

Issue Brief for Congress

Received through the CRS Web

Animal Agriculture: Issues in the 107th Congress

Updated January 29, 2003

Jerry Heykoop
Resources, Science, and Industry Division

CONTENTS

SUMMARY

MOST RECENT DEVELOPMENTS

BACKGROUND AND ANALYSIS

Industry Issues

Emergency Assistance

In Congress

USDA Actions

Farm Bill

Check-Offs

Beef

Pork

Farm Bill

Competition and Industry Structure

Concentration and Structure

Government Response

In Congress

Farm Bill

Banning Packer Ownership of Livestock

In Congress

Mandatory Price Reporting

Trade

Russia (Poultry)

Europe (Beef)

Country-of-Origin Labeling

USDA Actions

Environment

Farm Bill

Animal Health

“Mad Cow” Disease

Foot-and-Mouth Disease

Humane Slaughter

Farm Bill

LEGISLATION

FOR ADDITIONAL READING

Animal Agriculture: Issues in the 107th Congress

SUMMARY

A variety of animal agriculture issues, including prices, the impact of consolidation in the meat production/packing industry, trade, and the environmental impacts of large feedlots, generated interest in the 107th Congress.

The farm bill (P.L. 107-171; H.R. 2646), signed by the President on May 13, 2002, contains several provisions affecting animal agriculture, including protections for contract growers, disaster assistance, country-of-origin labeling, and increased funding for conservation purposes.

USDA announced on September 19, 2002, that it would provide \$752 million from Section 32 funds for a new 2002 Livestock Compensation Program. In early December, total funding was increased to \$937 million. The program is designed to compensate livestock producers experiencing severe 2001 and 2002 feed and pasture losses.

Checkoff programs, which fund market-enhancing activities, continued to face legal challenges, with the beef and pork checkoff programs the subject of court cases. The pork checkoff program was reinstated on February 28, 2001, in an agreement reached between USDA and the National Pork Producer's Council. Former Secretary Glickman had ordered the checkoff canceled after it was voted down in a disputed producer referendum.

Concerns about the impact of consolidation in the livestock industry and the agricultural sector overall, spurred legislative interest. In the farm bill, a contentious provision

banning packer ownership of livestock was dropped in conference, but the issue may resurface in future legislative proposals.

The FY2001 USDA appropriations law (P.L. 106-387) contained a mandatory price reporting provision that requires large meat packers to report prices they pay for cattle and hogs, among other provisions. The provision was implemented on April 2, 2001, but problems arose with reporting of prices. USDA has implemented changes to fix those problems and increased the frequency of reporting.

On August 23, 2002, USDA announced Russia lifted a ban on U.S. poultry imports that had been in place since March 10, 2002. The ban stemmed from Russian concerns over antibiotics in feed and the use of chlorinated water during processing. Disputes continued with the European Union over its barriers to U.S. meat and poultry imports despite a WTO ruling that these barriers violate the WTO agreement.

On December 16, 2002, the Environmental Protection Agency announced new permitting controls that would apply to concentrated animal feeding operations. The proposal includes the objectives of preventing discharges from manure-storage lagoons, and limiting the spreading of manure to protect waterways.

Outbreaks of foot-and-mouth disease and findings of mad cow disease in Europe deepened concerns about the United States' ability to prevent these diseases or eradicate them should an outbreak occur.



MOST RECENT DEVELOPMENTS

On December 16, 2002, the Environmental Protection Agency announced new permitting controls that would apply to concentrated animal feeding operations. The proposal includes the objective of preventing discharges from manure-storage lagoons, and limiting the spreading of manure to protect waterways. Federal funding is available to producers to help with compliance costs.

USDA announced on September 19, 2002, that it would provide \$752 million for a new 2002 Livestock Compensation Program. In early December, USDA added \$185 million in available funding to the program, bringing potential total payments to \$937 million. The program is designed to compensate livestock producers experiencing severe 2001 and 2002 feed and pasture losses, with funding coming through Section 32 funds.

BACKGROUND AND ANALYSIS

In 2001, U.S. farmers received \$106.4 billion from the sale of animal products, about 52% of all farm cash receipts. For 2002, projections were lower (\$97 billion and almost 49%) according to the U.S. Department of Agriculture's (USDA) Economic Research Service (ERS).

ERS analysts expected final hog prices to average in the mid-\$30s for 2002. In earlier reports, hog prices were projected downward with prices approaching those experienced in 1998 and 1999, although now prices are not expected to average below \$30. The U.S. sheep inventory continued to decline while lamb and mutton imports continued to increase, with most imports coming from Australia and New Zealand. Broiler production was moderating, but before any slowdown in production can translate into higher prices, the supply of parts held in cold storage (due to reduced exports to Russia) needed to be reduced, according to ERS. Prices for broilers and broiler parts were expected to gradually strengthen over the next several months, based on the forecast of smaller gains in broiler production during the first half of 2003 and expected lower output in the beef and pork sectors.

