



# NGFA NEWSLETTER

A weekly update from the National Grain and Feed Association

Volume 75, No. 33 | September 15, 2023

[ngfa.org/newsletter](https://ngfa.org/newsletter) | [ngfa@ngfa.org](mailto:ngfa@ngfa.org) | Editor: Sarah Gonzalez, NGFA

## Inside This Issue

### NEWS

1 Senate considers ag appropriations as government shutdown looms

2 [Labor Department proposes more protections for H-2A workers](#)

2 [STB publishes rule notice on competitive switching](#)

### EVENTS

3 [CEC confirms speakers on AI, ag policy and labor issues](#)

### SUPPLEMENTS

3 [NGFA Member Profile – Jean Bratton](#)

4 [Extra Supplements](#)

# CEC 2023

ELEVATE YOUR BUSINESS

DECEMBER 3-5



LOUISVILLE, KY

NGFA

## NEWS

### Senate considers ag appropriations as government shutdown looms

As the Sept. 30 deadline to fund the government approaches, senators voted Sept. 14 to open debate on its first package of spending bills for fiscal year 2024. The minibus of three fiscal year 2024 appropriations bills includes Agriculture and the Food and Drug Administration, the military constructions and Veterans Affairs, and the Transportation and Housing and Urban Development bill.

The House has passed only one of 12 appropriations bills ahead of the deadline and none have been conferenced between the Senate and House. Meanwhile, the White House has requested Congress pass a separate, stopgap spending bill to avoid a government shutdown.

The White House Office of Management and Budget issued a [statement](#) Wednesday that the Biden administration “strongly supports” passage of the minibus of FY 2024 appropriations bills under consideration on the Senate floor, including the Agriculture and Food and Drug Administration appropriations bill.

The Senate’s bipartisan appropriations bills maintain the spending levels negotiated by House Speaker Kevin McCarthy, R-Calif., and President Joe Biden. However, members of the House Freedom Caucus delayed consideration of the Department of Defense appropriations bill and have said they would not support any stopgap funding measure without policy conditions regarding the U.S.-Mexico border and the Pentagon.

## Labor Department proposes more protections for H-2A workers

The U.S. Department of Labor on Sept. 12 [proposed](#) a new rule that would expand protections for farm workers in the H-2A program.

The proposal, which builds on a final rule published in October 2022, would “add new protections for worker self-advocacy, better protect workers against retaliation, make foreign labor recruitment more transparent and enhance the department’s enforcement.”

The proposed rule protects workers from retaliation if they meet with labor representatives and clears pathways for labor unions to contact and interact with H-2A workers. It also would expand workers’ rights to invite labor organizations to employer-provided housing.

The proposal would clarify conditions that must be met for an employer to terminate a worker “for cause.”

To address concerns about human trafficking, the proposed rule would require employers to provide a copy of all agreements with any agent or recruiter the employer engages in recruiting prospective H-2A workers to the department. In line with the Government Accountability Office and the department’s Office of Inspector General, the DOL said: “Increased transparency is necessary to help protect agricultural workers from predatory practices during the recruitment process.”

The proposed rule would make wages more predictable in the H-2A program by making new wage rates applicable immediately upon their publication in the Federal Register rather than weeks later. The proposal would further require enhanced transparency for employers to communicate minimum productivity standards, applicable wage rates, overtime opportunities and delayed start dates to workers.

The rule would also require farmers who employ H-2A workers to provide seat belts in vehicles that are used to transport workers. Transportation accidents are a leading cause of death for farm workers, according to the department.

DOL certified over 370,000 temporary H-2A jobs in FY 2022, more than seven times the number certified in 2005 and twice that of 2016, the agency said. DOL said in 420 investigations of employees utilizing the program last year, the department “assessed more than \$3.6 million in back wages and more than \$6.3 million in civil money penalties.” Read more in this [FAQ document](#) provided by DOL.

Upon publication in the Federal Register, the notice of proposed rulemaking will be open for public comment for 60 days. The department will consider all comments received before publishing a final rule.

**Learn More at CEC:** A panel of experts will discuss the H-2A and other agricultural labor programs during the NGFA’s 52<sup>nd</sup> annual Country Elevator Conference and Trade Show (CEC) in Louisville, Ky., on Dec. 3-5. Kristi Boswell, counsel at Alston & Bird, is confirmed as a speaker on the panel.

## STB publishes rule notice on competitive switching

As reported in the Sept. 8 NGFA Newsletter, the Surface Transportation Board (STB) issued a [notice of proposed rulemaking](#) (NPRM) for competitive (or “reciprocal”) switching rules. NGFA is reviewing the proposal with its members and will submit formal comments on the NPRM by the Oct. 23 deadline.

“The Board views today’s NPRM as an important step in addressing the many freight rail service concerns expressed by stakeholders since 2016,” STB said in its announcement. “Recognizing the

importance of finalizing the standards proposed in today's NPRM, the Board anticipates acting expeditiously on this proposal."

The proposed rules provide "a streamlined path" for a reciprocal switching agreement when service to a terminal-area shipper fails to meet any of three performance standards, STB said. The three standards proposed by the Board are service reliability, service consistency and inadequate local service.

