



NGFA NEWSLETTER

A weekly update from the National Grain and Feed Association

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Trading, Trade Rules and Arbitration Seminar



NEWS

STB issues final reciprocal switching rule

The Surface Transportation Board (STB) on April 30 published its final rules on reciprocal switching for inadequate service.

The rules provide shippers and receivers captive to a single Class I railroad the opportunity to use Board-directed arrangements to switch to an alternative carrier if the incumbent carrier's service falls below performance thresholds established by STB for reliability in time of arrival, consistency in transit time, and reliability in providing first-mile and last-mile service.

"Data-sharing measures supported by NGFA included in the final reciprocal switching rule will serve to both inform and incentivize railroad performance," NGFA President and CEO Mike Seyfert said in an [April 30 press release](#).

"Principally, NGFA members urge STB to take other actions to achieve the service improvements the Board seeks to encourage, including finalizing the petition for rules that govern rail carriers' use of private railcars," he noted.

Private railcar use regulations would establish financial incentives for efficiently using railcars owned or leased by shippers, NGFA said. Finalizing these regulations would build on the progress made by the Board's publication in January of final emergency service rules enabling the Board to order temporary relief in emergencies more quickly and effectively.

NGFA submitted opening comments to STB on the reciprocal switching proposed rule on Nov. 7, 2023, and submitted reply comments on Dec. 6, 2023.

House and Senate ag leaders preview farm bill proposals

House and Senate Agriculture Committee leaders each released farm bill frameworks this week.

House Agriculture Committee Chairman Glenn Thompson, R-Pa., on May 1 released a broad farm bill summary that will be considered during a committee markup on May 23. Later on May 1, Senate Agriculture Chairwoman Debbie Stabenow, D-Mich., released a 94-page summary of her bill proposal, the Rural Prosperity and Food Security Act.

Neither proposal includes legislative text, and there are still many questions on exact details for both proposals. While a markup is scheduled for the House Agriculture Committee on May 23, Sen. Stabenow said she has not scheduled committee action on her bill and that her proposal is intended as a starting point for negotiations.

The following outline emphasizes provisions important to the grain, feed and processing industry.

House: Chairman Thompson's Conservation Reserve Program (CRP) proposal in the Conservation Title includes provisions to prioritize the enrollment of marginal land in the program over productive farmland. House Agriculture Committee staff has indicated they will not attempt to raise the CRP cap.

The House Commodity Title maintains a market-oriented, decoupled farm program.

Funding is doubled in the proposal for the Market Access Program (MAP) and Foreign Market Development Program (FMD), both critical trade promotion programs run by the U.S. Department of Agriculture (USDA) Foreign Agricultural Service (FAS).

Read the [House's farm bill outline here](#).

Senate: Chairwoman Stabenow has included an increase in the CRP acreage cap from 27 million acres to 29 million acres by 2029. NGFA is seeking more details about how this increase is achieved in her proposal and what kind of land the acreage would be directed towards, but the Association has historically opposed any increases in CRP acreage that would result in the enrollment of prime farmland and large tracts of land that have been used for the production of grains and oilseeds.

The Senate Commodity Title proposals maintain a market-oriented, decoupled farm program. The proposal does not appear to include any additional funding for trade promotion programs.

A full summary of the Senate bill is available [here](#) and a section-by-section summary is available [here](#).

The current farm bill extension expires Sept. 30. Lawmakers will need to reconcile significant differences in their proposals before any farm bill can proceed. NGFA will be meeting with committee members and staff in the House and Senate over the next several days.

HPAI detected in Colorado dairy cattle; FDA says milk supply is safe

By David Fairfield, Senior Vice President, Feed

The USDA's Animal and Plant Health Inspection Service (APHIS) on April 25 announced the detection of highly pathogenic avian influenza H5N1 in dairy cows in Northeast Colorado. This is the first detection of avian influenza diagnosed in cattle in Colorado. Detections of HPAI in dairy cattle have previously occurred in eight other states - Idaho, South Dakota, Kansas, New Mexico, Texas, Michigan, Ohio, and North Carolina.

As previously communicated, USDA issued a [Federal Order](#) on April 24 requiring the following measures, effective Monday, April 29, 2024, to reduce the risk of further disseminating HPAI H5N1 virus: 1) mandatory reporting of HPAI cases in cattle to the USDA; and 2) mandatory testing for all lactating dairy cattle moving interstate. USDA has issued [additional guidance](#) to clarify the order's requirements.

Meanwhile, the Food and Drug Administration (FDA) has released [updated information](#) related to its ongoing work to ensure continued effectiveness of the federal-state milk safety system. FDA reports in the update additional results from an initial limited set of geographically targeted milk samples did not detect any live, infectious virus, and that these results reaffirm the commercial milk supply is safe. In addition, several samples of retail powdered infant formula were tested utilizing quantitative polymerase chain reaction methodology. All results of the formula testing were negative, indicating no detection of viral fragments or virus in powdered formula products.

