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Animal Agriculture: Issues in the 107th Congress

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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, continue to generate interest Congress.

The farm bill contains several key provisions that would affect animal agriculture, including concentration, disaster assistance, and country-of-origin labeling. Two of the more contentious issues involve packer ownership of livestock and environmental provisions.

The Senate bill would ban most packer ownership of livestock beyond 14 days prior to slaughter. The House bill does not contain similar provisions and House conferees have expressed opposition.

On livestock-related environmental issues, key differences include the period of authorization. The House provides authorization through FY2011, while the Senate provides authorization through FY2006. The House bill primarily reauthorizes existing programs, usually at lower funding levels than the Senate bill, and enacts few new programs, while the Senate bill makes more numerous and significant changes to existing programs and to conservation policies, and also creates many more new programs.

Concerns about the impact of consolidation in the livestock industry and the agricultural sector overall, have spurred legislative interest in remedies. The House farm bill would set up an interagency commission to study concentration and competition within agriculture, while the Senate farm bill would restrict packer ownership of livestock.

The FY2001 USDA appropriations (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.

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.

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

Russia banned U.S. poultry imports as of March 10, 2002. The ban stems from Russian concerns over antibiotics in feed and the use of chlorinated water during processing. Disputes continue with the European Union over its barriers to U.S. meat and poultry imports despite a WTO ruling that they violated the WTO agreement.

In December 2000, the Environmental Protection Agency proposed 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. Final regulations are due December 15, 2002.

MOST RECENT DEVELOPMENTS

The House passed their version of the farm bill (H.R. 2646) on October 5, 2001, and the Senate completed action on February 13, 2002 (H.R. 2646 as amended). The House bill contains several provisions dealing with animal agriculture including new credit provisions during (economic) emergencies and animal handling procedures. The Senate bill contains similar animal handling provisions, but does not contain the emergency credit provisions. Additionally, the Senate version contains country-of-origin labeling requirements for meats, and restricts packer ownership or control of livestock. Both bills also contain provisions to provide funding for livestock producers during natural disasters. Conferees held their first meeting on March 13.

On March 21, Senator Roberts introduced S. 2040 to provide emergency agricultural assistance to producers of the 2002 crop in the event the farm bill (H.R. 2646) is not passed in time to cover 2002 crops. S. 2040 would allow $500 million of funds of the Commodity Credit Corporation to provide livestock feed assistance to livestock producers affected by disasters during calendar year 2001 or 2002.

As of March 10, Russia has banned imports of U.S. poultry. The ban stems from Russian concerns of antibiotics in poultry feed and the use of chlorinated water during processing.

BACKGROUND AND ANALYSIS

In 2000, U.S. farmers received $99.5 billion from the sale of animal products, about 51% of all farm cash receipts, approximately the same as reported for 1999. For 2001, forecasts are $108.5 billion and 53%, according to the U.S. Department of Agriculture's (**USDA**) Economic Research Service (**ERS**).

Meat and Poultry Production and Prices

Beef	**2002**	**2001**	**2000**	**1999**
Production (billion pounds)	25.6	26.1	26.8	26.4
Fed steers ($/hundred pounds)	$72-77	$72	$70	$65
Feeder steers ($/hundred pounds)	$83-88	$88	$86	$76
Per capita consumption (pounds)	67.2	68.2	69.5	69.1
Retail price ($/pound)	$3.31	$2.90	$2.75	$2.61
Pork				
Production (billion pounds)	19.2	19.1	18.9	19.3
Market price ($/hundred pounds)	$43-46	$46	$45	$34
Per capita consumption (pounds)	51.7	51.6	52.5	53.9
Retail price ($/pound)	$2.71	$2.60	$2.58	$2.42
Sheep				
Production (million pounds)	196	226	234	248
Farm price ($/hundred pounds)	$75	$72	$79	$76
Broilers				
Production (billion pounds)	31.9	31.1	30.5	29.7
Market price (¢/pound)	57-61¢	59.1¢	56.2¢	58¢
Per capita consumption (pounds)	77.4	76.4	77.4	77.0
Turkey				
Production (billion pounds)	5.6	5.6	5.4	5.3
Market price (¢/pound)	64-69¢	66.3¢	70.5¢	69¢
Per capita consumption (pounds)	17.9	17.9	17.8	18.0

