



NGFA

Newsletter[®]

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Montana Judge Postpones Hearing on Canadian Beef Border Battle

...Will Await Written Opinion from Appellate Court that Overturned Ruling Banning Imports of Canadian Cattle...

A Montana federal district court judge has postponed until further notice a hearing scheduled for July 27th that was to consider a request for a permanent injunction against imports of Canadian live cattle and beef products.

Judge Richard Cebull postponed the hearing, during which oral arguments were to be presented, until the three-judge panel from the U.S. Court of Appeals for the Ninth Circuit issues a written opinion that provides guidance. Cebull, in an order issued July 20, noted that the appellate court had reversed his decision that granted a temporary injunction, and wrote that he would “determine whether further hearings are necessary” after the appellate court’s written decision is issued.

The action came in response to the terse July 14 decision by the appellate court that reversed, effective immediately, Cebull’s preliminary injunction imposed on March 2 that had banned imports of Canadian live cattle and certain other ruminant products. In its decision, the appellate court said it

would issue “expeditiously” its written opinion outlining the reasons for overturning Cebull’s injunction. During a 40-minute hearing conducted on July 13 in Seattle, Wash., the three-judge panel that heard the appeal questioned whether Cebull had exceeded his authority by substituting his own views in place of USDA’s on whether there was scientific justification to keep the Canadian border closed to beef imports following the discovery of bovine spongiform encephalopathy (BSE) in a Canadian cow in May 2003. The litigation was initiated by the Ranchers-Cattlemen Action Legal Fund United Stockgrowers of America (R-CALF USA), which challenged USDA’s so-called “minimal-risk” rule that established criteria under which countries or regions in which BSE has been discovered would be allowed to export products to the United States, and designated Canada as such a country.

Under USDA’s minimal-risk rule – and the import protocols issued by APHIS following the appellate court’s decision – the following products from Canada will be allowed to be imported

(Continued on page 8)

Japan Detects Bt10 in Two Additional Lots of U.S. Corn

Japan’s Ministry of Agriculture, Forestry and Fisheries last week announced that two additional lots of U.S. corn had tested positive for Syngenta’s Bt10 biotech event.

That brings the total to just over 13,000 metric tons of corn from lots that MAFF detected as being positive for Bt10 since the agency began testing in early June. MAFF requires that importers either destroy lots that test positive for Bt10 or find non-Japanese market outlets for the shipments.

Meanwhile, Syngenta officials have told the NGFA that the company is on schedule to submit by the end of July the additional laboratory test data sought by the Food and Drug Administration in response to the company’s request for a formal safety consultation for Bt10. Completing the formal FDA safety consultation process – and posting the results on FDA’s official website “List of Completed Consultations” – would be extremely significant because it would enable Japan to trigger a provision in its biotech regulations that allows for a 1 percent tolerance for the presence in imported corn for use in feed of biotech events that have not yet undergone Japan’s

formal biotechnology regulatory-approval process. Quantitative testing of corn lots in which Bt10 has been detected thus far in vessel shipments to Japan have found that levels are less than the 1 percent threshold. Currently, a zero tolerance exists on the presence of Bt10 in U.S. corn shipments to Japan, which has triggered the issuance of guidance from the Japanese government that U.S. exporters certify that U.S. corn is free of Bt10 prior to shipments, as well as implement an extensive domestic sampling and PCR-based testing protocol.

The inadvertent release of the Bt10 corn event was announced publicly for the first time on March 21 by Syngenta 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 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. But the Bt10 corn event was never submitted for “official” approval by the U.S. government until now because Syngenta said it never intended to release it for commercial use.



The Staggers Rail Act at 25

In 1980, as Ronald Reagan was campaigning hard for the presidency, a momentous piece of legislation was just being passed and signed into law – the Staggers Rail Act.

There was much apprehension among rail customers on the market impact this legislation would have, with its ratemaking and operational freedoms for the carriers. Looking back, we now know that the legislation led to rapid consolidation among railroads (more than 40 railroads in 1980 down to seven Class I's today), and ultimately to a substantial downsizing of the Interstate Commerce Commission (ICC), which ultimately was reorganized and renamed the Surface Transportation Board (STB) in 1996. The railroads maintain that real rail rates actually have declined during this period, demonstrating the efficiencies of the market. At the same time, investment in rail-related infrastructure and rail cars obviously has increased in our industry.

So, it's probably fair to say the Staggers Act may have solved some problems, but led to others. It has certainly led to a restructuring of grain-related industries.