FDA on May 1 announced [additional HPAI test results](#) for fluid milk, cottage cheese and sour cream. Testing of the 297 dairy samples did not detect any live, infectious virus, indicating that pasteurization is effective in inactivating HPAI.

FDA issues final VFD guidance

By David Fairfield, Senior Vice President, Feed

The U.S. Food and Drug Administration (FDA) today issued final [Guidance for Industry \(GFI\) #120: Veterinary Feed Directive Regulation Questions and Answers](#) to provide information on complying with the [Veterinary Feed Directive \(VFD\) final rule](#) published in 2015. The VFD rule requires that veterinary oversight be associated with the use of medically important antimicrobial animal drugs in the feed of food-producing animals.

The final guidance replaces FDA's draft guidance previously published in 2019 and provides additional information on several issues, including:

- Situations where the VFD drug labeling does not specify the concentration in feed or use units other than grams/ton;
- How to replace an expiring VFD; and
- Situations where a VFD distributor works with a dealer.

According to FDA VFD inspection data, 95 percent of inspected entities involved in the manufacture, distribution and use of VFD medicated feeds have been in compliance with the VFD final rule. Areas of non-compliance include: 1) distribution of feed not in conformance with a lawful VFD; 2) lack of distributor notification; 3) lack of acknowledgement letters; and 4) inadequate records and recordkeeping.

IRS issues guidance on Sustainable Aviation Fuel credit

By David Fairfield, Senior Vice President, Feed

The U.S. Department of the Treasury and Internal Revenue Service (IRS) on April 30 released [guidance on the Sustainable Aviation Fuel \(SAF\) Credit](#) established by the Inflation Reduction Act (IRA).

The IRA Section 40B tax credit incentivizes the production of SAF that achieves a lifecycle greenhouse gas (GHG) reduction of at least 50 percent when compared to petroleum-based jet fuels. The tax credit starts at \$1.25 per gallon for SAF that achieves a 50 percent GHG reduction. An additional 1 cent per

gallon is available for each percentage point by which the lifecycle GHG emission of the fuel exceeds 50 percent, with a cap of \$1.75 per gallon. Section 40B provides the tax credit can be applied to qualifying SFA sold or used after December 31, 2022, and prior to January 1, 2025.

The Treasury and IRS notice provides additional guidance regarding the SAF credits and announced an updated version of the Department of Energy's Greenhouse Gases, Regulated Emissions, and Energy use in Technologies model – [40BSAF-GREET 2024](#) – for use in calculating emission reductions. The new [40SSAF-GREET User Manual](#) provides information on eligible SAF pathways, which include U.S. soybean, U.S. and Canadian canola/rapeseed, tallow, used cooking oil, U.S. distillers corn oil, U.S. corn, and Brazilian sugarcane. The updated model also integrates greenhouse gas emission reduction strategies such as carbon capture and storage, renewable natural gas, and renewable electricity.

The notice also, on a pilot basis, incorporates a USDA pilot program to encourage the use of certain Climate Smart Agriculture (CSA) practices for SAF feedstocks. For the corn ethanol-to-jet pathway, the pilot provides a GHG reduction credit if a “bundle” of certain CSA practices (no-till, cover crop, and enhanced efficiency fertilizer) are used. Similarly, a GHS reduction credit for the soybean-to-jet pathway is provided if the soybean feedstock is produced using a “bundle” of applicable CSA practices (no-till and cover crop).

The IRA Section 40B notice is a precursor to anticipated guidance from the Treasury and IRS on the implementation of the IRA Section 45Z tax credit. Section 45Z provides a tax credit for domestic production of clean transportation fuels. The section includes tax credits starting in 2025 and extending through 2027 (based on current law) for clean nonaviation transportation fuel, such as qualifying corn ethanol, of up to \$1 per gallon.

OSHA takes another step toward heat and infectious disease rules

By Jess McCluer, Senior Vice President, Safety and Regulatory

The Occupational Safety and Health Administration's (OSHA) Advisory Committee on Construction Safety and Health unanimously recommended that OSHA proceed with its two separate rulemakings: 1) **Heat Injury and Illness Prevention** and 2) **Infectious Diseases**.

Both potential rules were previously the subject of OSHA Small Business Regulatory Enforcement Fairness Act (SBREFA) panels ([Heat Injury and Illness Prevention](#) in 2023 and [Infectious Diseases](#) in 2014). They would apply to private and public sector employers with employees exposed to heat hazards or infectious diseases in the workplace.

