



# Priorities for 2007



## National Grain and Feed Association (NGFA) North American Export Grain Association (NAEGA)



The **National Grain and Feed Association (NGFA)**, established in 1896, is a grassroots organization comprised of more than 900 companies that operate more than 6,000 facilities and handle more than 70 percent of U.S. grains and oilseeds throughout the 48 continental states and more than 300 congressional districts. NGFA members encompass all sectors of the industry, including country, terminal and export elevators; feed mills; cash grain and feed merchants; and end-users of grain and grain products, including processors, flour millers and livestock and poultry integrators. Affiliated with the NGFA are 35 state and regional grain and feed associations. The NGFA has strategic alliances with the Grain Elevator and Processing Society and Pet Food Institute.

The **North American Export Grain Association (NAEGA)**, established in 1912, consists of private and publicly owned companies and farm-owned cooperatives that are involved in and provide service to the bulk grain and oilseed exporting industry. NAEGA members ship the vast majority of the more than \$25 billion in exports of U.S. bulk grain, oilseeds and their products. NAEGA's mission is to promote and sustain the development of commercial export grain and oilseed trade from the United States.

The NGFA and NAEGA are co-located and coordinate policy and government representation on international trade-related issues that affect the economic prospects of the industry. This enables the organizations to speak in a unified voice to the government and to the industry's domestic and international customers.

## Agricultural Policy



We support farm programs that allow U.S. producers and agribusinesses to enhance income from the marketplace, and support producer safety-net concepts that do not distort planting and marketing decisions. The NGFA and NAEGA oppose discredited acreage-idling programs and other supply control measures that encourage foreign plantings, result in lost market share for U.S. agriculture, and undermine the global competitiveness of U.S. grains and oilseeds, processed commodities and meat products. We oppose attempts to impose legislative restrictions on legitimate commercial activities between producers and agribusinesses, including contracting freedoms and the use of pre-dispute arbitration agreements.

**Farm Bill:** The NGFA will be involved extensively during the 2007 farm bill process. In September 2006 testimony before the House Agriculture Committee, the NGFA identified the following major industry priorities for the farm bill:

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## Priorities for 2007

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- ◆ Provide access to sufficient acres to meet demand growth from biofuels without shorting supplies necessary to grow other important demand sectors, such as export, feed and domestic livestock and poultry markets.
- ◆ Authorize conservation programs that focus more on working farmlands, minimize reliance on idling of productive land resources and strengthen the economies of rural communities, while achieving environmental and other policy goals. Reform the Conservation Reserve Program (CRP). [*See next section for details.*]
- ◆ Devise farm income supports in a way that minimize risk for potential challenges in the World Trade Organization (WTO), while minimizing market distortions and volatile swings in funding availability.
- ◆ Reject proposals to establish government- controlled or managed grain reserves or government-subsidized storage programs.

Conservation Reserve Program (CRP) Reform: A major NGFA focus will be reform of the CRP, a program that already has contributed to reduced plantings of certain grains, particularly wheat, as well as undermined the economic viability of rural communities and availability of land for young and tenant farmers. Specifically, the NGFA will be advocating the following changes to the CRP:

- ◆ Refocus the CRP on the most environmentally sensitive acres and on buffers and filter strips that enhance water quality.
- ◆ Restrict future CRP funding to contracts and reenrollments consisting of acres that rank in the top 20 percent of the Environmental Benefits Index (EBI).
- ◆ Provide flexibility for acres to leave the CRP prior to contract maturity, without penalty, and ensure once CRP contract acres exit or expire that they are fully eligible for farm program benefits as established under the 2007 farm bill.
- ◆ Allow producers to plant, under environmentally appropriate safeguards, the crop of choice on eligible CRP land (Classes I-IV), rather than restricting such plantings solely to biomass crops for cellulosic ethanol.
- ◆ Limit whole farm enrollments, unless those acres qualify under more stringent EBI criteria.
- ◆ Reduce the current 39.2-million-acre statutory cap on the CRP to make additional conservation funding available for working farmlands.
- ◆ Strictly abide by the stipulation that no more than 25 percent of tillable land in a county be enrolled.