The NGFA's leadership on national rail transportation policy has for many years been one of its core member services. In the latest installment on those efforts, the NGFA's Rail Shipper/Receiver Committee met again this week to review major rail policy issues and how they should be addressed. In prioritizing concerns, the committee ranked rail fuel surcharges at the top of the list. The frustrations felt by shippers are many. July rail fuel surcharges range from 8.7 percent to 12.8 percent. Monthly variations in the range of 2 percent are becoming commonplace because of oil price volatility. All carrier-imposed surcharges remain applicable to rates, despite the general lack of correlation between fuel cost and the rate on individual commodity shipments. The NGFA continues to meet with carriers to discuss the problems associated with fuel surcharges. But thus far, only the BNSF Railway has responded to our concerns that surcharges be related to the actual fuel cost increases being incurred by the carriers. The BNSF has stated it plans to go to a mileage-based system that should be more cost-related. We are looking forward to seeing more details of that proposal soon.

For many of the past 25 years, the rail industry had surplus capacity. No more...at least for awhile. Many railroads are seeking to control the amount of freight that is offered for carriage to manage cycle times and

equipment efficiency. One concern expressed by the NGFA Rail Shipper/Receiver Committee this week was that some service slippage is even being observed in the last two weeks – just prior to harvest. If we start to see slippage this early, how will the transport capacity hold up during the August pre-harvest rush, and going into harvest? How is service for the agricultural industries going to hold up over the long term as we compete for limited rail capacity against other industries?

Another issue that both carriers and the NGFA are trying to resolve jointly is achieving more rapid clearance of train movements from the United States to Mexico. Delays at the border are being caused by a multitude of factors, and reduce the cycle times for equipment. The Union Pacific, BNSF Railway, North American Export Grain Association and NGFA are working jointly with counterparts and government officials in Mexico to resolve the major impediments to expeditious handling. We hope to make substantial progress over the next few months.

One of the hallmarks of carriers and shippers cooperatively trying to solve rail-shipper issues was the adoption of the NGFA's Rail Arbitration Rules in the late 1990s. While those rules don't apply to rates or service, they **do** apply to contracting, land leases, bills of lading and a multitude of other types of disputes. The NGFA's Rail Arbitration System would not have been possible without leadership from both the rail and rail-customer communities.

Meanwhile, except for the Interstate Commerce Commission Termination Act that transformed the ICC into the STB, there really has not been any significant rail legislation passed by Congress since 1980. There are bills now introduced in Congress that could change that. But rapid movement of such legislation doesn't appear likely. However, the U.S. Government Accountability Office (GAO) has launched a survey of shippers asking pointed questions, such as "how well does the STB's rate-relief process function?" And, "how does it balance the needs of railroads and shippers?" The NGFA will be crafting a response to GAO from our industry's perspective, and will continue to be engaged actively in national rail policy where the association can have a constructive impact.

The Staggers Rail Act has withstood the test of time. But it's a pretty safe bet that it won't be the last major rail legislation passed by Congress.



NGFA to Testify on CRP at July 27 Senate Ag Subcommittee Hearing

The NGFA has accepted an invitation from the Senate Agriculture Committee's Subcommittee on Forestry, Conservation and Rural Revitalization, chaired by Sen. Mike Crapo, R-Idaho, to testify at a July 27 hearing on the Conservation Reserve Program (CRP).

The hearing is expected to focus on the U.S. Department of Agriculture's policy considerations concerning the expiration of more than 22 million acres of CRP contracts in 2007-08. The NGFA, as a founding member and leader in a coalition called the Alliance for Agricultural Growth and Competitiveness, has stressed previously that expiring CRP acres should **not** be reenrolled automatically, but should be subjected to a competitive process in which only the most environmentally sensitive lands are considered for long-term reenrollment.

At a June 24 public meeting conducted by USDA's Farm Service Agency, a NGFA-drafted statement presented on behalf of the coalition also recommended USDA allow landowners to remove existing acres from the CRP prior to contract maturity without penalty, particularly if short-term extensions of existing CRP contracts are permitted. Further, the statement urged that:

- ▶ the 39.2-million-acre legislative cap on the size of the CRP should be viewed as the maximum limit;
- ▶ Whole-farm enrollments generally not be allowed in the CRP;

▶ USDA not exceed the 25 percent per-county acreage CRP limit because of the adverse economic impact of excessive enrollments on rural businesses and communities. In addition, the statement said that the data relied upon by the agency to calculate the 25 percent limit appears to be outdated data on cropland instead of current normal cultivated acreage.