The regulatory agenda states that OSHA is “examining regulatory alternatives for control measures to protect employees from infectious disease exposures to pathogens that can cause significant disease.” The agency is considering long-standing infectious disease hazards like tuberculosis and measles as well as new and emerging infectious diseases such as COVID-19 and pandemic influenza. According to OSHA, control measures for infectious diseases might be necessary in workplaces such as healthcare, emergency response, and “other occupational settings where employees can be at increased risk of exposure to potentially infectious people.”

The new standard is likely to address critical aspects, such as airborne and droplet precautions, engineering control measures, PPE, respiratory protection, hazard assessment and control, training and education, recordkeeping, and reporting. As with other OSHA standards, many of the requirements for the new infectious disease standard may already be addressed in a company's COVID-19 policy document, but there will almost certainly be new documentation and similar requirements.

OSHA's National Advisory Committee on Safety and Health (NACOSH) is expected to endorse similar recommendations. This moves OSHA one step closer to publishing proposed rules on these two separate issues. Last year the NACOSH Heat Injury and Illness Prevention task force's recommendations for the Heat Injury and Illness Prevention standard were approved by the full committee and suggested to OSHA to include in the proposal.

EVENTS

Trade Rules Seminar is next week

Registration is available on-site for NGFA's [2024 Trade Rules Seminar](#) on May 8-9 at the Hilton St. Louis at the Ballpark. You can also join your fellow seminar attendees for a pre-seminar St. Louis Cardinals game when they host the New York Mets on May 7. Tickets are available at registration. Join them by [registering here](#).

Succession planning webinar for NGFA members is May 16

Join NGFA and People Spark Consulting for a one-hour webinar on the three steps to take for business succession planning on May 16 at 1 p.m. ET. The steps include:

- How to address a legacy employee who may not be ready to retire,
- How to define the role based on where the business needs to go, and
- How to develop high-potential employees for these identified roles.

Register for [Three Steps to Succession Planning Success](#). Co-founders of People Spark Consulting, Kristen Ireland and Erin Mies, will guide the discussion.

CONVEY'24 registration is open

Registration is open for [CONVEY'24](#), an annual conference jointly hosted by NGFA, Grain Journal, and the Grain and Elevator Processing Society (GEAPS), on July 23-25 in Omaha, Neb. Each year, NGFA, GEAPS and Grain Journal present this unique opportunity for grain handling employees and leaders to gain practical knowledge and training on real-world compliance issues, best practices and emerging industry trends. This year's focus will be on new technology and automation.

Early bird registration rate ends **May 31!** Register to attend or exhibit at [conveyconference.com](#).

New this year: DEGESCH will host a pesticide state-certification workshop on the afternoon of July 23.

SUPPLEMENTS

NGFA Members: Provide your input in the Communications Survey

NGFA launched its inaugural [Communications Survey](#) on April 29. It will remain open until May



10. The answers to this survey will **directly** influence how we make changes to our information system for members. This is the first survey of its kind for NGFA with 18 questions aimed at guiding long-term decisions on the use of new tools and resources.

Prize Drawing: NGFA will randomly select three winners to receive free registration – to the 2024 CEC or the 2025 Annual Convention – with a complimentary hotel suite upgrade. Include your name at the end of the survey to be included in the drawing. [Access the survey here.](#)

NGFA mourns loss of Jerry Cope

Jerry Cope, a former member of the Board for NGFA and the South Dakota Grain and Feed Association, passed away at age 66 on April 26.

He served on the NGFA Board of Directors from 2012-2018 and was a member of the former Rail Shipper/Receiver Committee and the Rail Arbitration Rules Committee. He also served on the South Dakota Grain and Feed Association Board of Directors for 12 years.

NGFA leaders and staff extend their deepest condolences to his wife, Lori, his mother, Jean, his daughters, and his extended family and friends. The funeral service will be at 1:30 p.m. at Blessed Sacrament Church in Rapid City, S.D. on May 3. A full obituary and memorial information are [available here.](#)



Extra Supplements

NGFA in the news:

Agri-Pulse: [STB finalizes reciprocal switching rule](#) (*log in*)

World Grain: [Rules issued on reciprocal rail switching for poor service](#)

International Bulk Journal: [Leading event for grain handling and processing returns to Omaha](#)

Other news:

Baking Business: [Dan Dye to retire from Ardent Mills](#)

Bloomberg Law: [House Republicans Eye Shift to Conservation Funds in Farm Bill](#) (*log in*)

Roll Call: [House, Senate farm bill summaries show SNAP, climate division](#)

FreightWaves: [Teamsters Canada seeks strike authorization vote by CN, CPKC train crews](#)

FreightWaves: [Proxy adviser on Norfolk Southern: Overhaul board but keep CEO Shaw](#)

Associated Press: [This Texas veterinarian helped crack the mystery of bird flu in cows](#)

Agri-Pulse: [Document solidifies FDA authority over genomically altered animals, with new input from USDA](#) (*log in*)

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