

Report for Congress

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Animal Agriculture Issues in the 107th Congress: A Retrospective

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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, contained several provisions affecting animal agriculture, including protections for contract growers, disaster assistance, required country-of-origin labeling for consumer meat products, and increased funding for conservation purposes.

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

Checkoff programs, under which producers are required to fund market promotion and research activities, continued to face legal challenges. In particular, the beef and pork checkoff programs were the subject of court challenges by segments of the industry who oppose them.

Concerns about the impact of consolidation in the livestock industry and the agricultural sector overall, spurred legislative interest. In the farm bill, a Senate 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 required 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 implemented changes to fix those problems and increased the frequency of reporting.

On August 23, 2002, USDA announced that Russia had 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.

On February 12, 2003, the Environmental Protection Agency published in the *Federal Register* new rules for operating permits for 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.

(This report will not be updated.)

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(This report was edited for publication by (name redacted), specialist in agricultural policy, Resources, Science, and Industry Division. Questions about it should be directed to him at 7-.....)

Animal Agriculture Issues in the 107th Congress: A Retrospective

Introduction

A variety of issues important to animal agriculture, including farm prices, the impact of consolidation in the meat production/packing industry, trade, and the environmental impacts of large feedlots, generated significant interest in the 107th Congress. These and other issues were the focus of both hearings and legislative proposals during 2001 and 2002.

The 2002 farm bill (P.L. 107-171; H.R. 2646), signed by the President on May 13, 2002, was the major legislation of interest to animal producers during the 107th Congress. This omnibus law, which covers a broad range of agricultural, food, rural, and related topics, includes a number of provisions specific to animal agriculture. Among them are: protections for growers who have contracts with processors/integrators; authorization of disaster assistance; new country-of-origin labeling (COOL) requirements for fresh meat products; and increased funding for conservation and environmental protection purposes.

Among additional bills that were introduced, but not enacted, were those that would have: extended oversight by USDA's Grain Inspection, Packers, and Stockyards Administration (GIPSA) 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 the Secretary of Agriculture to establish a program to control bovine Johne's disease (S. 1595); required 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).

Some provisions in unenacted bills could be reintroduced in the 108th Congress. The new Congress also may conduct oversight of initiatives adopted by their predecessors, such as the new country labeling rules and implementation of environmental/conservation programs.

Economic Overview of the Sector

In 2001, U.S. farmers received \$106.4 billion from the sale of animal products, about 52% of all U.S. 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). Still, such figures provide an indication of the relative importance of animal production to U.S. agriculture – an importance that would be magnified further if the size of the crop sector devoted to animal feed were added to this value.

The data in table 1, on page 3, provide some indication of current and projected economic conditions in the meat and poultry sectors during the period of the 107th Congress. These conditions provided a backdrop for the issues addressed.

Emergency Assistance¹

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. (For an update on action in the new Congress, go to the link in footnote 1.)

At issue was whether proposed ad-hoc disaster assistance should be provided without equivalent reductions in spending on other programs. Proponents of additional assistance claimed 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.

¹ CRS contact: Ralph Chite 7-..... See CRS Electronic Briefing Book on *Farm Disaster Assistance* at: [<http://www.congress.gov/brbk/html/ebagr48.html>]

**Table 1. Meat & Poultry:
Selected Production, Price, Consumption, and Trade Data**

Beef	2001	2002(est.)	2003(proj.)
Production (million lbs.)	26,107	27,081	25,700
Fed steer prices (\$/100 lbs.)	72.71	67.04	72-77
Feeder steer prices (\$/100 lbs.)	88.20	80.04	84-89
Consumption (lbs. per cap.)	66.2	67.4	64.4
Beef/veal exports (million lbs.)	2,269	2,500	2,565
Beef/veal imports (million lbs.)	3,164	3,210	3,305
Pork			
Production (million lbs.)	19,138	19,681	19,390
Hog prices (\$/100 lbs.)	45.81	34.92	37-40
Consumption (lbs. per cap.)	50.2	51.3	50
Pork exports (million lbs.)	1,560	1,619	1,645
Pork imports (million lbs.)	951	1,057	1,080
Sheep			
Lamb/mutton production (million lbs.)	223	219	217
Lamb prices (\$/100 lbs.)	72.04	72.56	70-75
Consumption (lbs. per cap.)	1.1	1.2	1.2
Lamb/mutton imports (million lbs.)	146	162	172
Broilers			
Production (million lbs.)	31,266	32,262	32,525
Broiler prices (cts./lb.)	59.10	55.60	57-61
Consumption (lbs. per cap.)	76.6	80.1	79.3
Broiler exports (million lbs.)	5,555	4,865	5,250
Turkeys			
Production (million lbs.)	5,562	5,696	5,700
Prices (cts./lb.)	66.30	64.50	64-69
Consumption (lbs. per cap.)	17.5	17.5	17.7
Turkey exports (million lbs.)	487	456	490
<i>Source:</i> Economic Research Service, <i>Livestock, Dairy, & Poultry Outlook</i> , January 16, 2003.			