Warehousing: The NGFA spearheaded the modernization and revision of the U.S. Warehouse Act approved by Congress in 2000. In the ensuing years, the NGFA has taken a leadership role in defending the U.S. Department of Agriculture's exclusive jurisdiction – upheld previously by the courts – to regulate federally licensed grain warehouses, including producer grain payable activities. The NGFA will oppose strongly any attempts to legislatively change the U.S. Warehouse Act to shift to states the exclusive authority to regulate such merchandising activities at federally licensed grain warehouses.

# Priorities for 2007

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## International Trade

The NGFA and NAEGA support free trade, the use of science-based health and safety rules in trade agreements, and an aggressive agenda to retain and expand market opportunities for U.S. grains, oilseeds and value-added exports. Trade is essential to U.S. agriculture, with exports representing up to one-third of total usage of U.S. feed grains and 50 percent of total usage of U.S. wheat and soybeans – either as raw commodities or value-added products, such as meat and poultry. NAEGA utilizes the extensive resources of its membership, global industry relationships and USDA's Market Access Program to educate international customers and government on sound commercial practices for international commerce. NAEGA is extremely active in overcoming non-tariff trade barriers in major U.S. bulk grain and oilseed export markets, and is a leader in providing industry input to U.S. policymakers on effective trade-negotiating strategies and positions, as well as trade and trade-related negotiations and accords.

**Renewal of Trade Promotion Authority (TPA):** We urge Congress to enact legislation renewing the President's Trade Promotion Authority (TPA), currently scheduled to expire on June 30, 2007. TPA authorizes the president to negotiate trade agreements that Congress then is required within 90 days after submission to either approve or reject, without amendment. TPA has shown its value in the Bush administration's successful completion of nine new trade agreements approved by Congress since 2000. Three additional trade agreements are scheduled to be submitted for congressional consideration this year, and five others currently are being negotiated. Renewal of TPA is imperative for a successful completion of the Doha Round of multilateral World Trade Organization negotiations.

**WTO Doha Development Round Agricultural Negotiations:** We strongly support aggressive proposals to eliminate export subsidies and non-competitive practices (export state trading enterprises and differential export taxes), substantially reduce trade-distorting domestic supports and improve market access. In addition, we support completing the agricultural negotiations under the Doha Round that achieves a comprehensive agreement that results in commercially meaningful improvements and reductions in the trade-distorting elements of trade remedy law.

**Bilateral/Regional Free Trade Agreements:** The NGFA and NAEGA support U.S. government efforts to seek out partners for bilateral and regional free-trade accords that have potential benefits to the United States, as long as those negotiations do not impede or delay the overarching goals of global trade liberalization aspired to under the WTO.

**NAEGA Export Market Priorities for 2007:**

- ◆ Maintain and support the very successful trade relationship with traditional markets like Mexico and Japan.
- ◆ Accommodate change and maintain the competitiveness of U.S. exports to emerging markets in China, Cuba, Iraq, all Asian-Pacific markets and throughout the Western Hemisphere.
- ◆ Globally support integrity in the commercial environment, predictability in regulatory matters and improved access to all agricultural markets – in particular by encouraging adherence to science-based sanitary and phytosanitary rules implemented in an open, transparent way.

# Priorities for 2007

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## Biotechnology

NAEGA and NGFA believe 2007 will be pivotal in continuing efforts to develop a science-based framework governing the presence of biotechnology-enhanced grains, oilseeds and grain products in international and domestic commerce. The NGFA and NAEGA plan to aggressively seek measures that establish an appropriate level of consumer acceptance and legal, environmental and regulatory compatibility in both domestic and international markets prior to field trials and eventual commercialization of biotechnology-enhanced traits.

