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Animal Agriculture: Issues in the 107th Congress

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CONTENTS

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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 in Congress.

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

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

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

Concerns about the impact of consolidation in the livestock industry and the agricultural sector overall, have spurred legislative interest. In the farm bill, a contentious provision banning packer ownership of livestock was dropped in conference, but the issue may come up again in further hearings.

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

On August 23, 2002, USDA announced Russia lifted a ban on U.S. poultry imports that had been in place since March 10, 2002. The ban stemmed from Russian concerns over antibiotics in feed and the use of chlorinated water during processing.

Disputes continue with the European Union over its barriers to U.S. meat and poultry imports despite a WTO ruling that these barriers violate the WTO agreement.

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 by December 15, 2002.

Outbreaks of foot-and-mouth disease and 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.

Most Recent Developments

USDA announced on September 19, 2002, that it would provide $752 million for a new 2002 Livestock Compensation Program. The program is designed to compensate livestock producers experiencing severe 2001 and 2002 feed and pasture losses, with funding coming through Section 32 funds..

On August 23, 2002, USDA announced a final resolution to the poultry trade dispute with Russia. The ban on imports of U.S. poultry had been in place since March 10, and stemmed from Russian concerns of antibiotics in poultry feed and the use of chlorinated water during processing.

Background and Analysis

In 2001, U.S. farmers received $106.4 billion from the sale of animal products, about 52% of all farm cash receipts. For 2002, forecasts are lower ($97 billion and almost 50%) according to the U.S. Department of Agriculture's (**USDA**) Economic Research Service (**ERS**).

Drought conditions are forcing more cattle into feedlots and possibly delaying herd expansion for at least another year. Wide-spread drought conditions are pushing up feed costs as crop and pasture conditions erode. The higher feed costs are reducing producers' returns, which means more meat production in the short term as more females are slaughtered and lower long-term production as the number of breeding animals is reduced, according to ERS. Poultry exports are down due largely to uncertainty in the Russian market, increased beef production due to drought-reduced forage supplies, and a lackluster domestic economy with slower than previously expected growth, livestock and meat prices are expected to continue to face downward pressure. ERS analysts expect hog prices to average in the mid-$30s. In some reports, hog prices are projected downward with prices approaching those experienced in 1998 and 1999.

Meat and Poultry Production and Prices

Beef	**2003**	**2002**	**2001**
Production (billion pounds)	25.2	26.8	26.1
Fed steers ($/hundred pounds)	$72-78	$67-68	$73
Feeder steers ($/hundred pounds)	$83-89	$77-78	$88
Per capita consumption (pounds)	63.2	67.3	66.2
Pork			
Production (billion pounds)	19.9	19.8	19.1
Market price ($/hundred pounds)	$34-36	$34-35	$46
Per capita consumption (pounds)	51.3	51.8	50.2
Sheep			
Production (million pounds)	210	219	223
Farm price ($/hundred pounds)	$64-66	$64-66	$72
Per capita consumption (pounds)	1.1	1.2	1.1
Broilers			
Production (billion pounds)	33.0	32.2	31.3
Market price (¢/pound)	57-61¢	56-57¢	59.1¢
Per capita consumption (pounds)	80.2	80.5	76.5
Turkey			
Production (billion pounds)	5.7	5.7	5.6
Market price (¢/pound)	64-69¢	65-67¢	66.3¢
Per capita consumption (pounds)	17.5	17.3	17.5

Industry Issues

Emergency Assistance [1,2]

Much of the Western, Great Plains, and Eastern states have been affected by persistent drought this year, which has had an impact on the regions' crop and livestock production. USDA offers 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 2000 production losses, Congress currently is considering making assistance available for 2001 and 2002 losses. If such assistance is provided using the same payment formula that was used for 2000 losses, government costs could exceed $5 billion.

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

In Congress. On September 10, 2002, the full Senate agreed to a Daschle amendment (S. Amdt. 4481) to the FY2003 Interior appropriations bill (H.R. 5093), which would provide an estimated $5.95 billion in crop and livestock disaster assistance to farmers for both 2001 and 2002 production year losses. (The text of the Daschle Amendment is identical to S. 2800 (Baucus), which was introduced on July 25, 2002.) The House-passed version of H.R. 5093 contains no comparable disaster provisions.

The adopted Daschle amendment would provide "such sums as are necessary" to fully fund crop and livestock disaster payment formulas that were last used for 2000 production losses. For livestock growers, direct payments will be made to any producer in a disaster-declared region who suffered a minimum 40% loss of available grazing for at least 3 consecutive months. The CBO score of $5.95 billion ($4.5 billion for crop assistance and $1.45 billion for livestock assistance) for the amendment was recently revised upward to this level to reflect deteriorating crop conditions in the late summer months.