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 have provided 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. While action was pending in Congress, 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 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 had been disbursed in six states: Nebraska (\$63 million), Oklahoma (\$58.8 million), Missouri (\$58 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, milk cows, 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 were approved subsequently). The payment rates were set at \$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 were limited to \$40,000 per person, and were not to be made to any person with qualifying gross revenue over \$2.5 million. Funding for the program was provided through Section 32 funds, which originate from a portion of customs receipts that are made available to USDA to support the farm sector through various activities.²

Further, 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 suffering from low prices. USDA already had purchased 13.8 million pounds of pork products for the 2002-2003 school year, and additional purchases were expected to 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.

² For background, see CRS Report RS20235, *Farm and Food Support Under USDA's Section 32 Program*.

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 (P.L. 107-171, §10104) permanently authorizes livestock assistance, subject to annual appropriations, and at the discretion of the Secretary of Agriculture.

Commodity Promotion Programs (Check-Offs)

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 the programs 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.

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 voluntarily. Groups representing these producers have challenged the programs in USDA and the courts. Two cases 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 appealed 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.³

³ Additional information about the settlement and related issues is available at:
(continued...)

Legal challenges to the pork check-off continued. 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 to stay the ruling, and a stay 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 change 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. §10607 of the farm law exempts from any commodity check-offs persons who produce and market 100% organic products.

Competition and Industry Structure

Concentration in Animal Agriculture

A continuing trend toward consolidation within agriculture generated legislative interest in the effect of concentration and consolidation on U.S. agriculture. Strong interest by producer groups and policy makers grew out of the ongoing 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 were 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 animal 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 (i.e., those who slaughter and process animals) acquire more of their slaughter needs via ownership, contracts, or marketing agreements, they purchase fewer animals on the spot (public) market, thus reducing spot prices paid. USDA and other analysts generally believe that other factors, notably imbalances in supply and demand, are much more significant factors. Additionally, analysts have said that contracts provide more stable prices than the spot market, giving producers further incentives to enter into contracts.

³ (...continued)

[<http://www.ams.usda.gov/lsg/mpb/pork.htm>].

Economists explain that 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 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 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 trend toward fewer but larger operations, coupled with greater emphasis on more intensive production methods and specialization, has concentrated more animal waste within some geographic areas, according to the Environmental Protection Agency (EPA). Other critics have raised so-called quality-of-life issues related to the loss of small "family style" operations on the one hand, and the growth of large "factory style" operations on the other.

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 USDA's Economic Research Service (ERS), larger producers (5,000+ head) in recent years have accounted for nearly three-fourths of the pig crop, compared with just over one-fourth in 1994. Expanding production is a much more complicated and expensive process than in the recent past, more so for smaller producers, industry analysts say. 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 – thereby leading to less variable hog prices, analysts conclude.

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 generally 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 Agriculture Appropriations Subcommittee held a hearing on May 17, 2001, on agricultural concentration. Earlier, in the 106th Congress, the Senate Agriculture Committee held hearings 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.⁴ 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 requirement that USDA implement 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 a new provision to 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 did not have authority over livestock producers who grow under contract.) Another provision allows 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 Livestock

Producers who face fewer marketing options and less competition for their livestock have expressed concern about captive supplies.⁵ 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 (open cash) market, reported prices no longer accurately reflect the preponderance of prices paid for most livestock, they believe. Such producers believe this reduction in price transparency works to their increasing disadvantage relative to packers.

⁴ U.S. Government Accounting Office. RCED-00-242: *Packers and Stockyards Programs: Actions Needed to Improve Investigations of Competitive Practices*. September 2000.