**Adventitious Presence:** The industry's top priority, integral to most biotech-related activities, is the establishment of an international and domestic regulatory environment that accommodates the incidental, low-level presence (adventitious presence) of biotech-enhanced events. The associations will continue their active involvement in the U.S. delegation to the Codex Alimentarius Commission's *Ad Hoc* Intergovernmental Task Force on Biotechnology as it works to develop science-based guidance to be used by countries to evaluate the safety of the intermittent, low-level presence of biotech-enhanced events that have been approved or authorized in the country of export, but not yet by the importing country.

**Corporate Responsibility and Heritage Events:** NAEGA will focus much of its attention on improving the corporate responsibility of biotech providers to obtain broad foreign government approvals of biotech-enhanced events, as well as to address the liability posed by so-called heritage events (defined as biotech products that have been authorized as safe in one or more countries, but which have been discontinued from active commercialization by biotech providers but still may be present at intermittent low-levels in food or feed). NAEGA also will address with biotech providers their corporate responsibility if incidents occur in which unauthorized biotech-enhanced events are present in commodity shipments, food or feed. This effort will continue to encourage that biotech providers put in place commercial-assurance arrangements that compensate for the costs and mitigate the damage to trade and market access if unauthorized biotech events are detected in grains, oilseeds, feed and other grain products.

**EU Biotech-Approval Process:** In conjunction with the U.S. government and international collaborators, NAEGA also will be pursuing the constructive enforcement of requirements imposed in 2007 on the European Union to make its biotech-approval process compliant with World Trade Organization rules, following the WTO's landmark decision in 2006 that the EU's system violated its WTO obligations.

**Liability and Redress:** The NGFA and NAEGA will seek to retain and foster a rational, inferable and time-tested approach to liability and redress that relies on existing fault-based national legal regimes.

**Pharma and Industrial Biotech Crops:** The NGFA and NAEGA will work with the U.S. government, particularly USDA, to strengthen existing regulations to prevent the accidental presence of biotech-enhanced commodities with pharmaceutical and industrial properties in commodities approved for food and feed.

# Priorities for 2007

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## Transportation

As the recognized national leader in representing the interests shippers and receivers of bulk grains, feed and grain-products, the NGFA continues its extensive activities on rail, barge and trucking issues. NAEGA focuses similarly on ocean transportation issues.

**Rail:** The NGFA will continue to: 1) advocate approaches to create a more equitable balance between the interests of railroads and shippers/receivers in national rail transportation policy; 2) encourage the federal Surface Transportation Board (STB) to amend its procedures for considering small rail rate cases to provide small shippers and receivers with a usable mechanism to challenge unreasonable rail rates; 3) encourage rail carriers to implement STB-mandated changes for assessing fuel surcharges to more accurately and fairly reflect actual changes in fuel costs; and 4) examine potential legislative proposals to achieve overall rail policy goals.

**Barge:** The NGFA and NAEGA strongly support immediate authorization by Congress of legislation to fund the extensions of locks on the Upper Mississippi and Illinois River Waterway to enhance the efficiency and competitiveness of commercial barge transportation.

**Ocean:** The NGFA and NAEGA advocate enhancements to deep-draft harbors to facilitate U.S. export trade. In addition, NAEGA and NGFA work with the administration and Congress to balance the need for greater security at U.S. ports with the need to preserve efficient and cost-effective shipping. In this regard, NAEGA will continue to provide the industry with an Alternative Security Program compliant with U.S. Coast Guard port-security requirements and on international contractual matters related to vessel shipments.

## Feed and Animal Agriculture

The NGFA has approximately 350 member companies with commercial feed milling operations and 35 integrated livestock and poultry feeding operations. Through its industry-driven committees, the NGFA effectively addresses feed legislative and regulatory issues. It also interacts extensively with national organizations representing the livestock, poultry and meat industry, as well as the food and restaurant industry, concerning feed safety and quality, animal agriculture and agroterrorism-prevention and food defense issues.

