



TEXAS CATTLE FEEDERS ASSOCIATION  
**NEWSLETTER**

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*May Your Christmas  
Be Merry  
and Your New Year  
Profitable*



## **No Newsletter next week due to Christmas Holiday.**

**Major Changes To NCBA's Structure Have Been Recommended** by the organization's Governance Task Force. The changes, which include a significant reduction in the size of the Board of Directors, are designed to improve NCBA's ability to respond quickly and efficiently to industry challenges.

The Task Force is proposing a 29-member Board of Directors. Although that is dramatically smaller than the current 274-member Board, the Task Force says grassroots input will be preserved through the establishment of a 250-member House of Delegates and more inclusive committees.

Of the Board's total membership, 26 Directors would be chosen by the House of Delegates. The other three Directors, who would serve in non-voting ex-officio capacities, would include the Federation of State Beef Councils' Chair and Vice Chair and the NCBA CEO. The House of Delegates would consist of 100 votes from NCBA affiliates, 100 votes from state beef councils and 50 votes from breed associations and other member groups.

The Task Force's recommendation will be submitted to the NCBA Executive Committee in San Antonio and be discussed by the full Board of Directors during its Annual Meeting Jan. 30. If the Board approves the direction, bylaw changes would be developed and voted on at the Summer Conference in Denver next July. Implementation of the new structure would begin upon approval of the bylaw changes by the Board.

TCFA President & CEO Ross Wilson is a member of the Governance Task Force, which began its work in July 2008. The other Task Force member from the TCFA area is past TSCRA President Dr. Dick Sherron of Beaumont.

To read NCBA's official news release on the Task Force recommendations, go to <http://www.beefusa.org/NEWSNCBATaskForceRecommendsMajorStructureChange39978.aspx>.

## **TCFA Sent A Letter This Week Urging Senators To Support The Joint Disapproval Resolution**

Senator Lisa Murkowski (R-Alaska) announced she would file regarding the recent EPA finding that greenhouse gas (GHG) emissions are an endangerment to public health and the environment. The letter states, "TCFA is extremely concerned about the potential impacts that the EPA endangerment finding could have on feedyards and other agriculture operations, because it sets the stage for GHG regulation under the Clean Air Act and would give EPA unprecedented control over every sector of the U.S. economy. It is irresponsible to issue this kind of finding, especially given the recent controversy surrounding the scientific validity of alleged human contributions to climate change. Regulation of greenhouse gases should be based on science, and it should be thoughtfully debated and approved by Congress through a democratic process, not dictated by EPA." A copy of TCFA's letter is available at [http://www.tcfa.org/Newsletter/ghg\\_senate\\_letter\\_2009-12-18.pdf](http://www.tcfa.org/Newsletter/ghg_senate_letter_2009-12-18.pdf).

Senator Murkowski will file her disapproval resolution pursuant to the provisions of the Congressional Review Act. Upon introduction, a disapproval resolution is referred to the committee of jurisdiction, which in this case will be the Senate Committee on Environment and Public Works. If the committee does not favorably report the resolution within 20 calendar days, it may be discharged upon petition by 30 Senators. Once a disapproval resolution is placed on the Senate calendar, it is then subject to expedited consideration on the Senate floor, and not subject to filibuster. If passed by the Senate, the joint disapproval resolution would also have to be adopted by the House of Representatives, which does not have procedures in place for expedited consideration, and signed by the President in order to take effect. You can watch Senator Murkowski's press conference at <http://www.youtube.com/watch?v=c-wL0MxHfPo>.

In her written press release, Murkowski stated, "I remain committed to reducing emissions through a policy that will protect our environment and strengthen our economy, but EPA's backdoor climate regulations achieve neither of those goals. EPA regulation must be taken off the table so that we can focus on more responsible approaches to dealing with global climate change." She goes on to say, "The EPA has taken these actions despite the fact that Congress is continuing to work on climate legislation. I find that highly counter-productive, especially as our nation struggles to regain its economic footing. The endangerment finding must be stopped so that Congress can pass responsible legislation that is sound on its own merits, and not merely a defense against the threat of damaging regulations. Instead of threatening Congress, the Administration would be better served by seeking a constructive role in policy formulation."