▶ USDA be cognizant that Congress has reauthorized the CRP only through 2007, and should avoid administrative decisions that "aggressively reenroll" massive numbers of acres in CRP contracts for another 10 to 15 years;

▶ USDA be mindful of the increasing number of legislative mandates for ethanol and biodiesel that are creating greater demand for grains and oilseeds, as well as the existence of yield-robbing plant-disease threats like soybean rust, that make it inadvisable to lock away large numbers of farmable acres in the CRP. The statement said that USDA runs the risk of "economically forcing livestock and poultry operations, as well as traditional grain processors, to relocate outside the United States" if acreage-idling policy decisions "force...the United States into a position of becoming a less competitive exporter or even a net importer of grain;"

▶ improvements in water quality be given greater consideration in future CRP enrollments through enrollments of more filter strips, riparian acres and partial-fields;

House Gives Resounding Approval to Bill Funding Inland Waterways

The House on July 14 passed by a resounding 406-14 vote, with 14 abstentions, legislation (H.R. 2864) that would finance long-overdue construction and renovation of deteriorating locks on the Upper Mississippi and Illinois River system.

Attention now turns to the Senate, where floor consideration of its version of the water resources development bill (S. 728) is expected to occur in September after Congress returns from its August recess. The Senate Environment and Public Works Committee already has approved the measure. The Senate bill's provisions are identical to the House-passed version with respect to the Upper Mississippi and Illinois River lock replacement. Specifically, both bills would authorize the U.S. Army Corps of Engineers to allocate \$1.795 billion in federal funds for the construction of seven new 1,200-foot locks at locks 20, 21, 22, 24 and 25 on the Upper Mississippi River, as well as at LaGrange lock and Peoria lock on the Illinois Waterway. An additional \$235 million in federal funds would be authorized to construct mooring facilities at locks 12, 14, 18, 20, 22, 24 and LaGrange, as well as for providing switchboats at locks 20 through 25 to expedite barge movements.

The NGFA and the North American Export Grain Association, joined by several State and Regional Grain and Feed Associations and individual member companies, had strongly urged the House to approve the measure and to defeat two amendments. The first amendment, introduced by Reps. Jeff Flake, R-Ariz., and Earl Blumenauer, D-Ore., was defeated by a 315-105 vote. It would have required yet another study – this one to examine the feasibility of an appointment-scheduling approach for processing barge traffic through the congested locks on the Upper Mississippi-Illinois Waterway. Meanwhile, Rep. Ron Kind, D-Wis., worked with House leaders to modify his planned amendment that originally would have linked the timetable for completing the lock renovation with the schedule for completing the environmental ecosystem improvements that would be authorized under the bill. As included in the final bill, and passed by a voice vote, the Kind amendment language would require the U.S. Army Corps of Engineers to provide update reports on the navigation and ecosystem projects to Congress annually, instead of once every four years as called for in the committee-passed bill.



Hill Highlights

▶ **Senate Ag Committee Approves CFTC Reauthorization Bill:**

The Senate Agriculture Committee today (July 21) approved legislation that would reauthorize the Commodity Futures Trading Commission (CFTC) through fiscal year 2010. Although the committee approved the legislation, Chairman Saxby Chambliss, R-Ga., described it as a “placeholder” and said it was very unlikely to be the version that eventually is considered on the Senate floor. Committee members praised the improvements made in the aftermath of the Commodity Futures Modernization Act of 2000, which was the most recent CFTC reauthorization legislation and which expires this year. The primary stumbling block to completing the reauthorization this time around continues to be developing appropriate language to close what policymakers consider to be a loophole in the CFTC’s anti-fraud authority – and to do so without stifling innovation in financial markets – in response to the ruling by the U.S. Court of Appeals for the Seventh Circuit. In that case, the court found that financial products that allow retail customers to speculate on price fluctuations in foreign currencies were not futures contracts, but rather spot contacts not subject to CFTC oversight. That raised concern that what the CFTC calls “forex bucket shops” that may be engaged in fraud are exempt from the agency’s regulatory oversight and enforcement. Chambliss indicated that he expects interested parties to continue negotiations on the proper legislative fix to address Zelener over the next several weeks. He also indicated that he did not intend to take the measure to the Senate floor until the Senate Banking Committee conducts hearings on options in September, nor until he has a strong bipartisan consensus within the Senate Agriculture Committee to move the bill forward. Many members of the Senate Agriculture Committee have been advocating broad fraud- and abuse-prevention language that would encompass more than just the “Zelener fix,” while others, including the CFTC, have advocated a more targeted approach. The version approved by the committee today opted for the narrower CFTC approach, but only as a starting point for further discussions with interested parties.

▶ **Conference Committees Continue to Deliberate Energy, Highway Bills:**

Joint House-Senate conference committees attempting to resolve differences between their separate versions of the energy and highway bills resumed deliberations this week. Of the two bills, prospects for reaching agreement on the highway bill (H.R. 3) appear to be the most promising, according to congressional sources. Staff negotiations during the July 4th congressional recess resulted in a funding framework for the bill that would authorize \$286 billion for highway, public transportation and safety programs through fiscal 2009. That’s slightly more than the \$284 billion level approved by the House and supported by the Bush administration. The consensus proposal also would ensure that by 2009, states would receive at least 92

cents of each highway tax dollar they contributed into the Highway Trust Fund for highway projects; still to be resolved is the exact mechanism for accomplishing that. Some key players have said that the Conference may not meet the deadline to complete the measure before Congress adjourns for August recess.