Meat and Poultry Production and Prices			
	2003	2002	2001
Beef			
Production (billion pounds)	25.7	27.1	26.1
Fed steers (\$/hundred pounds)	\$72-77	\$67	\$73
Feeder steers (\$/hundred pounds)	\$84-89	\$80	\$88
Per capita consumption (pounds)	64.3	67.5	66.2
Pork			
Production (billion pounds)	19.4	19.7	19.1
Market price (¢/pound)	\$35-38	\$35	\$46
Per capita consumption (pounds)	50.1	51.3	50.2
Sheep			
Production (million pounds)	217	220	223
Farm price (¢/pound)	\$70-75	\$72	\$72
Per capita consumption (pounds)	1.2	1.2	1.1
Broilers			
Production (billion pounds)	32.7	32.3	31.3
Market price (¢/pound)	57-61¢	55.5¢	59.1¢
Per capita consumption (pounds)	80.1	80.0	76.5
Turkey			
Production (billion pounds)	5.7	5.7	5.6
Market price (¢/pound)	64-69¢	64.5¢	66.3¢
Per capita consumption (pounds)	17.6	17.6	17.5

Industry Issues

Emergency Assistance ^{1, 2}

Many of the Western, Great Plains, and Eastern states were affected by persistent drought in 2002, which had an impact on the regions' crop and livestock production. USDA offered several ongoing programs to help farmers recover financially from a natural disaster, including emergency disaster loans.

In past years, Congress approved various forms of additional ad-hoc emergency disaster assistance - primarily crop disaster payments and emergency livestock assistance. Since these ad-hoc programs last applied to only calendar year 2000 production losses, Congress had considered making assistance available for 2001 and 2002 losses. Although no action was taken in the 107th Congress, the issue was expected to be considered again early in the 108th Congress. If such assistance is provided using the same payment formula that was used for 2000 losses, government costs could reach \$6 billion (for crops and livestock).

At issue was whether proposed ad-hoc disaster assistance should be provided without equivalent reductions in spending on other programs. Proponents of additional assistance claim that available programs were not adequately addressing farmers' needs. The President stated that the new farm spending authorized by the omnibus 2002 farm bill (P.L. 107-171) —estimated at \$52 billion over six years by the Congressional Budget Office (**CBO**)— could provide adequate farm commodity support, and that any additional assistance should be offset with reductions in other spending.

In Congress. The 107th Congress adjourned without taking final action on a disaster assistance package. On September 10, 2002, the full Senate agreed to a Daschle amendment (S. Amdt. 4481) to the FY2003 Interior appropriations bill (H.R. 5093), which would provide an estimated \$6 billion in crop and livestock disaster assistance to farmers for both 2001 and 2002 production year losses. The bill did not clear the Senate floor. The adopted Daschle amendment would have provided "such sums as are necessary" to fully fund crop and livestock disaster payment formulas that were last used for 2000 production losses, at a CBO-estimated cost of \$5.95 billion (\$4.5 billion for crop assistance and \$1.45 billion for livestock assistance). The House-passed version of H.R. 5093 contained no comparable disaster provisions.

USDA Actions. USDA implemented several administrative measures to help mitigate the financial effects of drought and other natural disasters. USDA announced on September 19, 2002, that it would provide \$752 million for a new 2002 Livestock Compensation Program (**LCP**). In early December 2002, USDA added \$185 million in available funding to the program, bringing potential total payments to \$937 million. The program was designed to compensate livestock producers experiencing severe 2001 and 2002 feed and pasture losses. USDA began accepting applications on October 1, 2002, and continued to

¹ CRS contact: Ralph Chite 7-7296.

² Please see Electronic Briefing Book on *Farm Disaster Assistance* at: [<http://www.congress.gov/brbk/html/ebagr48.html>]

do so until December 13, 2002. As of December 16, 2002, \$738 million of the \$937 million available in the program had been obligated to livestock growers. Of the amount obligated, approximately 45% of the total has been disbursed in six states: Nebraska (\$63.0 million), Oklahoma (\$58.8 million), Missouri (\$58.0 million), Texas (\$55.4 million), Kansas (\$53.4 million), and South Dakota (\$50.3 million).

Under the program, direct payments were being made to producers of beef, dairy, sheep, and goats in any county declared a disaster area by the Secretary between January 1, 2001 and September 19, 2002 (including disaster designation requests pending on September 19, 2002 that are approved subsequently). The payment rates are \$31.50 per adult dairy cattle, \$18 per adult beef cattle, \$13.50 for certain livestock over 500 lbs, and \$4.50 per sheep or goat. Payments are limited to \$40,000 per person, and are not made to any person with qualifying gross revenue over \$2.5 million. Funding for the program is provided through *Section 32*³ funds, which originate from a portion of customs receipts that are made available to USDA to support the farm sector through various activities.

Additionally, on September 9, 2002, USDA announced it would purchase up to \$30 million of pork products for use in school feeding and nutrition programs to provide a boost to pork producers who have experienced tough economic conditions this year. USDA already had purchased 13.8 million pounds of pork products this school year, and additional purchases could bring the total up to 66 million pounds. This compares to 29.9 million pounds for the 2001-2002 school year and 22.8 million pounds in 2000-2001.

USDA also exercised its standing authority to release a portion of its inventory of nonfat dry milk purchased under the dairy price support program, which was converted into \$150 million of livestock feed and provided to certain drought-stricken states. USDA also allowed all farmers and ranchers nationwide to cut hay and graze livestock until November 30, 2002 on acreage that was set aside for certain conservation use. Emergency grazing was extended until December 31, 2002, in Colorado, Texas, Utah, and Washington.