According to ERS, the cattle inventory on January 1, 2002, declined another 1% from a year earlier, and nearly 7% from the 1996 cyclical peak, with inventories expected to decline for at least the next 2 years. The United States is expected to export nearly 1.5 billion pounds of pork in 2002, compared with about 1.6 billion in 2001. At the beginning of last year, the United States faced very strong demand from Japan for pork products ahead of the imposition of its Safeguard (a pricing mechanism to protect domestic producers from a rapid rise in imports). Sales also were boosted when disease issues —foot-and-mouth disease (**FMD**) in March and Bovine Spongiform Encephalopathy (**BSE**) in September— appeared throughout the year. If more BSE cases are discovered in Japan, and beef consumption continues to decline as a consequence, a more favorable scenario for U.S. pork exports likely would result in 2002. Growth in broiler exports in 2002 is expected to slow from 15% in 2001 to 3% in 2002 as the world economy slows and the dollar remains strong. The inventory of all sheep and lamb fell in 2002, continuing the long downturn with decreased production and increased imports.

Industry Issues

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 into the changing 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 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 EPA. Others have discussed quality-of-life issues related to both the loss of small operations (including the loss of traditional lifestyles) and the gain 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 1999, compared with 40% in 1990. In 1997, 64% of all hogs were marketed through some form of forward sales arrangement between producers and packers, but 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 a 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 many years, and the pork industry is becoming more so. In the cattle sector, the four largest beef packers accounted for 70% of all cattle slaughtered in 1999, 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.

A 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.[1] 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, DOJ, and 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 House bill would set up an interagency task force to study competition and concentration in agriculture, and authorizes appropriations for GIPSA to enhance investigations into competition issues. The Senate bill contains provisions that would: (1) Allow that mandatory arbitration clauses in livestock contracts are non-binding and allow for dispute settlement through other legal means in addition to arbitration. (2) Ban packer ownership or control (to such an extent that the producer is no longer "materially participating" in the production) of livestock for more than 14 days prior to slaughter. The ban does not apply to producer-owned cooperatives, or to producer-owned packers that annually slaughter less than 2% of livestock slaughtered in the United States. (3) Extend GIPSA authority to include livestock production contracts. Currently, GIPSA protects broiler farmers who grow under contract and livestock producers who sell directly to packers, but it does not have authority over livestock producers who grow under contract. (4) Allow contract producers to discuss the contract with advisors and enforcement agencies even if the contract contains a confidentiality clause.

Economic Assistance[2]

Various emergency supplemental acts in recent years have authorized *ad hoc* assistance for livestock farmers when on-farm feed or forage is damaged or destroyed by a natural disaster (Livestock Assistance Program) or to replenish herds when a natural disaster causes widespread livestock mortality (Livestock Indemnity Program). Programs generally are funded through the borrowing authority of USDA's Commodity Credit Corporation (**CCC**). The FY2001 agriculture appropriations act (P.L. 106-387) provided $490 million for calendar year 2000 livestock losses. The FY2002 agricultural appropriations act (P.L. 107-76) authorizes loans to horse breeders to assist them for losses suffered as a result of mare reproductive loss syndrome.

Farm Bill. The House bill would permanently authorize livestock assistance, subject to annual appropriations, and at the discretion of the Secretary of Agriculture. The Senate bill would require USDA to: (1) Implement a program to provide feed assistance to livestock producers affected by disasters, subject to annual appropriations. For FY2003-8, $500 million is authorized to be appropriated. (2) Use $500 million of CCC funds to make payments for livestock losses in 2001 in a county that has received emergency designation by the President or Secretary after January 1, 2001.

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

[2] CRS contact: Ralph Chite 7-7296.