**Feed Safety and Quality Assurance:** The NGFA commends FDA for issuing a draft compliance policy guide on Feb. 12, 2007 that would launch an important feed safety initiative known as the Voluntary Self-Inspection Program (VSIP). Under this government-based, no-cost program, medicated feed manufacturers would submit annual inspection reports to FDA concerning compliance with the agency's current good manufacturing practice regulations, be subject to unannounced random government audits, and be recognized as a low priority for FDA inspection. The NGFA also continues its proactive feed safety efforts through its model feed quality assurance program, as well as feed safety educational programs and resource materials, which provide current information on total quality management systems and regulatory compliance. And it is exploring the use of distance-learning programs to further extend the reach of its pioneering quality-assurance efforts.

## Priorities for 2007

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**BSE Prevention:** The NGFA continues to steadfastly support the Food and Drug Administration's (FDA) science- and risk-based feed regulations designed to prevent the establishment or spread of bovine spongiform encephalopathy (BSE). The NGFA in 2005 strongly supported FDA's most recent proposal to ban the use of brain and spinal cord from cattle 30 months or older from all animal feed as a prudent step that would remove the vast majority of any potential BSE infectivity at the 'top of the pyramid' of the animal food and feed chain, thereby making animal-based feed ingredients inherently safe at their source.

**Feed Safety Laws and Regulations:** The NGFA interacts with FDA and state feed regulatory officials in a positive and proactive manner on several feed safety-related developments. First, the NGFA is working with FDA to shape the proposed development of potential new federal process-control regulations under the agency's Animal Feed Safety System initiative. Second, the NGFA is involved with the Association of American Feed Control Officials as it develops model state feed regulations and a model state law that would extend current good manufacturing practice regulations to non-medicated feed and feed ingredient manufacturers, as well as to transporters and on-farm mixer-feeders. In addition, the NGFA will oppose efforts in Congress and states to legislate changes beyond those already outlined by the FDA, as excess regulations would not result in any meaningful improvement in feed safety, but instead would impose needless and costly burdens on the industry.

**International Issues:** The NGFA will work with FDA and USDA in 2007 to develop a third-country equivalency agreement that will allow U.S. feed manufacturers to continue to export feed and feed ingredients into European Union markets. The equivalency agreement will be required under the new EU Feed Hygiene Regulation No. 183/2005, which requires EU feed businesses to import products only from firms listed as approved export establishments that produce feed under a hazard analysis and critical control point (HACCP) approach or equivalent conditions. To be included in the EU-approved export list, a competent authority (such as the FDA or USDA) must certify that the conditions under which the feed is produced by the exporting firm are equivalent to EU requirements. The NGFA will oppose attempts to require U.S. feed manufacturers to adopt HACCP-based feed safety programs, and will strongly advocate the recognition by the EU of FDA's current good manufacturing practices as being equivalent to the EU requirements.

### **Risk Management and Commercial Trade**

**Convergence and Hedging Efficiency:** NGFA and NAEGA members utilize futures markets to hedge price and inventory risk, and depend extensively on futures and cash market prices converging at futures contract expiration – a fundamental principle upon which futures markets are based. The large and still-growing participation of commodity funds and institutional investors has given rise to concerns about futures contract performance. In particular, the generally "long" positions and non-price responsive behavior of investment capital have raised concerns about the impacts on convergence and basis. The NGFA will work actively with futures exchanges and the Commodity Futures Trading Commission (CFTC) to identify actions to promote the process of convergence and to maintain exchange-traded futures as viable hedging instruments. The NGFA also has been the leading advocate of changes to enhance the transparency of investment fund trading in agricultural futures markets for all market users, and commended the CFTC earlier this year for beginning weekly

## Priorities for 2007

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publication of a supplemental Commitments of Traders report that shows index trading volume. NAEGA will work with the CFTC and related interests like the NGFA to ensure the concerns of the global grain trade are appropriately taken into consideration.

**CFTC Reauthorization:** The NGFA will work with Congress to complete reauthorization of the CFTC. The NGFA is skeptical about efforts to more clearly define a futures contract in legislation in response to problems in other industries, as it could have broader implications for the agricultural sector. The NGFA will guard against any such definition that could impinge on the cash-forward exemption from CFTC regulation currently embodied in the Commodity Exchange Act.