Farm Bill. The 2002 omnibus farm law permanently authorizes livestock assistance, subject to annual appropriations, and at the discretion of the Secretary of Agriculture (*Sec. 10104*).

Check-Offs⁴

Supporters of check-off programs, which fund advertising, research, and other market-enhancing activities, view them as self-help; government involvement and cost are minimal. Producers and, often, importers are required to fund them through assessments, usually deducted from revenue at time of sale (thus the name *check-off*). USDA's role largely is limited to administrative and oversight duties. However, USDA generally has supported check-off programs.

The mandatory aspects of check-offs have generated strong opposition among some farmers, who contend they must pay "taxes" for activities they would not underwrite

³ Please see CRS Report RS20235, *Farm and Food Support Under USDA's Section 32 Program*.

⁴ Please see CRS Report 95-353 *Federal Farm Promotion ("Check-off") Programs*.

voluntarily. Groups representing these producers have challenged the programs in USDA and the courts. Two cases have reached the U.S. Supreme Court, which was asked to decide on whether the programs violate the free speech provisions of the First Amendment.

Beef. In 2001, the Supreme Court found in *United States v. United Foods, Inc.* (533 U.S. 405, 412 (2001)) that the mushroom check-off infringed upon free speech. The Court's decision potentially impacts other legal challenges of some of the 15 operational, federally-authorized check-off programs. On June 21, 2002, a U.S. District Court in South Dakota agreed that the national beef check-off also violates the First Amendment. The court ordered all beef assessments to halt by July 15, 2002, but the order was stayed while the U.S. Government appeals the ruling.

Pork. In August-September 2000, USDA conducted a non-binding referendum on whether to continue the pork check-off at the behest of several producer groups led by the Campaign for Family Farms. The groups prevailed to end the program, but the National Pork Producers Council (NPPC) subsequently won a temporary restraining order to prevent USDA from publishing a final termination rule. A February 2001 settlement agreement was reached, whereby the checkoff would continue with modifications, including assurances that the check-off board would operate independently of NPPC and be more responsive to producers' concerns about its activities. In addition, USDA will conduct a survey in June 2003, and if 15% of producers and importers favor a binding referendum, it will be held within one year.⁵

Legal challenges to the pork check-off continue. In October 2002, a U.S. District Judge in Michigan ruled that the check-off violates free speech, and ordered a halt in collection of funds, effective November 25. The Department of Justice requested the Sixth Circuit Court of Appeals for a stay on the ruling, which was granted, allowing collections to continue, awaiting the appeals process.

On September 16, 2002, USDA published a final rule (effective September 30, 2002) in the *Federal Register* to reduce the assessment rate from 0.45% (45 cents per \$100 of hog market price) to 0.40%, as recommended by the National Pork Producers Delegate Body. USDA also decreased assessments on imported pork and products to reflect the combined effect of the increase in the 2001 average price for domestic barrows and gilts and the proposed 0.05% decrease in the assessment rate. The assessment decrease will decrease annual funding of the check-off program by an estimated \$5-\$6 million annually with an estimated \$290,000 decrease in importer assessments.

Farm Bill. Section 10607 of the farm law exempts from any commodity check-offs persons who produce and market 100% organic products.

⁵ Additional information about the settlement and related issues is available at: [<http://www.ams.usda.gov/lsg/mpb/pork.htm>].

Competition and Industry Structure

Concentration and Structure

A continuing trend toward consolidation within agriculture has generated legislative interest in the effect of concentration and consolidation on U.S. agriculture. Strong interest by producer groups and policy makers continues concerning changes in the structure and business methods of the livestock industry, including consolidation of production and processing into fewer and larger operations, more vertical integration (i.e., ownership or increased control of more than one phase of production and marketing by a single firm), and the gradual shift from mainly open cash markets to private contracts or other marketing agreements between buyers and sellers. At issue are the impacts—positive and negative—on traditional producers, rural economies, consumer choices and prices, and the environment, and the role, if any, that government should play.

Many producers believe increasing concentration and other changes have resulted in a less open market environment and contributed to the lower prices they have been receiving. That is, as meat packers acquire more of their slaughter needs via ownership, contracts, or marketing agreements, they purchase fewer animals on the spot market, thus reducing spot prices. USDA and other analysts generally believe that other factors, notably imbalances in supply and demand, are much more consequential. Additionally, analysts have said that contracts provide more stable prices than the spot market, giving producers further incentives to enter into contracts.

Economists explain that structural changes are occurring as production and processing firms become larger in order to capture lower per-unit costs when operating at or near full capacity. They argue that vertical coordination and the use of advance marketing arrangements are a reflection of today's agricultural markets, which are shifting from the production of a few homogenous commodities without a particular market in mind to the creation of a wider variety of specific, consistently high-quality consumer products for specific markets.

Negative impacts of consolidation include potential environmental impacts and several related issues. The continued trend toward fewer but larger operations, coupled with greater emphasis on more intensive production methods and specialization, has concentrated more manure and other animal waste constituents within some geographic areas, according to the Environmental Protection Agency (**EPA**). Others have discussed quality-of-life issues related to both the loss of small operations (including the loss of traditional lifestyles) and the growth of large operations (including air quality issues).

The hog industry especially has been consolidating rapidly in recent years. At the packer level, the four largest firms' share of hog slaughter reached 56% in 2000, compared with 40% in 1990. In 1997, 64% of all hogs were marketed through some form of forward sales arrangement between producers and packers, although less than 10% of all hogs involved entire or partial packer ownership.

