



# Priorities for 2009



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



## About the NGFA and NAEGA

The **National Grain and Feed Association (NGFA)**, established in 1896, is a grassroots organization comprised of more than 950 companies that operate more than 6,000 facilities and handle in excess of 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 and feed ingredient manufacturers; cash grain and feed merchants; biofuels producers; and end-users of grain and grain products, including grain 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)**, a not-for-profit trade association established in 1912, consists of private and publicly owned companies and farmer-owned cooperatives that are involved in and provide services to the bulk grain and oilseed exporting industry. NAEGA's mission is to promote and sustain the development of commercial exports of grains and oilseeds, and their primary products. Through a reliance on member networking, action and support, NAEGA acts to accomplish this mission from its office in Washington D.C., and in markets throughout the world.

The NGFA and NAEGA are co-located in Washington, D.C., and coordinate policy and government representation on trade-related issues that affect the economic prospects of the industry. This enables the organizations to speak in a unified voice to the government, as well as 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.

**Conservation Reserve Program (CRP) Reform:** A continued 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

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rural communities and availability of farmland for young and tenant farmers.

**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 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.

### Risk Management and Commercial Trade

The lack of futures/cash convergence and the declining utility of exchange-traded contracts as an effective hedging tool are of paramount concern to the NGFA and its member companies, as well as to agricultural producers. Huge increases in agricultural futures market participation by “long-only” investment capital have driven up futures, resulting in a disconnect with cash values and increased volatility. The resulting large margin calls on commercial grain hedgers have increased borrowing needs by several multiples of traditional levels, and contributed to financial stress among commercial grain hedgers.

The NGFA is working proactively with commodity exchanges and regulators to identify actions that will enhance convergence, improve contract performance and help commercial grain hedgers continue to deliver marketing and risk-management services to farmer-customers. At this time, the NGFA opposes increases in federal speculative position limits and any efforts to grant new hedge exemptions to investment funds.

Further, while we do not believe these issues can be resolved solely through legislative action, there are several provisions included in bills before Congress that we support and believe would bring added clarity and transparency to agricultural futures markets. Specifically, the NGFA supports legislation calling for detailed reporting and data disaggregation of futures market activity. Identification in reporting by the Commodity Futures Trading Commission (CFTC) of index traders and swaps dealers who are active in agricultural futures markets will assist grain hedgers in making appropriate risk-management decisions. Increased transparency is important to the usefulness of agricultural markets. Making reporting regular and

permanent would shed more light upon speculative investment capital's participation in agricultural futures and related over-the-counter activity – helping the CFTC do its job – and in being able to truly judge the impact of speculative investment capital on agricultural futures markets. Improved transparency and reporting also would increase the usefulness of the CFTC's weekly Commitments of Traders report, which our industry relies upon to assess who is participating in markets.

**Curtailling Contract Freedom:** The NGFA opposes attempts at the federal and state levels to enact legislation that would restrict dramatically what is permitted in cash contracting, including limiting the ability of contracting parties 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 F.O.B contract, first adopted in 1947 and revised periodically thereafter, contains provisions governing quantity, quality, delivery, price, payment, insurance, arbitration and other terms. In 2009, NAEGA will expand its popular contract-training programs and extend participation to commercial interests outside of its membership and throughout the world. NAEGA will continue to promote contract sanctity and good commercial practice through international outreach and coordination. NAEGA will further support the model contract for all users by providing for the issuance of certificates relating to strikes, riots, lockouts, embar-

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goes or other conditions affecting contract performance under Clause 20, as well as arbitration through 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.

### Climate Change

Previous versions of legislation aimed at combating climate change have included provisions that would authorize the conversion of cropland to rangeland or grassland in exchange for tradable carbon credits. The U.S. government already operates a large-scale land-idling program (*the CRP*; see page 1) that locks up more than 34 million acres through 10- to 15-year contracts. Potential incentives that further erode the acreage needed to supply crops for food, feed, exports and fuel could have significant negative impacts on all four sectors – which are key drivers of U.S. economic growth and job creation.