Mandatory Price Reporting[3]

Mandatory price reporting (**MPR**) for large packers was incorporated by conferees into the FY2000 USDA appropriations law (P.L. 106-78, October 22, 1999) 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. MPR was intended to address the concerns of some livestock producers about low prices, increasing concentration in the packing and processing sector, and less public marketing systems brought about by increased use of contracting and private agreements.

MPR requires the reporting of market information by meatpackers who slaughter an average of 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.

Packers and importers are required to report to USDA the details of all transactions involving purchases of livestock, domestic and export sales of boxed beef cuts, sales of domestic and imported boxed lamb cuts, and sales of lamb carcasses. Market news reports that will be 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 headed by Keith Collins, USDA's chief economist, 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.[4]

USDA announced on July 2, 2001, that it had begun to implement changes recommended by the Review Team to improve the integrity of MPR. Additionally, on August 3, 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 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.

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

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

Pork Checkoff

The Pork Checkoff program is funded by assessments collected from producers when hogs are sold and on imports. The funds collected are used for pork promotion, research, and consumer information. USDA held a referendum on continuation of the program during the period August 18 - September 21, 2000. Producers who owned and sold at least one pig over the period August 18, 1999 - August 17, 2000, were eligible to vote in the referendum, as were those who imported pigs, pork, or pork products during that time period.

The results of the referendum were 14,396 (45%) for, and 15,951 (50%) against continuing the checkoff program, with 5% of the ballots invalidated. On January 11, 2001, Secretary Glickman issued a statement: "This outcome demonstrates that the Pork Checkoff Program does not have the support of the producers it serves and therefore cannot fulfill its stated purpose. Accordingly, I am directing USDA's Agricultural Marketing Service to prepare and issue a final rule to terminate the order and the program conducted under it."

On January 12, 2001, the National Pork Producers Council (**NPPC**) —an industry organization funded by the checkoff program— filed suit seeking a temporary order restraining termination of the program. The injunction request contended USDA acted unlawfully when it held a binding referendum and that the Secretary had no authority to call for the vote. The U.S. District Court for Western Michigan granted a Temporary Restraining Order on January 19, prohibiting USDA from publishing a rule to end the pork checkoff program based on the referendum. In accordance with the court order, the checkoff remained in effect, with a hearing on the fate of the checkoff scheduled tentatively for March 16. On February 28, 2001, USDA announced a settlement that would continue the Pork Checkoff. In light of the settlement reached, the court hearing scheduled for March 16 was canceled.

Under the settlement, certain program restructuring was required. The changes, effective immediately, were to ensure the separation of the National Pork Board (which is responsible for the collection, distribution and program accountability for the pork checkoff in the areas of promotion, research and consumer information) and the NPPC, and to make the program more responsive to concerns of pork producers.

The Pork Board will have approximately 2 years to demonstrate to producers and importers the value of the checkoff program to the industry. USDA will conduct a survey by June 2003, to determine whether 15% of producers and importers are in favor of conducting a referendum to decide continuation of the checkoff program. If the required number of producers and importers request a referendum, the referendum would then be held within one year.[5]

An amendment by Congresswoman Marcy Kaptur was adopted at the June 14, 2001, Appropriations Committee markup of the FY2002 agricultural appropriations bill (H.R. 2330). The provision prohibits USDA from using appropriated funds to administer checkoff programs that have not been approved by producers, and aimed to prevent USDA's administration of the pork checkoff. It deals with some producers' and lawmakers'

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

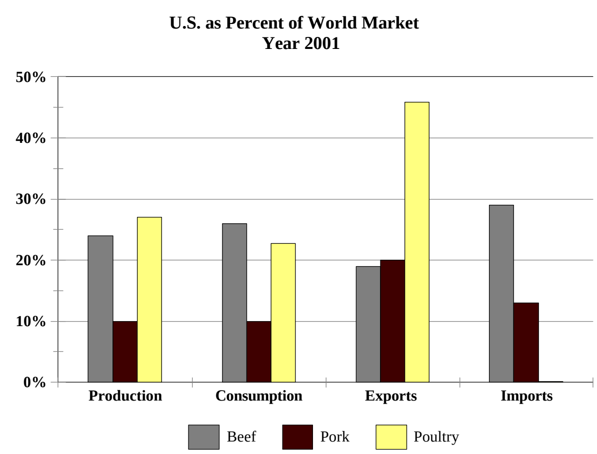
frustrations over USDA reinstating the assessment even though pork producers had voted to end the program. No similar provision was contained in the Senate version (S. 1191), but the measure was adopted in conference (P.L. 107-76, Section 739).