According to ERS, larger producers (5,000+ head) currently account for nearly three-fourths of the pig crop, compared with just over one-fourth in 1994. The trend toward larger

facilities and increasing share of production by those larger facilities, may be a factor in more stable hog prices. To expand production, the large producers face a more complicated process than in the recent past, and the process is much more complicated than for the smaller producers. Expansion processes now include securing large-scale financing, obtaining building and waste management permits from state and local authorities, and hiring and training staff. In contrast, 15 to 20 years ago many smaller producers maintained multi-use buildings for rapid re-population of a hog herd when returns turned favorable. Necessary construction was accomplished without complicated procedures needed to manage waste. Family labor typically provided adequate supplies of skilled herdsmen. The factors that affect expansion patterns today are likely those that are muting the peaks and valleys of the hog cycle.

The poultry industry has been almost entirely vertically integrated for decades, and has had significant vertical integration almost from the beginning as a commercial industry. The pork industry is increasing its vertical integration and becoming more similar to the poultry industry in structure. In the cattle sector, the four largest beef packers accounted for 69% of all cattle slaughtered in 2000, compared with 59% in 1990. However, structural change in the beef industry has not been as dramatic in recent years as it has been for the hog industry.

Government Response. Government-sponsored studies have been inconclusive on the relationship between agribusiness consolidation and farm prices. One, *Concentration in Agriculture: A Report of the USDA Advisory Committee* (June 1996), confirmed widespread producer distrust of cattle pricing and procurement by packers. Among its recommendations were improved market data collection (to reflect modern marketing practices), better access to the data by all segments of the industry, and more vigorous enforcement of existing antitrust laws.

USDA has undertaken a number of actions intended to address concentration and to promote competition, including: (1) enhanced reporting of livestock prices and other marketing data, (2) expanded investigations of procurement and pricing practices in the fed cattle, hog, and lamb sectors, and of poultry companies' contracts with growers, and (3) an overhaul of the Grain Inspection, Packers and Stockyards Administration (**GIPSA**), to strengthen its ability to investigate and prosecute anti-competitive practices under the Packers and Stockyards Act (**P&S Act**).

In Congress. In the 107th Congress, the Senate Agricultural Appropriations Subcommittee held a hearing on May 17, 2001, on agricultural concentration. The Senate Agriculture Committee held hearings in the 106th Congress on concentration in agriculture, including the livestock industry, on January 26 and July 27, 1999, and again on February 1 and April 27, 2000. The House Agriculture Committee held a similar hearing on February 11, 1999. Two Senate Judiciary Subcommittees held hearings on September 25 and September 28, 2000. No consensus on what actions to take were reached in any of these hearings.

A September 2000, report by the General Accounting Office (**GAO**) determined that GIPSA lacks the staff, the budget, and the expertise to investigate anticompetitive behavior

in the livestock industry.⁶ Among GAO's recommendations were calls for an earlier integration of attorneys in the planning and review of investigations, and for closer consultations between GIPSA, the Department of Justice (**DOJ**), and the Federal Trade Commission (**FTC**) during investigations. A proposal to require USDA to implement, within one year, GAO's recommendations for improving the administration of the P&S Act was signed into law on November 9, 2000 (The Grain Standard and Warehouse Improvement Act of 2000; P.L. 106-472).

Farm Bill. The 2002 farm law contains new provisions that would: (1) Extend GIPSA authority to include swine production contracts (*Sec. 10502*). (Previously, GIPSA protected broiler farmers who grow under contract and livestock producers who sell directly to packers, but GIPSA did not have authority over livestock producers who grow under contract.); and (2) Allow contract producers to discuss the contract with family, advisors, and enforcement agencies even if the contract contains a confidentiality clause (*Sec. 10503*).

Banning Packer Ownership of Livestock⁷

Producers who face fewer marketing options and less competition for their livestock have expressed concern about captive supplies.⁸ They believe packers are using captive supplies to manipulate market prices that are more favorable to packers, and less favorable to producers. That is, as packers buy fewer animals on the spot market, reported prices no longer accurately reflect prices paid for a majority of livestock. Many producers feel this reduction in price transparency works to their increasing disadvantage relative to packers. Contract prices typically are tied to spot prices. Thus, a packer has financial incentive to buy or not buy on the spot market not only to reduce spot prices, but also because livestock bought on contract are priced through the spot market.

Some producers have suggested that one remedy to captive supplies and the perceived market manipulation is to ban packer ownership and control of livestock. Supporters of a ban believe it will limit packers' ability to manipulate the market, and would improve farmers' prices and access to livestock markets. They are concerned about the pace of vertical integration in the livestock industry and believe a ban is a way to stop or slow down vertical integration. Opponents of a ban argue it would reverse many of the production efficiency gains made by the livestock industry in recent years through closer packer-producer alliances. At the least, they contend, it would create turmoil in the industry because packers and producers would have to undo many relationships built over time.

In Congress. In the 107th Congress, in response to calls from some producers, the Senate-passed farm bill (S. 1731; H.R. 2646 as amended) contained a provision (Johnson amendment) that would have prohibited packers from owning, feeding, or controlling

⁶ U.S. Government Accounting Office. RCED-00-242: *Packers and Stockyards Programs: Actions Needed to Improve Investigations of Competitive Practices*. September 2000.