The highway bill is important to the grain, feed and processing industry because both versions include NGFA-supported language that would codify – and expand to include deliveries of feed – the agricultural exemption from the U.S. Department of Transportation’s hours-of-service truck-driving rules. The NGFA also is working to eliminate from the final version of the bill the House-passed provision that would mandate that truckers assess a diesel fuel surcharge on shippers anytime diesel prices exceeded a benchmark price of \$1.10 per gallon by more than a nickel. Senate sources have indicated that they intend to oppose the inclusion of this provision in the final version of the bill, however a final decision has not yet been made.

Meanwhile, conferees met on July 20 to begin deliberating the final version of the energy bill (H.R. 6). Staff from both chambers began informal discussions during the July 4th recess, but there are several major differences that are yet to be resolved. Among them are the mandated requirements for refineries to use ethanol and other renewable fuels – the Senate bill calls for 8 billion gallons while the House version proposes 5 billion gallons by 2012 – and liability protection for manufacturers of the fuel additive methyl tertiary butyl ether (MTBE), which has been implicated in groundwater and soil contamination. There also are differences over the Senate bill’s requirements that: 1) oil consumption be reduced by 4 percent by 2015; 2) utilities obtain 10 percent of their electricity from renewable sources by 2020; and 3) potential offshore oil and gas drilling be inventoried. The House bill contains none of these provisions. There also are significant differences between the two bills’ tax-incentive provisions; the House version proposes \$8 billion in tax incentives directed toward traditional energy industries, while the Senate version would earmark \$14 billion directed more toward renewable energy technologies. Meanwhile, the Bush administration has advocated that the tax incentives be limited to no more than \$6.7 billion.

▶ **House Vote on CAFTA-DR Likely July 28:** The Bush administration and supporters of the Central America-Dominican Republic Free Trade Agreement (CAFTA-DR) are mobilizing for an anticipated July 28 House floor vote – one of the last before Congress begins





its August recess. Projections are that the accord still is 30 to 40 votes short of passage in the House, after having been approved by the Senate by a 54-45 vote. The trade agreement would encompass the Central American nations of Costa Rica, El Salvador, Guatemala, Honduras and Nicaragua, as well as the Dominican Republic.

► Senate Confirms Lester Crawford as FDA

Commissioner: The Senate on July 18 by an overwhelming 78-16 vote confirmed the nomination of **Dr. Lester M. Crawford** to be commissioner of the Food and Drug Administration. The vote occurred after Sens. Hillary Rodham Clinton, D-N.Y., and Patty Murray, D-Wash., lifted their “holds” that had delayed Crawford’s confirmation vote after receiving assurances from Health and Human Services Secretary Michael Leavitt that FDA would act by Sept. 1 on the application by Barr Laboratories for an over-the-counter distribution of the so-called Plan B contraceptive. Meanwhile, a third senator – Sen. Tom Coburn, R-Okla. – previously removed a “hold” he had placed on Crawford’s nomination after receiving assurances that FDA would proceed with a 2000 law’s requirements to change labels on condom packages to warn of potential risks.

Crawford has served as acting FDA commissioner since March 2004. He has extensive government, academic and private-sector experience, including stints as FDA deputy commissioner and director of the agency’s Center for Veterinary Medicine, and as administrator of the U.S. Department of Agriculture’s Food Safety and Inspection Service. He also chaired the Department of Physiology-Pharmacology at the University of Georgia. From 1997-2002, he was director of the Center for Food and Nutrition Policy at Georgetown University and the Virginia Polytechnic and State University (Virginia Tech), where it relocated in 2001. He received a doctorate of veterinary medicine from Auburn

USDA Announces Next Farm Bill Forums

The U.S. Department of Agriculture has announced the locations of its next three farm bill forums. The dates and locations are: July 26, North Dakota State Fair, Minot, N.D. (11 a.m.-3 p.m.); Aug. 3, Minnesota Farm Fest, Redwood County, Minn. (4-8 p.m.); and Aug. 4, Wisconsin State Fair, West Allis, Wis. (11 a.m.-3 p.m.).

In a *Federal Register* notice issued June 17, USDA identified the competitiveness of U.S. agriculture in global and domestic markets as a key issue on which it would welcome input during the forums. USDA noted that trade agreements that reduce barriers to exports and imports of agricultural products “are expected to become increasingly important factors in U.S. and global agriculture,” and poses a question as to how farm policy should be designed to “maximize U.S. competitiveness...and ability to effectively compete in global markets.” A second issue raised by USDA concerns how to

University, his PhD in pharmacology from the University of Georgia, and an honorary doctorate from Budapest University.