⁵ There is no official definition for captive supplies, but the term generally refers to animals committed to, or owned by, a packer more than 14 days prior to slaughter. See also CRS Report RL31533, *Livestock: A Proposed Ban on Ownership and Control by Packers*.

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 would limit packers' perceived ability to manipulate the market, thereby improving farmers' prices and access to livestock markets. These producers and their supporters are concerned about the rapid pace of vertical integration in the livestock industry, and believe that a ban could slow or stop it. 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 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 Reporting⁶

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 over the design of 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.

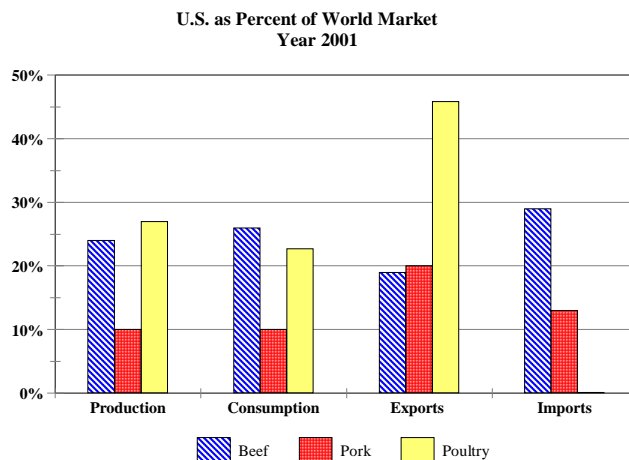
On May 14, 2001, AMS discovered a technical error in the computer program for MPR. The error affected the cutout values for beef carcasses and primals (the

⁶ For additional information, see CRS Report RS20079, *Livestock Mandatory Price Reporting*, and AMS' MPR site at: [http://www.ams.usda.gov/lsg/mnacs/LS_MPR.htm].

major components of carcasses). USDA aggregates individual the prices of meat cuts 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, Agriculture 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. USDA announced on July 2, 2001, that it had begun to implement the changes recommended by the review team.⁷

Trade⁸

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)⁹

Russia announced it was banning imports of U.S. poultry, effective March 10, 2002. Among Russia's concerns were purported findings of salmonella on meat, the legal 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 (USTR), 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, 2002, USDA announced the trade

⁷ The review team's report is at: [<http://www.usda.gov/oce/mp-report/index.htm>].

⁸ CRS contacts: Charles Hanrahan 7-....., and Geoff Becker 7-.....

⁹ For more detailed information, see the USDA websites at:
[<http://www.fsis.usda.gov/OFO/export/Russia.htm>]
[<http://www.ams.usda.gov/poultry/grading/ECP-RussianFederation.pdf>].

dispute was resolved and an agreement was reached on new veterinary certificates that would allow imports of U.S. poultry. However, U.S. exporters were continuing to encounter barriers to the Russian market as the year ended.

Europe (Beef)¹⁰

In a continuing dispute, the European Union (EU) banned (effective 1989) the import of U.S. beef produced with hormones. In 1997, the World Trade Organization (WTO) ruled in favor of the United States that the EU cannot ban, without scientific justification, beef produced with hormones. The WTO authorized U.S. retaliation of \$117 million; the EU offered to compensate the United States by enlarging the 20,000 ton quota for non-hormone treated beef in lieu of lifting the ban. The United States, maintained that compensation, unless contingent on removing the ban, was unacceptable, and no further resolution had been found by the end of 2002.

Country-of-Origin Labeling¹¹

Debate over the need for expanded country-of-origin labeling (COOL) requirements for fresh meat and other raw agricultural products have attracted much attention in recent years. One reason is that they are viewed by some as a way to help U.S. producers dealing with low farm prices; proponents argue that consumers would pay more for domestic products than for imports. Also, some perceive that food products from certain countries might pose greater health risks; proponents contend that additional 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, processors, and farmers; undermine competitiveness; 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.

Farm Bill. After lengthy debate, Congress approved, as Title X, §10816, of the 2002 farm law, a *requirement* that many retailers provide, starting on September 30, 2004, COOL for perishable fruits and vegetables, peanuts, fresh and ground beef, lamb, and pork, and farm-raised and wild fish/shellfish; the program is voluntary until then. USDA published guidelines for the voluntary phase of COOL in the September 11, 2002, *Federal Register* (67 FR 63367). (Dining-out establishments are exempted from the new law). On November 21, 2002, USDA published a notice

¹⁰ 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>].