⁷ Please see CRS Report RL31553, *Livestock: A Proposed Ban on Ownership and Control by Packers*.

⁸ There is no official definition for *captive supplies*, but the term generally refers to animals that are committed to, or are owned by, a packer more than 14 days prior to slaughter.

livestock for more than 14 days prior to slaughter. Livestock producer-owned cooperatives and entities owned by such cooperatives, and producer-owned packers that slaughter less than 2% of U.S. totals were exempted from the ban. The provision was not included in the House-passed farm bill (H.R. 2646), and was not included in the final legislation (P.L. 107-171).

The Senate Agriculture Committee held a hearing on banning packer ownership on July 16, 2002, and the Senate Judiciary Committee held a field hearing on August 23, in South Dakota. The proposed packer ban might generate legislative interest in the 108th Congress.

Mandatory Price Reporting⁹

Mandatory price reporting (MPR) for large packers was incorporated by conferees into the FY2000 USDA appropriations law (P.L. 106-78) after a long period of intensive negotiations with meat packing companies and livestock producers to design a comprehensive price reporting law acceptable to both segments of the industry.

On April 2, 2001, USDA's Agricultural Marketing Service (AMS) implemented MPR. The new system replaced the previous voluntary reporting system that had been in place for many years, and requires the reporting of market information by meatpackers who slaughter an average of at least 125,000 cattle, 100,000 hogs, or 75,000 lambs per year and by importers with annual imports of 5,000 tons of lamb. USDA in turn must publish frequent, detailed reports on these transactions. Market news reports that are new under MPR include reports covering the prior day swine market; forward contract and formula marketing arrangement cattle purchases; packer-owned cattle and sheep information; sales and purchases of imported boxed lamb cuts; and live lamb premiums and discounts.

On May 14, 2001, AMS discovered a technical error in the computer program for MPR. The error affected the cutout values for beef carcasses and primals (the major components of carcasses). USDA aggregates individual meat cuts prices to construct a carcass value. Due to the programming error, the calculated carcass values were incorrect. Individual meat cuts reported by packers were reported accurately and were not subject to the programming error. On May 18, Secretary Veneman appointed a Review Team to evaluate measures in place to ensure the integrity of information reported under MPR and to assess the economic impact the misreported data may have had on livestock producers. As part of its activities, the Review Team met with representatives of the livestock and meat packing industries, Congress, AMS, and contractor officials.¹⁰

USDA announced on July 2, 2001, that it had begun to implement the changes recommended by the Review Team. Additionally, on August 3, 2001, USDA announced a new confidentiality rule to replace the 3/60 rule. The new "3/70/20 rule" took effect August 20, and contains the three following provisions: Over a 60-day period (1) at least three entities have to submit data at least 50% of the time; (2) no one entity can account for more

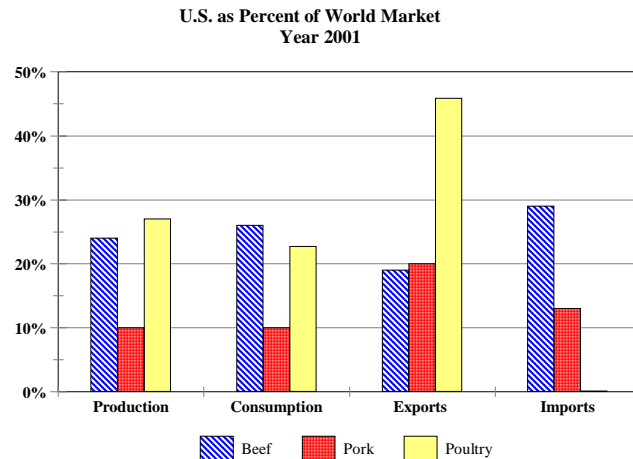
⁹ For additional information, please see CRS Report RS20079, *Livestock Mandatory Price Reporting*, and AMS' MPR site at: [http://www.ams.usda.gov/lsg/mnacs/LS_MPR.htm].

¹⁰ The Review Team's Report can be viewed at: [<http://www.usda.gov/oce/mp-report/index.htm>].

than 70% of the data for a report; and, (3) the same firm cannot be the only reporting entity more than 20% of the time.

Trade¹¹

The United States is the world's leading *beef* consumer, producer, and importer and the second leading exporter. The United States is the third leading *pork* consumer, producer, importer, and exporter. The United States is the leading consumer and producer of *poultry* meat and dominates the export market with 46% of total world exports, while accounting for less than 1% of total imports.



Russia (Poultry)¹²

Earlier this year, Russia announced it was banning imports of U.S. poultry, effective March 10, 2002. Among Russia's concerns were findings of salmonella on meat, the use of chlorinated water in the processing of U.S. birds, and the feeding of antibiotics. Speculation had existed that the Russian poultry ban came in response to the new U.S. tariffs on imported steel. USDA, U.S. Trade Representative, and Federal Drug Administration officials met with Russian officials and reached a settlement on March 31, agreeing to lift the poultry ban on April 10. That deadline was missed and the ban was lifted formally on April 15. Due to the new protocol established by the agreement, Russian importers had to apply for new permits, which effectively raised a *de facto* ban. On August 23, USDA announced the trade dispute was resolved and an agreement was reached on new veterinary certificates that would allow imports of U.S. poultry.