Sheep Industry

Acting on a Section 201 petition[6] filed by the American Sheep Industry Association (**ASIA**) and others, the International Trade Commission (**ITC**) on February 9, 1999, found that increased lamb meat imports were a substantial cause of the threat of serious injury to the U.S. lamb meat industry. Subsequently, President Clinton announced, on July 7, 1999, an import relief package for the U.S. industry that included both a 3-year, $100 million initiative to help the industry improve productivity, and tariff-rate quotas on lamb meat imports from Australia and New Zealand (which account for 99% of such imports). Following complaints filed by the two countries, a WTO dispute panel ruled on December 6, 2000, that the United States had violated the WTO's safeguard provision by improperly attributing, to the imports, the economic injury that was caused by other factors. On May 1, 2001, a WTO appellate body turned aside a U.S. appeal. The Bush Administration on August 31, 2001, then announced that it would end the tariff-rate quota safeguard on November 15, 2001. As part of the agreement with New Zealand and Australia, the United States is to provide the U.S. lamb industry with up to $42.7 million in assistance (in addition to the $100 million) through FY2003 to help the U.S. industry continue to adjust to import competition.[7]

Trade Issues[8]

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.



[6] Section 201 of the Trade Act of 1974 permits the President to grant temporary import relief by raising import duties or imposing nontariff barriers on goods entering the United States that injure or threaten to injure domestic industries producing like goods.

[7] Further information on the Lamb Meat Adjustment Assistance Program can be found on the Farm Service Agency's website at: [http://www.fsa.usda.gov/dafp/psd/lamb.htm].

[8] CRS contacts: Charles Hanrahan 7-7235, and Geoff Becker 7-7287.

Russia (Poultry)

In early March 2002, Russia announced it was banning imports of U.S. poultry. Russia said it was concerned about the use of antibiotics and chlorinated water in the production and processing of U.S. birds. U.S. officials say there is no scientific justification behind the ban. USDA, USTR, and FDA officials are meeting with Russian officials to reach a settlement. Poultry exports to Russia account for approximately 50% of total U.S. poultry exports.

Europe (Beef)[9]

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. 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 Labeling[10]

Federal law requires most imports, including many food items, to bear labels informing the "ultimate purchaser" of the country of origin. The U.S. Customs Service, which administers and enforces this requirement, generally defines the "ultimate purchaser" as the last U.S. person receiving the article in the form in which it was imported. So, if articles arrive at the U.S. border in retail-ready packages —including food products (e.g., a can of Danish ham, a slab of Dutch cheese, or a box of English candy)— each must carry such a mark. However, if the article is destined for a U.S. processor or manufacturer where it will undergo "substantial transformation" (as determined by Customs), then that processor or manufacturer is considered the ultimate purchaser.

Expanded labeling requirements continue to attract 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. 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 include that knowledge in 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—

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[9] Please see CRS Report RS20142, *The European Union's Ban on Hormone-Treated Meat*, and the Electronic Briefing Book on Agricultural Policy and the Farm Bill *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].

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

undermine ongoing efforts to reduce other countries' trade barriers and expand international markets for U.S. products.

In the 106th Congress, a number of bills aimed at expanding country labeling requirements for meats and other agricultural products were introduced, and both the House and Senate Agriculture Committees held hearings on the issue. No mandatory legislation was enacted, but language included in the conference report to the FY2000 USDA appropriations (P.L. 106-78) directed the Secretary of Agriculture to "promulgate regulations defining which cattle and fresh beef products are 'Products of the U.S.A.' This will facilitate the development of voluntary, value-added promotion programs..."