Those voting **against** Crawford’s nomination were: Sens. Max Baucus, D-Mont., Barbara Boxer, D-Calif., Maria Cantwell, D-Wash., Clinton, Mark Dayton, D-Minn., Byron Dorgan, D-N.D., Richard Durbin, D-Ill., Charles Grassley, R-Iowa, Frank Lautenberg, D-N.J., Barbara Mikulski, D-Md., Patty Murray, D-Wash., Barack Obama, D-Ill., Charles Schumer, D-N.Y., Olympia Snowe, R-Maine, Debbie Stabenow, D-Mich., and David Vitter, R-La. Six senators **did not vote**: Sens. Coburn, John Corzine, D-N.J., Christopher Dodd, D-Conn., Blanche Lincoln, D-Ark., John McCain, R-Ariz., and Lisa Murkowski, R-Alaska.

► House Approves OSHA Reform Bills:

The House on July 12 approved four bills designed to reform the procedures under which small businesses can challenge citations issued by the Occupational Safety and Health Administration (OSHA). The first bill (H.R. 739) would provide additional flexibility for the Occupational Safety and Health Review Commission to make exceptions when small employers (those with 10 or fewer employees) miss the 15-day deadline during which businesses are allowed to appeal OSHA citations. A second bill (H.R. 740) would increase the number of members of the OSHA review commission from three to five to ensure that appeals of OSHA citations are heard in a timelier manner. The third House-passed bill (H.R. 741) would clarify that the OSHA Review Commission is independent from OSHA and is to be given deference by the courts when reviewing OSHA citations. The fourth bill (H.R. 742) would allow small employers to be awarded attorneys’ fees and court costs when they contest OSHA citations and prevail in court. Each of the bills, sponsored by Rep. Charles Norwood, R-Ga., chairman of the House Education and the Workforce Committee’s Subcommittee on Workforce Protections, was approved last year by the House. But the Senate failed to overcome objections from Democrats and labor unions.

design farm policy in ways that avoid “unintended consequences...(that) discourage new farmers and the next generation of farmers from entering production agriculture.”

The other four major issues raised by USDA on which it seeks public comment concern how to: 1) “effectively and fairly” distribute farm program and other assistance to producers; 2) achieve conservation and environmental goals; 3) enhance rural economic growth by investing in infrastructure and new technologies; and 4) address agricultural product development, marketing and research-related issues. Concerning this latter topic, USDA cites suggestions that U.S. farm policy be more “flexible” in enabling greater support for a broader range of activities helpful to expanding markets, including product quality and new attributes, organic and specialty crops; value-added products.





USDA Completes Initial Wheat Sales from Emerson Trust

The U.S. Department of Agriculture's Farm Service Agency (FSA) announced late on July 15 that it had completed its initial sales of wheat from the Bill Emerson Humanitarian Trust to offset its initial purchases of 25,000 metric tons of U.S. No. 2 hard red winter wheat for emergency food assistance for Ethiopia.

All told, USDA's Commodity Credit Corporation used buy-sell transactions to sell 2.023 million bushels to 18 storing warehouses and one third-party buyer. The third-party purchase occurred on or after the June 22 release of wheat from the Emerson Trust, but before the effective date of the July 12-14 period during which purchases were reserved solely for storing warehouse operators.

Here's a breakdown by class of the wheat sold from the approximately 1.415 million metric tons of CCC-owned

wheat made available for purchase in response to CCC's initial invitation to sell 54,810 metric tons (2.014 million bushels): 1) Hard red winter, 946,100.23 bushels; 2) soft white, 919,604.28 bushels; 3) durum, 99,627.11 bushels; 4) hard red spring, 54,454.68 bushels; and 5) soft red winter, 3,439.67 bushels.

FSA noted that the U.S. Agency for International Development (USAID) in the near future is expected to issue requests for CCC to provide additional wheat for P.L. 480 Title II food aid from the 500,000 metric tons (approximately 18.37 million bushels) authorized for release from the Emerson Trust on June 22 by Secretary of Agriculture Mike Johanns. USDA said the procedures to be utilized for the next tranche will be announced once the request is received from USAID.

USDA Announces Extension Option for Some CRP Contracts

The U.S. Department of Agriculture's Farm Service Agency (FSA) announced on July 15 that it would permit one-year extensions of some Conservation Reserve Program (CRP) contracts.

The extension option applies only to CRP contracts scheduled to expire on Sept. 30, 2005, so long as the one-year extension will not result in the contract exceeding 15 years total. USDA estimated that the extension option potentially affects 7,000 CRP contracts covering 437,000 acres. FSA said all or a portion of the eligible acreage covered by the CRP contracts may be extended, but the rental rate will not change. The same obligations and

requirements imposed under the original CRP contract will apply to the one-year extension, FSA said. Local FSA offices will be contacting eligible CRP participants to inform them of the option. The deadline for applying for the extension is Sept. 2.