Europe (Beef)¹³

In a continuing dispute, in 1985 (effective 1989), the European Union (EU) banned the import of U.S. beef produced with hormones. In 1997, the WTO ruled in favor of the United States that the EU cannot ban, without scientific justification, beef produced with hormones.

¹¹ CRS contacts: Charles Hanrahan 7-7235, and Geoff Becker 7-7287.

¹² For more detailed information, please see the USDA websites at: [<http://www.fsis.usda.gov/OFO/export/Russia.htm>] [<http://www.ams.usda.gov/poultry/grading/ECP-RussianFederation.pdf>].

¹³ Please see CRS Report RS20142, *The European Union's Ban on Hormone-Treated Meat*, and the Electronic Briefing Book *U.S.-EU Meat Hormone Dispute*, at: [<http://www.congress.gov/brbk/html/ebtra15.html>]. USDA's Foreign Agricultural Service web site contains a primer on beef hormones at: [<http://www.fas.usda.gov/itp/policy/hormone2.html>].

The WTO authorized U.S. retaliation of \$117 million and the EU offered to compensate the United States by enlarging the 20,000 tonne quota for non-hormone treated (**NHT**) beef in lieu of lifting the ban. The United States, however, has maintained that compensation, unless contingent on removing the ban, is unacceptable.

Country-of-Origin Labeling¹⁴

Expanded labeling requirements have attracted attention for a number of reasons. One is that they are viewed by some as a way to help U.S. producers dealing with low farm prices. They argue consumers would pay more for domestic produce than for imports. Also, some perceive that food products from certain countries might pose greater health risks. Proponents contend additional country labeling requirements would enable consumers to know the source of retail food offerings and consider that information when selecting purchases.

Opponents counter that country-of-origin labeling bears no relation to food safety and would not succeed in raising commodity prices paid to U.S. producers, as proponents hope. They argue it would impose excessive and costly regulatory burdens on retailers, increase consumer prices, be difficult to enforce, and —by imposing new non-tariff trade barriers—undermine ongoing efforts to reduce other countries' trade barriers and expand international markets for U.S. products.

USDA Actions.¹⁵ On September 11, 2002, USDA published guidelines for voluntary country of origin labeling (**COOL**) in the *Federal Register* (67 FR 63367), in accordance with requirements of the new farm bill. The new farm law requires retailers to provide —on a voluntary basis— country of origin information to consumers of perishable fruits and vegetables, peanuts, fresh beef, lamb, and pork, and farm-raised and wild fish/shellfish. After two years, the program will become mandatory.

On November 21, 2002, USDA published a notice and request for public comment in the *Federal Register* (67 FR 70205), on possible COOL costs. Total costs for COOL record-keeping were estimated at \$1.968 billion, with \$1 billion for producers, \$340 million for food handlers, and \$628 million for food retailers

Environment¹⁶

Dramatic changes in the livestock industry during the past four decades, but accelerating in the past 20 years, —including the continued trend toward fewer but larger operations, coupled with greater emphasis on more intensive production methods and specialization—have concentrated more manure and other animal waste constituents within some production areas where the larger livestock facilities and a greater portion of the herds and flocks are

¹⁴ Please see CRS Report 97-508, *Country-of-Origin Labeling for Foods: Current Law and Proposed Changes*.

¹⁵ Please see AMS website for further information: [<http://www.ams.usda.gov/cool/>].

¹⁶ CRS contacts: Jeff Zinn 7-7257, and Claudia Copeland 7-7227.

concentrated. One issue has been whether all the waste is (or can be) handled in ways that minimize environmental problems. A second issue has been what to do when the available land in some areas where herds and flocks are concentrated is insufficient to assimilate all the manure and other waste. Where the volume of wastes exceeds the land's capacity, spreading it on fields or storing it can lead to excessive chemical and nitrogen runoff into surface or subsurface waters, and result in fish kills and other problems.

Animal feeding operations (**AFOs**) are facilities where animals are kept and raised in confined situations—feed is brought to the animals. When large enough, these facilities are designated as concentrated animal feeding operations (**CAFOs**) and they become subject to regulatory requirements promulgated by EPA to prevent water pollution. At present, a CAFO generally is defined as having 1,000 animal units (**AU**), a threshold that 11,200 operations exceed according to the most recent *Census of Agriculture*, collected in 1997.¹⁷ However, only about 4,500 of these operations currently are covered by permits, according to EPA. EPA's CAFO definition also include smaller facilities in certain physical settings; smaller CAFOs have either 300 to 999 AU or fewer than 300 AU. EPA estimates that the number of CAFOs subject to regulation will continue to grow rapidly and that about 15,500 operations will need permits by 2006.

Under the federal Clean Water Act, CAFOs are regulated as point sources, in a similar manner to industrial sources of pollution, and must obtain permits in order to discharge pollutants into U.S. waters, under rules issued in the mid-1970s. Environmental groups brought a suit in response to a lack of implementation that culminated in a judicial consent decree in 1992, requiring final regulations to be issued by December 15, 2002. On December 15, 2000, EPA under the Clinton Administration had proposed a set of rules. EPA held eight public meetings across the country to gather public comment on that proposal. The Bush Administration met the court deadline by announcing a final rule on December 16, 2002.¹⁸ This final rule has some major differences from the earlier proposal.