USDA Actions. USDA has 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**). The program is designed to compensate livestock producers

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

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

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

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

USDA also has exercised its standing authority to release a portion of its inventory of nonfat dry milk purchased under the dairy price support program, which will be converted into $150 million of livestock feed and provided to certain drought-stricken states. USDA also will allow all farmers and ranchers nationwide to cut hay and graze livestock until November 30, 2002 on acreage that has been set aside for certain conservation use.

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

Check-Offs[4]

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

The mandatory aspects of check-offs have generated strong opposition among some farmers, who contend they must pay "taxes" for activities they would not underwrite voluntarily. Groups representing these producers have challenged the programs in USDA and the courts. Two cases have reached the U.S. Supreme Court, which was asked to decide on whether the programs violate the free speech provisions of the First Amendment.

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

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

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 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 ordered was stayed while the U.S. Government appeals the ruling.

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

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

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

Sheep Industry

Acting on a Section 201 petition[6] filed by the American Sheep Industry Association and others, the International Trade Commission 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 World Trade Organization (**WTO**) dispute panel ruled on December 6, 2000, that the United States had violated the WTO's safeguard provision by improperly

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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].

[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.

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 initiative) through FY2003 to help the U.S. industry continue to adjust to import competition.[7]

Competition and Industry Structure

Concentration and Structure

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

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

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

Negative impacts of consolidation include potential environmental impacts and several related issues. The continued trend toward fewer but larger operations, coupled with greater emphasis on more intensive production methods and specialization, has concentrated more manure and other animal waste constituents within some geographic areas, according to the

[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].

Environmental Protection Agency (**EPA)**. Others have discussed quality-of-life issues related to both the loss of small operations (including the loss of traditional lifestyles) and the growth of large operations (including air quality issues).

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

According to ERS, larger producers (5,000+ head) currently account for nearly three-fourths of the pig crop, compared with just over one-fourth in 1994. The trend toward larger facilities and increasing share of production by those larger facilities, may be a factor in more stable hog prices. To expand production, the large producers face a more complicated process than in the recent past, and the process is much more complicated than for the smaller producers. Expansion processes now include securing large-scale financing, obtaining building and waste management permits from state and local authorities, and hiring and training staff. In contrast, 15 to 20 years ago many smaller producers maintained multi-use buildings for rapid re-population of a hog herd when returns turned favorable. Necessary construction was accomplished without complicated procedures needed to manage waste. Family labor typically provided adequate supplies of skilled herdsmen. The factors that affect expansion patterns today are likely those that are muting the peaks and valleys of the hog cycle.

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

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

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

In Congress. In the 107th Congress, the Senate Agricultural Appropriations Subcommittee held a hearing on May 17, 2001, on agricultural concentration. The Senate

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

A September 2000, report by the General Accounting Office (**GAO**) determined that GIPSA lacks the staff, the budget, and the expertise to investigate anticompetitive behavior in the livestock industry.[8] Among GAO's recommendations were calls for an earlier integration of attorneys in the planning and review of investigations, and for closer consultations between GIPSA, the Department of Justice (**DOJ**), and the Federal Trade Commission (**FTC**) during investigations. A proposal to require USDA to implement, within one year, GAO's recommendations for improving the administration of the P&S Act was signed into law on November 9, 2000 (The Grain Standard and Warehouse Improvement Act of 2000; P.L. 106-472).

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

Banning Packer Ownership of Livestock[9]

Producers who face fewer marketing options and less competition for their livestock have expressed concern about captive supplies.[10] They believe packers are using captive supplies to manipulate market prices that are more favorable to packers, and less favorable to producers. That is, as packers buy fewer animals on the spot market, reported prices no longer accurately reflect prices paid for a majority of livestock. Many producers feel this reduction in price transparency works to their increasing disadvantage relative to packers. Contract prices typically are tied to spot prices. Thus, a packer has financial incentive to buy or not buy on the spot market not only to reduce spot prices, but also because livestock bought on contract are priced through the spot market. Some producers have suggested that one remedy to captive supplies and the perceived market manipulation is to ban packer ownership and control of livestock.

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

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

[9] Please see CRS Report RL31553, *Livestock: A Ban on Ownership and Control by Packers.*

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

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).

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

The proposed packer ban continues to generate legislative interest (H.R. 5247, S. 2021, S. 2867), with potential amendments to the Agricultural Appropriations bills (H.R. 5263 and S. 2801) discussed. The Senate Agriculture Committee held a hearing on this issue on July 16, 2002, and the Senate Judiciary Committee held a field hearing on August 23, in South Dakota.