On September 8, 2000, the National Cattlemen's Beef Association (**NCBA**), the American Farm Bureau Federation, the Food Marketing Institute, the National Meat Association, and the American Meat Institute(**AMI**) petitioned USDA for regulations establishing a voluntary certification program for U.S.-produced beef. On August 7, 2001, FSIS published in the *Federal Register* an advance notice of proposed rulemaking, requesting comments on the need for regulations to clarify the definition of "United States cattle" and "United Sates fresh beef products" for labeling purposes. Comments were due by October 9, 2001.[11]

Farm Bill. The House bill would require retailers (except food service establishments) to inform consumers of the country of origin of all fresh fruits and vegetables through a label, stamp, mark, placard, or other sign at the final point of sale. Violators are subject to civil penalties of $1,000 on the first day and $250 on each succeeding day of a violation. The Senate bill would require retailers to provide similar types of country-of-origin information not only for fresh produce, but also for red meats, peanuts, farm-raised fish, and wild fish and shellfish. The Senate version also includes a separate provision prohibiting the use of USDA quality grade labels on imported carcasses, meats, or meat food products. Currently, both domestic and imported meats and meat products are eligible to receive USDA quality grades as a fee-based service.

Environmental Issues[12]

Impacts of animal production practices on the environment, both on and off the farm, have come under more scrutiny in recent years. Industry leaders acknowledge the need to protect the environment, but seek assurances that any policy changes will be based on sound scientific evidence and emphasize flexible, site-specific solutions over (in their view) excessive, costly, or inflexible regulations.

The livestock industry has undergone dramatic changes in the past 20 years. 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

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[11] For more information on the proposal, and on current FSIS labeling rules, see: [http://www.fsis.usda.gov/oa/background/usabeef.htm].

[12] CRS contacts: Jeff Zinn 7-7257, and Claudia Copeland 7-7227.

animal waste constituents within geographic areas. In addition, more and more of the larger livestock facilities are concentrated in areas where the available land cannot properly assimilate all the manure, and excessive amounts of waste are either spread on fields or stored, causing chemical and nitrogen runoff into lakes, streams, and estuaries, and resulting in fish kills and other problems.

In response to public concern about contamination of rivers, lakes, streams, coastal waters, and ground water from livestock manure and other animal wastes from livestock operations, EPA and USDA developed the *Unified National Strategy for Animal Feeding Operations* (**AFO**s) in March 1999. The strategy includes the national goal that all "AFOs should develop and implement technically sound, economically feasible, and site-specific comprehensive nutrient management plans (**CNMP**s) to minimize impact on water quality and public health."

Under federal clean water law, large confined animal feeding operations (**CAFO**s) 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. Existing rules to limit such discharges were issued in the mid-1970s. As part of the 1999 AFO Strategy, on December 15, 2000, EPA proposed water pollution regulations to revise the existing rules for CAFOs.[13] The proposed changes focus primarily on manure runoff, containment, and disposal. (At present, a CAFO generally is defined as having 1,000 animal units, a threshold that 11,200 operations exceed according to the most recent *Census of Agriculture*, collected in 1997.)[14] On March 26, 2001, EPA extended the public comment period through July 30, 2001. Throughout March 2001, EPA held eight public meetings across the country to provide additional information and encourage public comment on the proposal. EPA provided the additional comment opportunity based on comments received at these meetings asking for more time to study and comment on the proposed Clean Water Act permitting requirements and CAFO definitions. EPA is under a court order to take final action on these regulations by December 15, 2002. For newly defined CAFOs, permits will not be required until three years after (January 2006) final regulations are published. Once the proposed regulations are final, the new requirements come immediately into effect for new or reissued permits.

EPA's proposal currently includes two options regarding the definition of a CAFO. Under the first option, livestock operations would be subject to a *three-tier structure*. The highest tier would include all operations with more than 1,000 AU. There would be revised

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[13] For more information on EPA's proposal, please visit its web site at: [http://www.epa.gov/npdes/afo/].