Under the final rule, all CAFOs must apply for a permit by December 2006, from the state agency administering an authorized *National Pollutant Discharge Elimination System* permit program in 45 states, or directly from EPA in the other 5 states. EPA will be giving states considerable implementation flexibility. However, it points out that the permitting requirements will be stricter than under the old rule, and that the proposed rule will include

¹⁷ The equivalents for 1,000 animal units are: 1,000 cattle; 700 dairy cows; 2,500 hogs; 10,000 sheep; 125,000 broilers; 82,000 laying hens; and 55,000 turkeys.

Under the prior permit rules, a CAFO had to meet all the following criteria to be subject to EPA rules:

- Animals are stabled or confined and fed for 45 days or more in a 12- month period;
- Vegetation is not sustained during the normal growing season on any portion of the lot or facility (i.e., animals are not maintained in a pasture or on rangeland);
- Feedlots hold more than 1,000 animal units (AU) (or between 300 and 1,000 AU if pollutants are discharged from a manmade conveyance or are discharged directly into waters passing over, across, or through the facility). Also, animal feeding operations that include fewer than 300 AU may be designated as CAFOs if they pose a threat to water quality or use.

¹⁸ For more information on the final rule, see [www.epa.gov/npdes/caforule].

several new controls on waste discharges and land applications of waste.¹⁹ All CAFOs will be required to develop and implement nutrient management plans, to carry out best management practices under those plans, and to submit annual reports. Large CAFOs will have to keep records for any manure transferred to another party. The rule will eliminate three exemptions that excused CAFOs from permits under the prior rule if they discharged only during large storms; if they raised chickens using dry manure handling systems; or if they were excluded because they did not need to count immature swine and immature dairy cows for purposes of this program.

EPA estimates that CAFOs produce about 220 billion gallons of manure annually. The proposed regulation is predicted to reduce the volume of nitrogen released into the environment by more than 100 million pounds and the phosphorous by more than 56 million pounds. In addition, over 2 billion pounds of sediment and nearly 1 million pounds of metals will not be released, according to the EPA analysis. Compliance costs to CAFO operators is estimated to be \$355 million annually, while the annual benefits from implementation are estimated to range from \$204 million to \$355 million.

To assist producers who will have to comply, some funding is available from EPA and also from USDA through the Environmental Quality Incentive Program (**EQIP**). The 2002 farm bill reauthorizes EQIP through FY2007 and gradually increases funding from \$200 million in FY2001 and \$400 million in FY2002 to \$1.3 billion in the final year. It provides 60% of the funding each year to issues related to livestock production.²⁰ It limits total payments to any individual or entity over the authorization period to a total of \$450,000; provides incentive payments to producers who develop Comprehensive Nutrient Management Plans; and requires that all livestock producers who receive funding for animal waste manure systems have those plans.

Farm groups generally were pleased that the final rule is more flexible than earlier proposals, but continue to express concerns about implementation costs. EPA's press release pointed out that the rule does not include co-permitting requirements, national ground water requirements, certification by recipients of transferred manure, or mandatory requirements on when manure may be applied to frozen, snow-covered, or saturated ground.

Environmental critics believed that greater regulation is warranted and complained that these rules will accomplish far less than earlier proposals. More specifically, they expressed concern about the lack of any minimum standards, the wide range of flexibility for state administering agencies, the lack of updated technology standards, and the lack of public review of nutrient management plans for individual farms. They concluded that large farms likely will be able to continue to discharge wastes at unacceptable levels.

Farm Bill. In addition to the EQIP program, other conservation initiatives also may benefit livestock producers. The new Conservation Security Program, enacted in the 2002 farm bill, will provide payments to all producers who install and maintain specified conservation practices starting in FY2003. Three levels, or tiers, of conservation and

¹⁹ Please see CRS Report RL30437, *Water Quality Initiatives and Agriculture*.

²⁰ Please see CRS Report RL31255, *Resource Conservation Title: Comparison of Current Law with Farm Bills Passed by the House and Senate*.

payments are specified. More comprehensive conservation efforts would be eligible for higher levels of payments. Other new programs that may offer new opportunities to some livestock producers include a grassland retirement program, several water conservation initiatives, and smaller programs limited to certain regions or states.

Animal Health²¹

“Mad Cow” Disease²²

“Mad cow” disease, or bovine spongiform encephalopathy (**BSE**), is a slowly progressive, incurable disease affecting the central nervous system of cattle. It was first diagnosed in Britain in 1986. U.S. federal and state agencies have found no BSE in U.S. cattle since they began surveillance in 1989.

Scientific uncertainty about BSE’s cause and transmission has led the U.S. government to take several precautionary steps and to develop an emergency response plan to implement if a case is found. USDA’s Animal and Plant Health Inspection Service (**APHIS**) has banned the import of all live ruminants from countries where BSE is known to exist since 1989. In 1991, APHIS banned the importation of rendered by-products from ruminants.²³ As of December 2000, the importation of all rendered animal protein products (whether from ruminants or not) is prohibited. The Food and Drug Administration (**FDA**), which regulates animal feed ingredients domestically, banned the feeding of virtually all mammalian proteins to ruminants in August 1997. However, an FDA survey in 2000 showed that full compliance has been difficult to achieve. In January 2001, a group of meat industry associations, including the National Cattlemen’s Beef Association, the American Feed Industry Association, and the American Meat Institute, issued a joint statement pledging a concerted effort to reach 100% compliance with the FDA ban on feeding mammalian proteins to livestock. A June 2001 FDA survey showed that 22% of renderers, feed mills, and other facilities that handle ruminant material still are out of compliance with FDA’s labeling, record keeping, and commingling requirements. Nonetheless, a study released November 30, 2001, by the Harvard Center for Risk Analysis states that the steps that USDA and the Department of Health and Human Services have taken to date to prevent and prepare for possible BSE introduction are effective, although some improvements still could be made.