USDA said it is not planning to offer a general CRP signup in fiscal year 2005, which ends Sept. 30, pending the development of an overall policy to govern the millions of acres of CRP contracts scheduled to expire starting in 2007. In the meantime, the agency said small parcels of highly sensitive land, such as filter strips and grassed waterways, can continue to be enrolled at any time under the CRP's continuous signup procedures.

USDA Confirms Detection of Soybean Rust in Mississippi

The U.S. Department of Agriculture has confirmed the first detection of soybean rust in 2005 in Mississippi.

The discovery was made in a sentinel plot of soybeans in George County on July 13, USDA said. In addition, another Georgia county – Tift – reported soybean rust while Seminole County, Florida reported discovering soybean rust on volunteer soybeans, which have since been destroyed. Eight counties in Florida now have reported detecting soybean rust on kudzu, with two counties reporting detections on soybeans. The most recent Florida discovery involved a sentinel plot in Escambia County near some commercial soybean production fields. USDA also said that rust now has

been reported in both a sentinel plot and commercial soybean field in Alabama.

USDA said "intensive" scouting is continuing throughout eastern North America from the Gulf coast to southern Ontario, Canada wherever soybeans are grown. There have been no new detections in these regions, it said. However, it was noted that computer modeling indicates that weather conditions and wind patterns make it "possible" that soybean rust spore deposits over the past week may have occurred in Georgia, Alabama, eastern Tennessee, eastern Kentucky, the Carolinas, Virginia, Maryland, Delaware and New Jersey.





Department of Homeland Security Announces Reorganization Plan

Department of Homeland Security (DHS) Secretary Michael Chertoff on July 13 announced a six-point agenda and a reorganization plan that focuses on a more risk-based approach for the agency.

A centerpiece of the plan is the creation of a new Directorate of Policy that would be responsible for department-wide policy, regulations and other initiatives that would provide a single point of contact for government and the private sector. During a July 14 hearing conducted on the reorganization plan by the Senate Homeland Security and Governmental Affairs Committee, Chertoff said in response to questioning from Sen. Frank Lautenberg, D-N.J., that he believed that the risk to agriculture of a terrorism incident was less than other potential targets. In response to further questions from Sen. Norm Coleman, R-Minn., Chertoff said that DHS was aware of evidence that terrorists had explored using biological or chemical agents stolen from or used against U.S. agricultural interests, but that DHS was working with the U.S. Department of Agriculture to develop crisis plans to address such contingencies.

In his testimony, Chertoff emphasized the “core principles” that led DHS’ so-called “second-stage review” of its programs, policies, operations and structure that culminated in its agenda and reorganization plan. First and foremost, he said, was that DHS priorities should be driven by risk assessment. “Our goal is to maximize security, but not security ‘at any price,’” he said.

Chertoff also noted the importance of DHS setting a “clear national strategy” and designing an “architecture in which separate roles and responsibilities for security” that span all levels of government and the private sector “are fully integrated....”

The six-point agenda outlined by Chertoff calls for: 1) increasing overall preparedness, particularly against catastrophic events; 2) creating better transportation security systems to “move people and cargo more securely and efficiently”; 3) strengthening border security and interior enforcement, as well as reforming U.S. immigration processes, which will involve additional personnel, new technologies and investments in infrastructure; 4) enhancing information-sharing with other governmental agencies and the private sector; 5) improving DHS financial management, human resource development, procurement and information technology; and 6) reorganizing the DHS structure.

The new Directorate of Policy, to be headed by an undersecretary, proposed as part of the reorganization plan would require legislative action. This new directorate would assume the functions previously performed by DHS’ Border and Transportation Security Directorate, and would include an Office of International Affairs, Office of Private Sector Liaison, a Homeland Security Advisory Council and an Office of Immigration Statistics.

ITC Surveys Industry in Response to NAFTA Panel Ruling on Wheat Dispute

The U.S. International Trade Commission (ITC) has launched a survey of different sectors of the U.S. wheat industry in response to a North American Free Trade Agreement (NAFTA) review panel’s June 7 decision ordering that it further explain and document its finding that U.S. imports of Canadian spring wheat materially injured the U.S. wheat industry.

In its remand, the NAFTA panel instructed the ITC to explain and defend its previous finding of injury and causation from Canadian imports, and delayed its decision for 90 days pending a response from the ITC. Specifically, the NAFTA panel said the ITC had failed to account adequately for certain economic factors affecting the wheat market, including the effects of a drought on wheat prices during the period under review. It said the ITC also had failed to provide “substantial evidence” to support its conclusions. Among the additional information sought from the ITC by the NAFTA review panel were explanations of the methodologies used, as well as new and detailed economic analyses showing how the imports

harmed the U.S. wheat sector. The ITC, based upon its finding in a decision issued in 2003, had imposed an import duty totaling 14.5 percent on the value of Canadian hard red spring wheat.