As Congress and the administration renew consideration of such legislation, the NGFA will oppose potential new land-idling schemes. The NGFA particularly is concerned about legislative provisions that could:

- ◆ Provide incentives for large coal-fired power generators and other carbon emitters to buy large amounts of farm acreage at above-market prices, taking it out of production, and then converting it to rangeland and using the credits so they can continue to emit greenhouse gases.

- ◆ Encourage producers or landowners to take good land out of agricultural production and sell it as credits, rather than continue agricultural production using improved conservation practices.
- ◆ Reduce supplies of major commodities that are at or near record lows on a global basis, with little sign that the situation will improve in the near future.
- ◆ Harm U.S. agricultural competitiveness and be a particular burden on young farmers and ranchers trying to build economically sized operations. These producers, in particular, find it hard to compete with government programs that provide economic incentives to idle land rather than rent or sell those acres.

The NGFA recognizes the importance of implementing programs to decrease emissions of greenhouse gases. But this should not be accomplished at the expense of ensuring sufficient acreage to continue producing the safest, most abundant food supply the world has ever known. Nor should it undermine opportunities for growth of biofuels.

### 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 use 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 governments on sound commercial practices for international commerce. NAEGA is extremely active in overcoming non-tariff trade barriers in major bulk grain and oilseed import markets, and is a leader in providing industry input to policymakers around the globe on effective trade agreement-negotiation positions, as well as regulation and enforcement of policies that affect trade.

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**Renewal of Trade Promotion Authority (TPA):** We urge Congress to enact legislation renewing the president's Trade Promotion Authority (TPA), which expired on June 30, 2007. TPA authorizes the president to negotiate trade agreements. Congress, in turn, is required within 90 days after submission to either approve or reject such accords, without amendment. TPA has shown its value in the successful completion of nine new trade agreements approved by Congress since 2000. Three additional trade agreements supported by the NGFA and NAEGA are awaiting submission to Congress for consideration this year. Renewal of TPA is imperative to the success of U.S. trade policy.

**WTO Doha Development Round Agricultural Negotiations:** We strongly support aggressive proposals to: 1) eliminate export subsidies

and non-competitive practices (export state trading enterprises and differential export taxes); 2) substantially reduce trade-distorting domestic supports; and 3) improve market access. In addition, we support completing the agricultural negotiations under the World Trade Organization's 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, so long as those negotiations do not impede or delay the overarching goals of global trade liberalization aspired to under the WTO.

### Biotechnology

The NGFA and NAEGA focus on several critical issues to help ensure the benefits of agricultural biotechnology are fully realized. We work aggressively to seek measures that establish an appropriate level of consumer acceptance and legal, environmental and regulatory authority prior to field trials and eventual commercialization of biotechnology-enhanced traits.

**Biotech-Enhanced Commodities with Different Functional Properties than Conventional Counterparts:** A newly emerging issue for the NGFA and NAEGA is the development of biotech-enhanced traits in grain and oilseed crops that contain functional properties different from their conventional counterparts. Grain handlers' past experience with field releases of unauthorized biotech events is that production and marketing systems designed to steward production away from unintended uses fail when subjected to the prevailing zero-tolerance requirements. The NGFA and NAEGA look forward to working with regulators, as well as technology providers and producers, to fully assess the potential risk of economic damage associated with the introduction of biotech crops possessing unique output characteris-

tics, as well as the application of appropriate government oversight and prudent production and marketing management to such traits. The concept of partial deregulation, as recently proposed by USDA's Animal and Plant Health Inspection Service (APHIS), may need to be applied in these instances so there is sufficient oversight of biotech events with different functional properties to protect against unintended entry into the conventional commodity stream.

**USDA APHIS Regulation:** In addition to appropriate regulation of functionally different biotech modifications to crops, the NGFA and NAEGA will urge APHIS to implement changes to its current approach to regulating experimental-use permits granted for field trials of biotech-enhanced commodities. We will continue to advocate stringent regulatory oversight of plant-made pharmaceuticals and plant-made industrial products not authorized for use in food and feed. Further, we continue to encourage APHIS to recognize the economic damage that results if unauthorized biotech events enter domestic or export channels, given the zero tolerance that currently exists.