USDA’s Food Safety and Inspection Service’s (**FSIS**) responsibility regarding BSE requires the agency’s inspectors to divert from processing any cattle showing suspicious clinical symptoms and send their brains to an APHIS laboratory in Ames, Iowa, for testing. More than 11,000 cattle brains have been tested since 1990, and no BSE has been found. Under FSIS’s foreign meat inspection program, no establishments in countries where BSE has been found are approved to ship beef to the United States.

²¹ CRS contacts: Jean Rawson 7-7283, and Alex Segarra 7-9664.

²² Please see CRS Report RS20839, *Mad Cow Disease: Agriculture Issues*.

²³ A ruminant is an animal with a stomach that has four compartments, and a more complex digestive system than other mammals. Ruminants include cattle, sheep, goats, deer, bison, elk, and camels. Swine, dogs, and humans are examples of nonruminants.

Foot-and-Mouth Disease²⁴

APHIS is the USDA agency primarily responsible for ensuring that the foot-and-mouth disease (**FMD**) outbreak in England and in other places such as Argentina and the Middle East, does not migrate to the United States. As with BSE, FSIS inspectors are responsible for monitoring slaughter animals for any signs of disease, culling suspicious animals, and testing them to determine disease status. APHIS has banned imports of live animals and meats from countries with active FMD outbreaks, and reportedly has strengthened inspections of airline and ship passengers and cargo at U.S. ports of entry. However, a report released by the USDA's Office of Inspector General in July 2001, found flaws in APHIS' inspection and tracking systems that allowed prohibited meat products to enter the United States (although they were prevented from going into commerce) (the OIG report is available at [http://www.usda.gov/oig/audittrpt/audittrpt_APHIS.html]).

Humane Slaughter

Under provisions in the Federal Meat Inspection Act (21 U.S.C. 603(b), 610(b), 620(a)), FSIS inspectors are responsible for enforcing the Humane Slaughter Act (7 U.S.C. 1901-1906). This act requires that all livestock (but not poultry) be rendered unconscious before slaughter. FSIS inspectors have the authority to stop slaughter lines and order plant employees to take corrective actions to ensure compliance with the act. Public awareness of conditions in livestock slaughter operations has been heightened recently by large newspaper advertisements, placed by animal rights organizations (primarily the Humane Farming Association and affiliated groups), claiming that packing plants routinely slaughter conscious animals. Formal investigations by state authorities of the plants where the rights groups allege abuses to have occurred have not substantiated these assertions. Relatedly, public awareness has risen concerning the treatment of nonambulatory cattle at stockyards.

Farm Bill. The 2002 farm law provides a sense of Congress regarding the full enforcement of the Humane Methods of Slaughter Act (*Sec. 10305*), and calls for an investigation of the treatment of nonambulatory animals and giving the Secretary authority to promulgate regulations if the findings warrant (*Sec. 10815*).

LEGISLATION

The 2002 farm bill was the major animal agriculture related legislation covered by the 107th Congress. Additional bills that were introduced, but not enacted would have: extended GIPSA oversight to the poultry industry (H.R. 231, S. 1076); provided for new measures in dealing with agricultural mergers (H.R. 1526, H.R. 3383, H.R. 3810 S. 1076); prohibited slaughter of horses for human consumption (H.R. 2622, H.R. 3781); authorized USDA to restrict importation and transportation of livestock and order the destruction or removal, for reasons of pest or disease control, or humane treatment (S. 1482); authorized the Secretary of Agriculture to establish a program to control bovine Johne's disease (S. 1595); required

²⁴ Please see CRS Report RS20890, *Foot and Mouth Disease: A Threat to U.S. Agriculture*.

microbiological performance standards for federally inspected meat and poultry plants, and an animal identification system that would have facilitated the trace-back of meat and poultry to the live animal (S. 2532).

FOR ADDITIONAL READING

CRS Electronic Briefing Book, *Farm Disaster Assistance* ([\[http://www.congress.gov/brbk/html/ebagr48.html\]](http://www.congress.gov/brbk/html/ebagr48.html)).

CRS Electronic Briefing Book, *Structural Change, Concentration, and Market Power* ([\[http://www.congress.gov/brbk/html/ebagr6.html\]](http://www.congress.gov/brbk/html/ebagr6.html)).

CRS Report 97-616, *Environmental Quality Incentives Program (EQIP): Status and Issues*.

CRS Report 98-451, *Animal Waste Management and the Environment: Background for Current Issues*.

CRS Issue Brief IB10082, *Meat and Poultry Inspection Issues*.

CRS Electronic Briefing Book “*The Farm Bill*”: *Introduction and Status* ([\[http://www.congress.gov/brbk/html/ebagr11.html\]](http://www.congress.gov/brbk/html/ebagr11.html)).

CRS Report RL31195, *The 2002 Farm Bill: Overview and Status*.