¹¹ See CRS Report 97-508, *Country-of-Origin Labeling for Foods: Current Law and Proposed Changes*.

and request for public comment in the *Federal Register* (67 FR 70205), on the costs of COOL during the voluntary phase of the program. Total costs for COOL record-keeping (not only for meat but for all covered commodities) were estimated by USDA at \$1.968 billion, with \$1 billion for producers, \$340 million for food handlers, and \$628 million for food retailers. COOL supporters argued that the estimate was inflated by the Department. COOL opponents countered that the estimate illustrated the extent of the burden on the agricultural sector, suggesting that the estimate might even be too low.

Environmental Issues¹²

In recent decades, the continued trend toward fewer but larger operations, coupled with greater emphasis on more intensive production methods, have resulted in more manure and other animal waste constituents within some production areas where these larger livestock facilities are 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. 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* published data, collected in 1997.¹³ However, only about 4,500 of these operations were covered by permits, according to EPA. EPA's CAFO definition also includes smaller facilities in certain physical settings; smaller CAFOs have either 300 to 999 AU, or fewer than 300 AU. EPA estimated that the number of CAFOs subject to regulation will continue to grow rapidly and that about 15,500 operations will need permits by 2006.

¹² CRS contacts: Jeff Zinn 7-...., and (name redacted) 7-....

¹³ 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 permit rules in effect until recently (see next page), 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 (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.

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 signing the final rule on December 16, 2002 (and publishing it in the February 12, 2003, *Federal Register*).¹⁴

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 five 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 several new controls on waste discharges and land applications of waste.¹⁵ 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 estimated that CAFOs produce about 220 billion gallons of manure annually. EPA had predicted during the rulemaking process that the proposal would reduce the volume of nitrogen released into the environment by more than 100 million pounds and 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 were estimated at \$335 million annually; estimated annual benefits from the rule ranged from \$204 million to \$355 million.

Farm groups generally were pleased that the final CAFO rule was more flexible than earlier proposals, but continued 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 groups argued that greater regulation is warranted and complained that the final rules will accomplish far less than the 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

¹⁴ For more information on the final rule, see [www.epa.gov/npdes/caforule].

¹⁵ See CRS Report RL30437, *Water Quality Initiatives and Agriculture*.

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.

Meanwhile, to assist producers who will have to comply, some funding is available from EPA, and also from USDA, the latter through the Environmental Quality Incentives Program (EQIP; see below).

Farm Bill. The 2002 farm bill reauthorizes EQIP through FY2007, gradually increasing funding from \$200 million in FY2001 and \$400 million in FY2002 to \$1.3 billion in FY2007. It provides 60% of the funding each year to objectives related to livestock production. It limits an individual's or entity's total payments 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 systems have those plans.

In addition to the EQIP program, other conservation initiatives also may benefit livestock producers. A new Conservation Security Program, enacted in the 2002 farm bill, was adopted to provide payments to all producers who install and maintain specified conservation practices starting in FY2003. Three levels, or tiers, of conservation and payments are specified (i.e., more extensive 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.¹⁶

Animal Health¹⁷

“Mad Cow” Disease¹⁸

“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 led U.S. officials to take several precautionary steps and to develop an emergency response plan to implement if a case is found. USDA since 1989 has banned the import of all live ruminants and most ruminant products from countries where BSE is known to exist.

¹⁶ See CRS Report RL31255, *Resource Conservation Title: Comparison of Current Law with Farm Bills Passed by the House and Senate*.

¹⁷ CRS contact: Jean Rawson 7-.....

¹⁸ See CRS Report RS20839, *Mad Cow Disease: Agriculture Issues*.

In 1991, USDA banned the importation of rendered by-products from ruminants.¹⁹ 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, meat industry groups, 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. A June 2001 FDA survey showed that 22% of renderers, feed mills, and other facilities that handle ruminant material still were 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 USDA and the Department of Health and Human Services had taken effective steps to prevent and prepare for possible BSE introduction, although some improvements still could be made.

USDA's Food Safety and Inspection Service (FSIS) requires its inspectors to divert from processing any cattle showing suspicious clinical symptoms of BSE 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.

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. Attempting to arouse public concerns about conditions in livestock slaughter operations, animal rights organizations (primarily the Humane Farming Association and affiliated groups), in recent years have bought large newspaper advertisements 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 ("downer") cattle at stockyards.

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

¹⁹ 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.

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