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**International Convention and Collaboration:** NAEGA and the NGFA will continue to address key developments in multilateral and regional forums. The two Associations are engaged with international and national counterpart organizations in efforts to encourage all countries to adopt sound practices related to biotechnology, as well as to constructively address the issues of low-level presence (LLP); liability and redress for damage to the environment; documentation to meet regulatory needs; and timely, science-based crop biotech regulatory-approval processes and risk management. In conjunction with the U.S. government and international collaborators, NAEGA and the NGFA will pursue constructive enforcement of requirements imposed in 2007 on the European Union to make its biotech-approval process compliant with WTO rules.

NAEGA's bilateral and multilateral information-sharing and capacity-building will focus on: 1) a lack of synchronized authorizations and predictable, timely approvals of biotech traits in foreign countries; 2) LLP regulations for events authorized in the country of origin but not yet authorized in the country of destination; 3) management of unintentional unauthorized events that are not commercialized; 4) the inappropriateness of mandatory labeling for biotech content; 5) establishment of thresholds for the adventitious presence of authorized GM material in non-GM products; 6) best practices for biotech product introduction and retirement; 7) best practices for biotech product development; and 8) responsibility for technology providers and holders to provide for risk assessment, risk management and risk responsibility for the given technology.

## Transportation

As the recognized national leader in representing the interests of shippers and receivers of bulk grains, feed, feed ingredients 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: 1) continue to advocate for an effective and meaningful process for challenging rail rates in small cases; 2) pursue accuracy and transparency in fuel surcharge-related information reported by railroads to facilitate proper monitoring and assessment of such charges; 3) support legislation that provides tax benefits for investments in rail infrastructure capacity projects undertaken by railroads and agricultural rail customers; 4) monitor and assess legislative proposals and develop opportunities to advance the NGFA's own legislative priorities that are focused upon STB reform; and 5) develop commercial or legal approaches to resolve disputes between railroads and their customers concerning the imposition of some charges and transfer of liabilities.

**Barge:** The NGFA and NAEGA strongly support funding construction of new locks as part of the Upper Mississippi and Illinois River Waterway

navigation project. Timely completion of this major infrastructure and job-creating project is critical to enhancing 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. Considerable focus of NAEGA's ASP work will be on transportation worker identification and credential (TWIC) requirements.

**Trucking:** The previous highway bill reauthorization included a provision that clarifies the intent of the original agricultural exemption of hours-of-service regulations under certain constraints. The highway bill is scheduled to be reauthorized, and the NGFA will oppose any attempt to remove or weaken this important protection for ag movements.

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### Food / Feed Safety

The NGFA has been a major player in spearheading the U.S. agricultural industry's efforts to establish a set of widely accepted principles on food and feed safety. The industry is committed to providing the safest food and feed possible to consumers, and has a decades-long history of implementing food safety and quality assurance to prevent both deliberate and unintentional contamination of agricultural products. Accordingly, the agricultural industry is driven to constantly improve and refine its own food/feed safety programs and food/feed defense capabilities to ensure that only safe, wholesome grains, meat, poultry, and fresh fruits, nuts and vegetables are delivered to customers.

The NGFA will continue to demonstrate its commitment to food and feed safety by playing a constructive role in shaping future federal legislation deemed necessary by Congress to further strengthen the U.S. food and feed safety system and maintain consumer confidence. In this regard, the following principles reflect the NGFA's perspectives and priorities:

- ◆ Require any additional FDA regulation and inspections to be science- and risk-based.
- ◆ Apply science- and risk-based protocols to the inspection of imported agricultural products, including certification of products deemed to be high-risk. Oppose import restrictions that are not science- or risk-based, and that could provoke trade retaliation against U.S. agricultural exports.
- ◆ Authorize FDA to accredit third parties, provided: 1) they are truly independent and free of conflicts of interest; 2) FDA has established predicate food/feed safety regulations or metrics that third parties are to use when inspecting establishments; 3) accreditation standards for third parties are established through transparent rulemaking; 4) accreditation is prioritized based upon the risk of the sector or product; 5) false or misleading seals are prohibited; and 6) excessive incentives are not provided that encourage use of third parties where not warranted by food/feed safety risks.
- ◆ Oppose user fees that increase business or consumer costs.
- ◆ Expand research and diagnostic laboratory capacity, as well as education and training of federal and state inspectors.