In response, the ITC is surveying selected flour millers, trading firms, elevators and “grain elevator associations” to solicit opinions as to how grain is priced at various levels in the market; the structure of markets; and how trade flows (both domestic and international) may affect pricing. The ITC has requested that the industry surveys be returned by no later than July 21, as the ITC response to the NAFTA review panel is due no later than Oct. 6. If the ITC response is deemed unsatisfactory again, the NAFTA review panel could choose a further response that would be due 90 days thereafter. NGFA member companies that may have received the survey are encouraged to contact NGFA President Kendell W. Keith at 202-289-0873 or at kkeith@ngfa.org with any questions regarding the NAFTA panel’s findings or the context in which the ITC’s questions are being posed.



"Canadian Beef" continued from page 1

into the United States: 1) cattle, if intended for feeding or immediate slaughter, so long as they are slaughtered at less than 30 months of age; 2) sheep and goats for feeding or immediate slaughter, as long as they are slaughtered at less than 12 months of age; 3) meat from bovines (including veal), sheep, goats, bison and cervids (deer, elk, caribou, moose and reindeer); and 4) certain other products and byproducts, including bovine livers and tongues, gelatin and tallow. Under the import requirements issued by APHIS: 1) Canada will issue health certificates to verify the age and identification of animals to ensure they meet the minimal-risk rule criteria; 2) U.S. Customs and Border Protection is to examine the Canadian documentation to ensure it meets the eligibility criteria; 3) APHIS veterinarians at 20 approved ports of entry will inspect the cattle and other eligible animals to verify that they meet the minimal-risk rule criteria; and 4)

USDA Food Safety and Inspection Service personnel will verify that U.S. requirements are complied with at slaughter.

▶ **Canadian Cattle Begin Crossing Border:** On July 18, in response to the appellate court decision, live cattle from Canada for the first time in more than two years crossed the border into the United States destined for packing plants and feedlots. The movements came after USDA's Animal and Plant Health Inspection Service (APHIS) on July 15 issued protocols under which Canadian live cattle less than 30 months of age will be allowed to be imported for feeding or immediate slaughter. Members receiving the **NGFA Newsletter** electronically may [click here](#) to access the APHIS website that contains various protocol documents applicable to importers, brokers, feedlot owners/operators and other parties that may be involved in importing eligible Canadian ruminant products.

FDA Nearing Completion of Feed Traceback Investigation in BSE Case

The Food and Drug Administration told the NGFA on July 20 that its Dallas District Office is nearing completion of its traceback investigation that is attempting to identify the sources of feed that may have been consumed by the approximately 12-year-old Brahman crossbred beef cow in Texas that was diagnosed last month as the first native-born case of bovine spongiform encephalopathy (BSE).

FDA officials said that the district office currently is rechecking information gathered as part of the feed traceback based upon what was characterized as sketchy information provided by the affected producer on feed purchases dating to the early 1990s.

▶ **USDA Tests Find All 67 Herdmates of BSE-Infected Beef Cow Negative for BSE:** The U.S. Department of Agriculture announced July 10 that tests were negative for BSE in all 67 herdmates of the Texas BSE case. USDA's Animal and Plant Health Inspection Service said the Bio-Rad tests conducted on the 67 adult beef cattle culled from the index herd were definitive, and that the testing was complete on the ranch where the BSE-positive cow was found. The BSE-infected cow's last two calves are being traced through sale barn records.

▶ **USDA Lifts Hold Order on Texas BSE Index Farm:** The U.S. Department of Agriculture announced that on July 11, a "hold order" had been lifted from the Texas index farm where the first native-born case of bovine spongiform encephalopathy (BSE) had been detected. Previously, all 67 adult herdmates of the BSE-infected beef cow had been tested and found to be negative for BSE.

USDA said it had completed sorting and inventorying all animals on the index farm, which led to the lifting of the hold order. USDA said it continues its epidemiological investigation to trace birth cohorts of the BSE-infected cow – animals that were 10 to 14 years old as of late 2004 – as well as any progeny of the BSE-positive cow that were born in the last two years.

See the July 7 edition of the *NGFA Newsletter* for complete details.



Calendar

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)

Aug, 4, 2005: NGFA/GEAPS Joint Safety, Health and Environmental Quality Committee
Renaissance, St. Louis Airport Hotel, St. Louis, Mo.

Dec 4-6, 2005: NGFA Country Elevator / Feed Industry Council Conference & Trade Show
Hyatt Union Station, St. Louis, Mo.