Mandatory Price Reporting[11]

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

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

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

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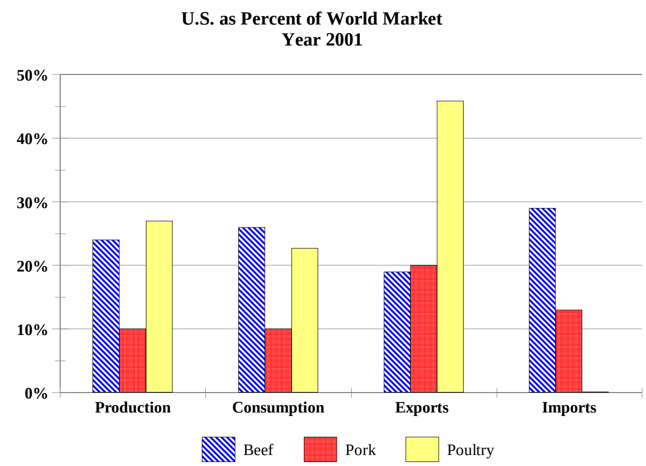
[11] For additional information, please see CRS Report RS20079, *Livestock Mandatory Price Reporting*, and AMS' MPR site at: [http://www.ams.usda.gov/lsg/mncs/LS_MPR.htm].

the Review Team met with representatives of the livestock and meat packing industries, Congress, AMS, and contractor officials.[12]

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

Trade[13]

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)[14]

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

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

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

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

Europe (Beef)[15]

In a continuing dispute, in 1985 (effective 1989), the European Union (**EU**) banned the import of U.S. beef produced with hormones. In 1997, the WTO ruled in favor of the United States that the EU cannot ban, without scientific justification, beef produced with hormones. 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[16]

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. They argue consumers would pay more for domestic produce than for imports. Also, some perceive that food products from certain countries might pose greater health risks. Proponents contend additional country labeling requirements would enable consumers to know the source of retail food offerings and consider that information when selecting purchases.

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

USDA Actions.[17] On October 8, 2002, USDA issued guidelines for interim voluntary country of origin labeling (**COOL**), in accordance with requirements of the new farm bill. The new farm law requires retailers to provide —on a voluntary basis— country of origin information to consumers of perishable fruits and vegetables, peanuts, fresh beef, lamb, and pork, and farm-raised and wild fish/shellfish. After two years, the program will become mandatory.

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

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

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

Environment[18]

Dramatic changes in the livestock industry in the past 20 years, including the continued trend toward fewer but larger operations, coupled with greater emphasis on more intensive production methods and specialization, have concentrated more manure and other animal waste constituents within some production areas where more and more of the larger livestock facilities are concentrated. The available land in some of these areas cannot properly assimilate all the manure, and excessive amounts of waste are either spread on fields or stored, in some cases causing chemical and nitrogen runoff into waterways, and resulting in fish kills and other problems.

Animal feeding operations (**AFO**s) 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 (**CAFO**s) and they become subject to regulatory requirements promulgated by EPA to prevent water pollution. At present, a CAFO generally is defined as having 1,000 animal units (**AU**), a threshold that 11,200 operations exceed according to the most recent *Census of Agriculture,* collected in 1997.[19]

Under federal clean water law, 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. On December 15, 2000, EPA proposed revised rules that focus primarily on manure runoff, containment, and disposal.[20] EPA has held eight public meetings across the country to provide additional information and gather public comment on the proposal. EPA is under a court order to take final action on these regulations by December 15, 2002. Under the current EPA proposal, for newly defined CAFOs, permits would not be required until three years after final regulations are published, but the new requirements would take immediate effect for existing CAFOs.

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; more than 1,000 AU, 300 to 999 AU, and fewer than 300 AU. Operations in the middle tier could be considered CAFOs, while operations in 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 AU are defined as CAFOs. Those with fewer than 500 AU

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

[19] 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.

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

would be classified as a CAFO only if designated by a permit authority after an evaluation. In addition to stricter permitting requirements, the proposal includes several new controls on waste discharges and land applications of waste.[21] 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 (of the estimated 11,200 CAFOs) have enforceable permits under the Clean Water Act. To assist producers who will have to comply, some funding is available from EPA and also from USDA through the Environmental Quality Incentive Program (**EQIP**). The 2002 farm bill reauthorizes EQIP through FY2007 and gradually increases funding to $1.3 billion in the final year. It provides 60% of the funding each year to issues related to livestock production.[22] It limits total payments to any individual or entity over the authorization period to a total of $450,000; provides incentive payments to producers who develop Comprehensive Nutrient Management Plans; and requires that all livestock producers who receive funding for animal waste manure systems have those plans.

Critics of the proposed EPA 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 most do not, as noted above). 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.