### 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 sectors, as well as the food and restaurant sectors, 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. In April 2009, the NGFA will launch the first

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industry trade association distance learning program to further extend the reach of its pioneering quality-assurance efforts.

**BSE Prevention:** The NGFA continues to support FDA's 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 final rule that bans the use of brain and spinal cord from cattle 30 months or older from all animal feed as a prudent, science-based step that would further reduce the already low risk of potential BSE infectivity by removing such risk materials at their source.

**Feed Safety Laws and Regulations:** The NGFA interacts with FDA and state feed

regulatory officials in a constructive and proactive manner on several feed safety-related matters. 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, we are involved extensively with the Association of American Feed Control Officials and its development of 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. However, the NGFA will oppose efforts in Congress and states to legislate changes that would not result in any meaningful improvements in feed safety, but instead impose needless and costly burdens on the industry.

### 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:

**U.S. Standards for Wheat:** The NFGA and NAEGA will work with the Grain Inspection, Packers and Stockyards Administration (GIPSA) as it undertakes a rulemaking to analyze the official U.S. standards for wheat as part of its periodic review of the U.S. grain standards.

**Sorghum Odor Task Force:** The NGFA and NAEGA are working with GIPSA to resolve the differences between official interior inspections and export officials regarding "musty" sorghum odor. In 2008, some FGIS inspectors determined that storage odors are "musty," even when there have been no interpretive line changes during the inspection process. The NGFA and NAEGA will participate in a GIPSA task force representative of all sectors of the sorghum industry to review and make a determination of the grade line for sorghum odor.

**Federal Funding for GIPSA Standardization Activities:** The NGFA and NAEGA will continue to oppose attempts to impose 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. Further, 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 upon continuing enhancements to improve global trade, NAEGA's international programming will focus on credibility, 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 APHIS and GIPSA, as well as with key international government authorities. Key issues for 2008 include mycotoxin management, harmonization of plant health requirements (e.g. *Karnal bunt*) and compliance-method harmonization (*sampling and testing*).

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## Safety, Health and Environmental

Temporary/Permanent Storage and New Source Performance Standards for Grain Elevators: The U.S. Environmental Protection Agency (EPA) is reviewing the New Source Performance Standards (NSPS) for Grain Elevators [40 CFR 60 Subpart DD] to address the definition of temporary and permanent storage. The NGFA opposes efforts by EPA to change the long-standing USDA definition of temporary storage, and thereby subject such storage to costly Clean Air Act permitting fees. The NGFA is working with five other grain-related organizations to interact with the EPA during the agency's rulemaking process. The NGFA is co-chairing the effort with the National Oilseed Processors Association. The North American Millers Association, Corn Refiners Association, National Council of Farmer Cooperatives and USA Rice Federation also are participating in the joint effort.

Combustible Dust: The NGFA will continue

to monitor legislative proposals designed to promulgate a general industry standard for combustible dusts and the Occupational Safety and Health Administration's (OSHA) national emphasis program on combustible dusts. The grain-handling industry already is covered by an OSHA standard that took effect in 1988, which addresses combustible dusts in grain-handling facilities. The NGFA expressed concerns that legislation introduced last year in the House, while ostensibly not designed to apply to grain-handling facilities, would, in fact, do so through its inclusion of language referring to "manufacturing, processing, blending, conveying, repackaging and handling" activities.

The NGFA also will monitor an OSHA-issued combustible dust national emphasis program that includes wet corn mills [Standard Industrial Classification (SIC) Code 2046], and flour and other grain mill products (SIC Code 2041).

## Conclusion

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

The NGFA has an active committee structure with industry expertise on all aspects of the grain, feed and processing industry. It also administers the oldest commercial arbitration system in North America. And its Trade Rules are recognized widely as reflecting the industry's standard practices for trade in grains, oilseeds, feed and feed ingredients, as well as barges and barge freight. These Trade Rules 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 provides for unique, targeted networking opportunities and includes 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.

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