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





Studies Call for Increased Coordination on Animal Health, More Research-Oriented Veterinarians

There is an urgent need for the United States to improve high-level coordination on animal-borne diseases, as well as fill a deficit in research-oriented veterinarians needed to meet “mounting challenges in animal health,” according to two new studies issued July 18 by the National Academies of Sciences (NAS).

The two NAS reports – each comprising more than 200 pages – warn that the United States needs a “new, high-level mechanism to coordinate the currently fragmented framework for confronting new and emerging animal-borne diseases” and stronger efforts to recruit more scientists into veterinary research that has crossover application to public health.

In arguing for centralized coordination on animal disease prevention and diagnostics, the NAS study entitled “*Animal Health at the Crossroads: Preventing, Detecting and Diagnosing Animal Diseases*” noted that “dozens” of federal and state government agencies, university laboratories and private companies currently monitor and maintain animal health.

“Many of the government agencies perform similar functions, while gaps in responsibility also exist, particularly in federal oversight of non-livestock animal diseases,” the study said. “The coordinating mechanism should facilitate the sharing of information among agencies and connect key databases (on animal health), as well as improve communication with the public, especially during animal-disease outbreaks.”

The report also called for stronger links in the existing network of public and private laboratories that test for and diagnose animal diseases. It noted that the U.S. Department of Agriculture’s establishment of a National Animal Health Laboratory Network, which links labs performing tests for USDA, is a “good start.” But it warned that the lab network lacks the capacity to address multiple animal disease outbreaks and currently is prepared to address “only a narrow list of diseases.”

The report also said it is “urgent” that increased collaboration occur between animal and public health organizations responsible for detecting and diagnosing human disease, noting that nearly 75 percent of animal diseases can infect humans.

In addition, the NAS report said that USDA and the U.S. Department of Homeland Security should support development of new technologies, such as sensory and genomics, for preventing and rapidly detecting animal diseases. “Such innovations are needed to respond to the growing risk of disease spread caused by factors such as an increase in agricultural trade and large-scale production of food-producing animals,” the study said. It also recommended that the United States enter into agreements with other countries and international bodies to create “global systems for preventing and detecting animal diseases.” Further, it suggested new regulations are needed to “tighten controls over the sale and possession of exotic, non-domesticated and wild animals.”

As for the shortage of research-oriented veterinarians, the second NAS report, entitled “*Critical Needs for Research in Veterinary Science*,” said current funding for veterinary research “has not kept pace with the rising challenges posed by new and emerging animal diseases,” such as bovine spongiform encephalopathy, avian influenza and West Nile virus.

It said that “changing the culture of veterinary medicine” will be as important as providing more incentives to encourage more veterinary students to enter research-oriented fields. “To that end, the AVMA (American Veterinary Medical Association) Council on Education, which accredits veterinary schools, should strengthen its assessment of research opportunities that are available to students,” including such things as expanded summer research programs, and academic training that supports “high-quality, cutting-edge scientific research.” The study also outlined a research agenda that emphasizes interdisciplinary study that involves both animal and human health.

Further, it urged that policymakers place a priority on financing new research space, particularly biocontainment space for the study of dangerous pathogens. There currently is only one “Biosafety Level 4” (the highest level) diagnostic facility in North America, and that one is located in Winnipeg, Canada.





Membership Matters

by Todd Kemp
Director of Marketing

August is *Membership Month!*

...Special Grand Prize – Washington Baseball Weekend!...

The NGFA's annual *Membership Month* will begin Monday, Aug. 1 and run through Wednesday, Aug. 31. During this period, all NGFA members will be asked to make membership recruiting a priority.

Now, here's something we haven't been able to say for 34 years: All sponsors of new NGFA members during *Membership Month* will be eligible for a grand prize drawing for a **Washington Baseball Weekend!** The prize will include:

- ▶ Airfare for two to Washington, D.C.
- ▶ Two nights' lodging in our nation's capital.
- ▶ Tickets to a Washington Nationals game at historic RFK Stadium.

With the Nats unexpectedly clinging to first place in the National League East Division, the entire region is buzzing with excitement. Sponsor a new member and come be a part of the Nats push for the playoffs in their first year in D.C.!

Add the allure of our nation's capital city – monuments, museums and all the rest – and this prize has something for everyone.

Start getting your prospects warmed up now (sponsor a new member before Aug. 1 and we'll still enter you in the Grand Prize drawing)! Help us make this August a Membership Month to remember!

Alert!

Watch for registration materials for the **NGFA's Feed Industry/Country Elevator Council** program, as well as Trade Show sign-up information, to hit your mailbox soon! Be sure to save the dates **Dec. 4-6** for this always-popular, business-focused conference – this year back at the Hyatt Regency Union Station in St. Louis, Mo.!



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TIME SENSITIVE