The environmental community believes that greater regulation is warranted. In the past, Congress has set agriculture apart from other economic sectors, and made it largely exempt from major environmental laws. Environmentalists now contend 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, thus eliminating any justification for an exemption.

Farm Bill. In addition to the EQIP program, other conservation initiatives also may benefit livestock producers. The new Conservation Security Program, enacted in the 2002 farm bill, will provide payments to all producers who install and maintain specified conservation practices. Three levels of conservation and payments are specified. More comprehensive conservation efforts would be eligible for higher levels of payments. Other new programs that may offer new opportunities to some livestock producers include a grassland retirement program, several water conservation initiatives, and smaller programs limited to certain regions or states.

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

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

Animal Health[23]

"Mad Cow" Disease[24]

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

Scientific uncertainty about BSE's cause and transmission has led the U.S. government to take several precautionary steps and to develop an emergency response plan to implement if a case is found. USDA's Animal and Plant Health Inspection Service (**APHIS**) has banned the import of all live ruminants from countries where BSE is known to exist since 1989. In 1991, APHIS banned the importation of rendered by-products from ruminants.[25] As of December 2000, the importation of all rendered animal protein products (whether from ruminants or not) is prohibited. The Food and Drug Administration (**FDA**), which regulates animal feed ingredients domestically, banned the feeding of virtually all mammalian proteins to ruminants in August 1997. However, an FDA survey in 2000 showed that full compliance has been difficult to achieve. In January 2001, a group of meat industry associations, including the National Cattlemen's Beef Association, the American Feed Industry Association, and the American Meat Institute, issued a joint statement pledging a concerted effort to reach 100% compliance with the FDA ban on feeding mammalian proteins to livestock. A June 2001 FDA survey showed that 22% of renderers, feed mills, and other facilities that handle ruminant material still are out of compliance with FDA's labeling, record keeping, and commingling requirements. Nonetheless, a study released November 30, 2001, by the Harvard Center for Risk Analysis states that the steps that USDA and the Department of Health and Human Services have taken to date to prevent and prepare for possible BSE introduction are effective, although some improvements still could be made.

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

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

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

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

Foot-and-Mouth Disease[26]

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

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

LEGISLATION

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, 2001, and referred to the Agriculture Committee. On March 23, 2001, referred to the Livestock and Horticulture Subcommittee.

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

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, 2001, and referred to the Agriculture Committee (on April 23, 2001, referred to the Livestock and Horticulture Subcommittee; on May 15, 2001, 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, 2001, and 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, 2001, and 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, and referred to the Agriculture Committee (March 6, referred to Livestock Subcommittee) and the Judiciary Committee.

Animal Health

H.R. 2622 (Reynolds)
The Helping Out to Rescue and Save Equines Act, would prohibit the interstate transport of (1) horses (other than downed animals) for the purpose of slaughter, and (2) horse flesh for human consumption. Sets forth related inspection, confiscation, and penalty provisions, including rescue facility grants. Introduced July 25, 2001, and referred to the Agriculture Committee. On August 1, 2001, referred to Livestock Subcommittee.

S. 1482 (Harkin)
The Animal Health Protection Act, would authorize the Secretary of Agriculture to restrict the importation, entry, or further movement in the United States, or order the destruction or removal, of animals (including livestock) and related conveyances and facilities for reasons of livestock pest or disease control, or humane treatment. Introduced October 2, 2001, and referred to the Agriculture Committee.

S. 1595 (Feingold)
The Johne's Disease Elimination Act, would authorize the Secretary of Agriculture to establish a program to control bovine Johne's disease. Introduced October 31, 2001, and referred to the Agriculture Committee.

H.R. 3781 (Morella)

The American Horse Slaughter Prevention Act, would prohibit the slaughter of horses for human consumption and prohibit the trade and transport of horseflesh and live horses intended for human consumption. Introduced February 14, 2002, and referred to the Agriculture Committee (February 25, referred to Livestock Subcommittee), International Relations Committee, and Ways and Means Committee.

H.R. 3804 (Sherrod Brown) and **S. 2508 (Kennedy)**

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. H.R. 3804 introduced February 27, 2002, and referred to the Energy and Commerce Committee; referred to the Health Subcommittee on March 13, 2002. S. 2508 introduced May 13, 2002, and referred to the Health, Education, Labor, and Pensions Committee.

S. 2532 (Schumer)

The Meat and Poultry Products Safety Improvement Act of 2002, would require microbiological performance standards for federally inspected meat and poultry plants, and an animal identification system that would facilitate the trace-back of meat and poultry to the live animal. Introduced May 17, 2002, and referred to the Agriculture Committee.

For Additional Reading

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

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

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

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

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

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

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