[14] Under the existing permit rules, a CAFO must meet all of 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.

conditions for whether a middle tier (300 to 999 AU) operation is a CAFO. Operations with fewer than 300 AU, the third tier, would become CAFOs only if they were causing a pollution problem. The second option is a *two-tiered structure* in which all operations with more than 500 animal units are defined as CAFOs. Those with fewer than 500 would be classified as a CAFO only if designated by a permit authority after evaluation on a case-by-case basis. In addition to stricter permitting requirements, the proposal includes several new controls on waste discharges and land applications.[15]

EPA estimates the proposed regulations will result in compliance costs to CAFO operators of $850-$940 million per year, would regulate between 26,000-39,000 AFOs (5-10% of all AFOs), and would address 60%-70% of all AFO produced manure. Currently, only an estimated 2,500 livestock operations have enforceable permits under the Clean Water Act. Operations with fewer animals, e.g., 300 beef cattle, 200 dairy cattle, 750 hogs, and 30,000 chickens, could be subject to the new rules. A major concern for producers is the cost of complying with environmental regulations. To assist producers, some funding is available from EPA and also from USDA through the Environmental Quality Incentive Program (**EQIP**). Authorization proposals in pending farm bill legislation would increase funding.

Critics of the proposed regulations claim that large operations, those with more than 1,000 AU, already are defined as CAFOs and must have EPA point source discharge permits (although many do not, according to EPA). As a result, much of the cost of the new rule will be borne by the 20,000 - 40,000 smaller operations that EPA predicts now will fall under the regulation. However, if the EPA rule as proposed is finalized, all AFOs (large and small) would be subject to new and more explicit requirements regarding land application, setbacks, co-permitting, etc., which are not included in the current rules that EPA's proposal would replace. Additionally, some critics argue the regulations will hurt diversified farmers who use chicken litter as an economic source of fertilizer on crop fields and pastures.

The environmental community believes that greater regulation is warranted. In particular, it contends that changes in the structure of agriculture, with an increasing number of very large farm operations and growing concentration, are increasing the scope of environmental problems, and making livestock agriculture more like other economic sectors. In the past, Congress has set agriculture apart from other economic sectors, and made it largely exempt from major environmental laws.

Farm Bill.[16] Current law requires that half the funding under EQIP, a cost sharing program, go to livestock producers. The House bill would reauthorize this requirement and would gradually increase program funding from the current authorized level of $200 million to $1.5 billion in FY2010. The Senate bill would ramp up EQIP funding to $1.05 billion in FY2006, but does not renew the livestock funding requirement that 50% of the total be used to address livestock production practices. It does, however, include livestock in the definitions —so sponsors assume that an unspecified portion of the funding will continue to flow to livestock producers— and also adds comprehensive nutrient management to the list of eligible practices. Also it would authorize a new Conservation Security Program, and

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[15] Please see CRS Report RL30437, *Water Quality Initiatives and Agriculture*.

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

livestock producers would be eligible to receive payments in return for installing and maintaining specified conservation practices. Additionally, it increases funding for numerous conservation programs; some of these increases may benefit some livestock producers.

Animal Health Issues[17]

"Mad Cow" Disease[18]

"Mad cow" disease, or 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. 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 NCBA, the American Feed Industry Association, and AMI, 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 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.

FSIS's 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.

On April 24, 2001, the President signed legislation that requires the federal agencies that have a role in preventing the importation of "mad cow" disease and foot and mouth disease to prepare a report for Congress and U.S. citizens on their coordinated activities, among other things (S. 700/P.L. 107-9).

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[17] CRS contacts: Jean Rawson 7-7283, and Alex Segarra 7-9664.

[18] Please see CRS Report RS20839, *Mad Cow Disease: Agriculture Issues*.

Foot-and-Mouth Disease[19]

APHIS is the USDA agency primarily responsible for assuring that the foot-and-mouth livestock disease 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/auditrpt/auditrpt_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 discredited their claims. Relatedly, public awareness has risen concerning the treatment of nonambulatory cattle at stockyards. Amendments addressing each of these issues were added to the farm bill.