"Importantly, for the first time, the proposed rule also would require all three service metrics be standardized across all Class I carriers," STB noted.

STB said the proposed standards "are intended to reflect a minimal level of rail service below which a shipper would be entitled to relief," and each standard would provide an independent path for a petitioner to obtain a reciprocal switching agreement.

## EVENTS

### CEC confirms speakers on AI, ag policy and labor issues

NGFA's upcoming 52nd annual Country Elevator Conference and Trade Show (CEC) will include sessions on insurance and labor issues affecting grain handling companies, the impact of generative AI on agriculture and agribusiness, the state of U.S. transportation, the agricultural economy, and updates on agricultural policy from Capitol Hill.

Several speakers already are confirmed. They include:

- Jake Joraanstad, CEO and co-founder of Bushel, will lead a general session presentation on "Generative AI and Real Talk on How it Could Impact Agriculture and Agribusinesses."
- Sara Wyant, president of Agri-Pulse Communications, Inc., will provide an "Agricultural Policy and Trade Update" from Washington, D.C.
- Kristi Boswell, agricultural policy lawyer at Alston & Bird, will be part of a breakout session panel on "Foreign Ag Labor Solutions."

**Register now:** NGFA's flagship conference for grain merchants, elevator operators, feed manufacturers, processors, and grain industry suppliers returns to Louisville, Ky., on Dec. 3-5. Go to [ngfa.org/cec](https://ngfa.org/cec).

## SUPPLEMENTS

### NGFA Member Profile – Jean Bratton

Jean Bratton, CEO of [Centerra Co-op](https://www.centerra.co-op) and member of the NGFA Executive Committee, Board of Directors and Arbitration Appeals Panel, answered some questions about her experience volunteering her time and expertise to the NGFA.

NGFA will continue to feature active members of the association in this newsletter. Contact [ngfa@ngfa.org](mailto:ngfa@ngfa.org) with any questions about participating as a committee member, attending or sponsoring an event, or contributing to NGFA communications.

**Q: Why did you begin participating in the NGFA?**

**Bratton:** I first became aware of NGFA when I worked for a grain company that was working through disputes with counterparties; some of the disputes involved the legal system, while most were working their way through NGFA and other trade associations' arbitration. This gave me a firsthand appreciation for the speed and expertise shown by NGFA arbitration committees. From this initial exposure, it made sense to volunteer to be on an arbitration committee; this in turn led to other committee opportunities, culminating in my current role on the executive board of NGFA. The NGFA rulemaking and arbitration process were and are the gold standard for how intra-industry disputes should be handled.



**Q: How has your participation in the NGFA influenced your career in the grain and feed industry?**

**Bratton:** Every NGFA committee of which I've been a part has been led by persons who had decades of experience in the industry. Not only did they know more about the intricacies of trading than I could ever hope to learn, but they were kind, ethical people who were always ready to share ideas on how to conquer issues. The individuals who serve on committees encouraged my personal development and the overall advancement of our industry.

**Q: Are there any specific projects or events that you see as highlights of your time with NGFA?**

**Bratton:** The hiring of a new CEO is always an opportunity to assess the future needs of the organization vs. the skillset of the team. I believe that the board did a great job taking a step back to assess these aspects and searching for the right person to fill our key needs. I hope that those who have worked with Mike would agree that our leadership and strategic direction are on the right track.

**Q: What do you wish all NGFA members knew about the Association?**

**Bratton:** The true work of NGFA is done in committees by a diverse group of people. They represent a mixture of company sizes, years of expertise and other factors. The committees are asked to consider issues ranging from our response to proposed railroad mergers to seed technology changes; they make recommendations for NGFA's official response on these issues. Sometimes they are asked to form an opinion within days of receiving the request; and they always rise to the request. If you are considering an NGFA membership, I'd suggest that you look at the committee structure and speak to a committee chairperson – I hope that you come away with not only a “yes” on the membership decision, but also a desire to join one of our committees.

**Q: What are you most looking forward to for the NGFA?**

**Bratton:** All of us are adjusting to the reality that we need ideas to improve our productivity. The [Barge Digital Transformation](#) (BDT) project was an idea that NGFA implemented to improve document processing productivity. I look forward to other ideas from NGFA that improve productivity and transparency of document flows.

## Extra Supplements

NGFA in the news:

Indiana Business Journal: [Indiana 250: JoAnn Brouillette](#)

Farm Progress: [Answers to your legal questions on drought, grain contracts](#)

Associated Press: [New federal rule may help boost competition for railroad shipments at companies with few options](#)

Other news:

Agri-Pulse: [Ag committee leaders aim for farm bill passage by end of the year](#)

NBC News: [Shutdown watch: A guide to the mad dash to fund the federal government](#)

Reuters: [Unusual rise in US corn acres catches analysts off guard](#)

KTIV: [Grassley: Existing federal farm bill can be extended into 2024](#)

**NGFA | 1400 Crystal Drive | Suite 260 | Arlington | VA | 22202**