to feed regulation as a model that results in safe feed and feed ingredients, thereby promoting trade in feed, pet food, ingredients and animal products. Ideas also were offered on how to promote AAFCO's new Spanish-language *Official Publication*.

Concerning the strategic plan's objective of enhancing feed and food safety, industry stakeholders encouraged AAFCO to utilize and build upon existing quality-assurance programs and guidance to provide further education to diverse sectors of the feed and feeding industry. AAFCO also was encouraged to continue working with FDA to enhance education and training for feed inspectors to encourage more uniformity. However, there were differing opinions concerning AAFCO's approach to developing mandatory feed safety regulations, and the industry groups agreed to continue the dialog with AAFCO on development of such regulations. Industry stakeholders also provided suggestions on how to engage livestock and poultry producer organizations in AAFCO's deliberations, particularly those pertaining to feed safety in on-farm mixing operations.

AAFCO indicated it would further refine the strategic plan, where necessary, as well as develop action plans for each of its objectives after considering the input received during the meeting. Subsequent discussions are planned during AAFCO's Annual Meeting scheduled for July 31 to Aug. 1 in St. Petersburg Beach, Fla.





Action Delayed on Documentation Required for Biotech Shipments

...Work Begins on New International Liability Regime for Cross-Border Shipments...

Representatives of nations that are parties to the Cartagena Protocol on Biosafety (the Biosafety Protocol) failed to reach agreement on the specific rules and procedures that would govern cross-border trade, as well as handling and use, of biotech-enhanced commodities (which the treaty refers to as “living modified organisms,” or “LMOs”) during a May 30-June 1 meeting in Montreal, Canada.

It was the second meeting of the parties since the Biosafety Protocol took effect in September 2003. In addition to nations that have ratified the protocol, also attending were non-party nations, such as the United States, Canada and Argentina, as well other non-governmental entities, biotech companies and environmental groups. The NGFA and North American Export Grain Association also attended as members of the International Grain Trade Coalition, an ad hoc group of 20 grain-related organizations worldwide that develops recommendations to governments on ways to implement the Biosafety Protocol to protect biodiversity without adversely disrupting trade in agricultural commodities.

Currently, 120 nations have ratified the Biosafety Protocol, including the EU, China, Brazil and Mexico. The United States has not ratified the agreement, but still is subject to its provisions when they are applied and enforced by other countries.

The meeting focused on the Biosafety Protocol’s requirement that the parties decide what additional documentation beyond a simple “may contain LMOs” statement should accompany international shipments of biotech-enhanced commodities for food, feed or further processing, including specifying the LMOs in the cargo. The IGTC has urged governments to retain the “may contain” statement and allow a 5 percent tolerance for the unavoidable, accidental (adventitious) presence of LMOs in non-LMO cargos, provided it does not conflict with the regulations of the importing country.

No Agreement Reached: While negotiations during the Montreal meeting over the exact nature of what documentation should accompany bulk shipments containing LMOs for food, feed or processing were very intense, a last-ditch compromise that attempted to garner the required consensus failed because it would have imposed unacceptably high

costs and new liability risks on exporters. Opposition was led by Brazil and New Zealand, both of which are parties to the Biosafety Protocol. Recognizing that consensus could not be achieved within the time constraints of the meeting, a decision was delayed until further consideration during the next scheduled meeting of the parties in March 2006 in Brazil.

Work Begins on an International Liability Regime for LMOs: In another important development, a special working group of legal and technical experts conducted its inaugural meeting in Montreal, May 25-27, 2005 to begin work on elements of an international liability regime governing international shipments of LMOs. The task force is an outgrowth of a provision in the Biosafety Protocol that requires parties to begin a process to develop rules and procedures for liability and redress resulting from the transboundary movement of LMOs. The working group, which is scheduled to present its final recommendations to the parties no later than 2007, developed a range of issues to be addressed. Some of the more controversial include:

- ▶ The types of damage that would be covered. The IGTC argues for coverage limited to damages to biodiversity, while others advocate that liability extend to socio-economic damage, cultural damage, spiritual damage, moral damage, loss of farmer skills and loss of food security.
- ▶ The standard of liability. The IGTC supports a fault-based system, while others encourage a strict liability regime.
- ▶ The meaning of damage resulting from the transboundary movement of LMOs. The IGTC argues that the transboundary movement should be a trigger, but not the focus, of a liability regime. Some countries are advocating a very narrow interpretation that essentially would limit liability to those engaged in a transboundary movement, (e.g., the exporter and shipper).
- ▶ The standard of proof. The IGTC’s position is that the burden of proof must fall on the claimant to prove damages. The group adopted options that would reverse or relax that standard.
- ▶ The choice of instrument. The IGTC is encouraging a non-binding instrument to gain some experience before moving toward a binding regime. However, most participants argued for a binding instrument that would be adopted shortly after the ad hoc group completes its work.





Membership Matters

by Todd Kemp
Director of Marketing/Treasurer

Ethanol Companies – NGFA Membership Makes Sense!

One of the NGFA's current growth sectors for membership is ethanol – fuel ethanol producers and marketers, co-product marketers and related companies. There are a number of NGFA services and membership benefits that are especially relevant:

- **NGFA Trade Rules** – Designed to help buyers/sellers avoid trade disputes. Applicable to corn input purchases and ethanol/co-product sales.
- **NGFA Contract Arbitration** – Quick, practical, inexpensive alternative to legal action. Cases decided by industry members, not by unpredictable judges/juries. Access ensured only to NGFA-member firms. Resolve disputes on input purchases and ethanol/co-product sales.
- **NGFA Rail Arbitration and Mediation** – Very important new benefit to rail shippers/receivers. Railroads have agreed to arbitrate disputes – NGFA is the only industry organization with this kind of agreement. Only NGFA-member firms can use Rail Arbitration and Mediation Services. Rules recently amended to expressly include ethanol.
- **Relationships with Important Suppliers** – Membership includes more than 900 grain elevators, feed manufacturers and related commercial firms nationwide. Annual conven-

tion, other major conferences are ideal networking and business development opportunities. Timely, accurate information on industry conditions and issues.

- **Relationships with an Important Feed Ingredient Market** – About 350 NGFA-member firms manufacture animal feed. NGFA represents more commercial feed manufacturers than any other national organization!
 - **Representation and Public Interest** – Highly effective on Capitol Hill and in federal regulatory agencies. Highly respected among policymakers and opinion leaders. Professional and experienced lobbying, communications and government representation.
 - **Opportunities for Involvement** – Many opportunities for committee and leadership service. Industry-driven leadership.
 - **Excellent Value** – NGFA membership dues are an excellent value. Even for very large ethanol producers, dues are inexpensive.
- Know an ethanol producer/marketer or co-product marketer that's not yet an NGFA member? Contact Todd Kemp at the NGFA to have tailored membership information sent to your prospect.



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