**Curtailing Contract Freedom:** The NGFA will oppose attempts at the federal and state levels to enact legislation that would restrict dramatically what is permitted in cash contracting, including whether contracting parties should be able to freely negotiate to include arbitration clauses in pre-dispute contract agreements.

**Export Trade Contracts:** To facilitate efficient export trade, NAEGA maintains the NAEGA II F.O.B. vessel contract, which specifies export contract terms. NAEGA first began issuing model contracts to facilitate export trade in 1915. The NAEGA II contract, first adopted in 1947 and revised periodically thereafter, contains provisions governing quantity, quality, delivery, price, payment, insurance, arbitration and other terms. Working in coordination with the NGFA's Trade Rules Committee and other international bodies (like GAFTA) and contract guidelines. NAEGA continues to update, support and promote the principles contained in the well-established NAEGA II contract, including origin final determination of quality, quantity and grade factors for grains and oilseeds through official U.S. government inspections. NAEGA will further support the model contract for all users by providing for the issuance of certificates relating to strikes, riots, lockouts, embargoes or other conditions affecting contract performance under clause 20 and arbitration via the American Arbitration Association International Centre for Dispute Resolution (ICDR). NAEGA provides a list of approved arbitrators and reports arbitration awards from the ICDR to its members.

## Grain Inspection and Weighing

The NGFA and NAEGA will continue to advocate policies that maintain the viability and value of the U.S. official system of grain-quality measurement that is addressed primarily in the U.S. Grain Standards Act. These efforts include:

**Independent Third-Party Inspections with Government Oversight at Export:** The NGFA and NAEGA continue to work with GIPSA as it implements the directive outlined during the 2005 congressional reauthorization of the U.S. Grain Standards Act. In response, USDA's Grain Inspection, Packers and Stockyards Administration (GIPSA) has begun contracting with independent third parties to provide official inspection and weighing services at export elevators under 100 percent federal government oversight. The step is needed to reduce the ever-increasing costs of official inspections at export locations, which represent the largest uncontrollable fixed cost faced by U.S. exporters.

## Priorities for 2007

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**Federal Funding for GIPSA Standardization Activities:** The NGFA and NAEGA will continue to oppose attempts to assess approximately \$4 million to \$6 million annually in new user fees on grain exporters to finance USDA/GIPSA activities that maintain U.S. grain standards. These activities benefit a wide range of users – including farmers and consumers – and such a user fee would represent an inequitable tax on bulk grain exports, thereby further reducing U.S. competitiveness in commodities subject to official inspections.

**International Acceptance:** Building on continuing enhancements to improve global trade, NAEGA's international programming will focus on; creditability, efficiency, harmonization and acceptability of official determinations related to plant health and product safety, functionality and quality. To foster an improved trading environment in these areas, NAEGA will focus on work with USDA's Animal and Plant Health Inspection Service (APHIS) and GIPSA, as well as with key international government authorities. Key issues for 2007 include mycotoxin management, harmonization of plant health requirements (e.g. Karnal bunt) and compliance-method harmonization (sampling and testing)

### Conclusion

Please contact NGFA or NAEGA concerning any of the aforementioned priority issues and subject areas.

The NGFA supports an active committee structure with industry expertise on all aspects of the grain, feed and processing industry. The association also administers the oldest commercial arbitration system in North America. And its Trade Rules are widely recognized as reflecting the industry's standard practices for trade in grains, oilseeds, feed and feed ingredients, as well as barges and barge freight, and are incorporated by reference into the vast majority of U.S. commercial grain, feed and feed ingredient contracts.

NAEGA is positioned to react quickly to prevent or mitigate disruptions in the execution of export transactions affecting its membership. NAEGA members work jointly to foster a grain and oilseed export industry that provides the best environment for all stakeholders – from producer to consumer. Membership in NAEGA requires a commitment to promote certainty in the customs and usages of trade and commerce, and to integrity in a commercial environment supported by free trade and competition in commerce involving grain and other agricultural products. When government policy or trade circumstances present illegal or inappropriate barriers to U.S. exports of grain, oilseeds or their products, contact NAEGA.

### Contact Information:

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