Farm Bill. The House and Senate bills contain similar provisions to (1) Provide a sense of Congress regarding the full enforcement of the Humane Methods of Slaughter Act. (2) Amend the Packers and Stockyards Act to make it unlawful to move any nonambulatory animal unless it has been humanely euthanized first.

LEGISLATION

Competition, Antitrust, and Industry Structure

H.R. 231 (Kaptur). Amends the Packers and Stockyards Act to extend GIPSA's oversight authority to the poultry industry. Introduced January 6; referred to the Agriculture Committee. On March 23, referred to the Livestock and Horticulture Subcommittee.

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

S. 20 (Daschle). Securing a Future for Independent Agriculture Act of 2001. A wide ranging agricultural bill containing several animal-agriculture related provisions including (1) protecting farmers from anticompetitive practices, (2) ensuring fairness in contracting, (3) requiring large companies to file annual reports with the Secretary of Agriculture, (4) requiring a GAO study on competition and concentration within agriculture and, (5) requiring country-of-origin labeling. Introduced January 22; referred to the Agriculture Committee.

S. 282 (Harkin). Creates within DOJ a position to handle agricultural antitrust issues. Introduced February 7; referred to the Judiciary Committee.

H.R. 1526 (Thune). Agriculture Competition Enhancement Act of 2001 would (1) prevent large agricultural mergers, (2) allow the Secretary of Agriculture to review agricultural mergers, (3) establish an agricultural antitrust position within the Department of Justice and, (4) direct GAO to conduct a study of GIPSA's oversight authorities. Introduced April 4; referred to the Agriculture Committee (on April 23, referred to the Livestock and Horticulture Subcommittee; on May 15, executive comment requested from USDA) and the Judiciary Committee.

S. 1076 (Grassley). Agriculture Competition Enhancement Act includes provisions dealing with agricultural mergers, and extends GIPSA oversight to poultry producers. Introduced June 21; referred to the Judiciary Committee.

H.R. 3383 (Moran). To require the Attorney General of the United States and the Federal Trade Commission to issue guidelines relating to mergers by wholesale purchasers of livestock, poultry, and unprocessed agricultural commodities. Introduced November 29; referred to the Judiciary Committee.

H.R. 3810 (Nussle). Livestock Ownership Fairness Act of 2002, would (1) prohibit livestock packers from owning or feeding livestock intended for slaughter for more than 14 days before slaughter, (2) require certain agricultural mergers to notify the Secretary of Agriculture, and (3) require the Attorney General to establish an Office of Special Counsel for Agriculture. Introduced February 27, 2002; referred to the Agriculture Committee and the Judiciary Committee.

Environment

H.R. 1138 (Nick Smith). Amends the Federal Water Pollution Control Act to provide that no permit shall be required for animal feeding operations within the boundaries of a state if the state has established and is implementing a nutrient management program for those animal feeding operations. Introduced March 21; referred to the Transportation Committee. On March 22, referred to the Water Resources and Environment Subcommittee.

Animal Health

H.R. 3804 (Sherrod Brown). The Preservation of Antibiotics for Human Treatment Act of 2002, would amend the Federal Food, Drug, and Cosmetic Act to ensure that use of certain antibiotic drugs in animal agriculture does not compromise human health by contributing to the development of antibiotic resistance. Introduced February 27, 2002;

referred to the Energy and Commerce Committee. Referred to the Health Subcommittee on February 13.

For Additional Reading

CRS Report RS20562, *Merger and Antitrust Issues in Agriculture*.

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

"Pork Promotion Program. Petition Validation Process Needs to Be Strengthened." September 2000. GAO, Report RCED-00-274.

CRS Report 98-253, *U.S. Agricultural Trade: Trends, Composition, Direction, and Policy*.

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 Electronic Briefing Book *Conservation and Environment* ([http://www.congress.gov/brbk/html/ebagr7.html]).

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]).

CRS Report RL31272, *A New Farm Bill: Comparing the House and Senate Proposals with Current Law.*