In related news, U.S. Representative Frank Lucas (R-Okla.) and U.S. Senator Saxby Chambliss (R-Ga.), Ranking Members of the House and Senate Agriculture Committees, respectively, sent a letter to USDA Secretary Tom Vilsack regarding his recent remarks on the Department's climate change legislation analysis. (For details, go to <http://uk.reuters.com/article/idUKTRE5BE4MW20091215>.)

Lucas and Chambliss said the statement made by Secretary Vilsack implies a lack of confidence in the modeling used by both USDA and the EPA. Additionally, they ask that both USDA and EPA report to the

House and Senate Agriculture Committees on the problems with the economic model in order to reflect realistic scenarios while examining the impact of cap and trade on the agriculture and forestry sectors. The text of their letter is available at <http://agriculture.house.gov/republicans/pr091217.shtml>.

**What Constitutes A Violation of The Packers And Stockyards Act (PSA)?** According to the U.S. Fifth Circuit Court of Appeals, there is no violation without proof that competition has been negatively affected. The ruling came in *Wheeler vs. Pilgrim's Pride*, a case that involves three contract growers' claims that the poultry company acts unfairly in awarding different contracts to different growers.

*Feedstuffs* reports the ruling overturned decisions by a district court and a three-judge panel of the circuit court in which judges said adverse affects on competition need not be shown to prove violation of PSA even though almost all other circuits have ruled to the contrary in similar cases. The case still can be appealed to the U.S. Supreme Court.

The circuit, on a 9-7 vote, cited a long history of decisions by circuit courts and the Supreme Court that PSA identifies practices as deceptive and unfair only if they lead to decreased marketplace competition and said the way in which Pilgrim's Pride awards contracts is not anticompetitive. The circuit said PSA is "about competition, not practices per se."

**Federal Government Again Examines Agriculture Competition:** The Department of Justice (DOJ) and USDA have announced the dates and locations of joint public workshops that will explore competition and regulatory issues in the agriculture industry. The events will be the first joint DOJ / USDA workshops ever held to discuss these issues. The reported goals of the workshops are to promote dialogue among interested parties and foster learning with respect to the appropriate legal and economic analyses of these issues, as well as to listen to and learn from parties with experience in the agriculture sector. Each workshop may feature keynote speakers, general expert panels, and break-out panels that will address more narrowly-focused issues. The public will have an opportunity to ask questions and provide comments at each workshop, and TCFA will participate in the livestock industry workshop on Aug. 26 at Colorado State University. TCFA also is working with NCBA and other state affiliates to develop written comments, which are due by the end of the year. Additional workshops are scheduled on seed, poultry, dairy and farm to retail price margins.

TCFA members wishing to submit individual comments may do so by providing two paper copies addressed to the Legal Policy Section, Antitrust Division, U.S. Department of Justice, 450 5th Street, NW., Suite 11700, Washington, D.C., 20001 and one electronic version submitted to [agriculturalworkshops@usdoj.gov](mailto:agriculturalworkshops@usdoj.gov).

The Antitrust Division is requesting that the paper copies be sent by courier or overnight service, if possible, because U.S. postal mail at the DOJ is subject to delay due to heightened security precautions.

Additional updates and information, including agendas and speakers, will be posted on the Antitrust Division's events website at <http://www.usdoj.gov/atr/events.htm>. You also can view the *FEDERAL REGISTER* notice at <http://edocket.access.gpo.gov/2009/pdf/E9-20671.pdf>.

**There Are Promising Signs Of A Rebound In U.S. Beef Exports** in the latest monthly report from USMEF. With shipments totaling 82,627 metric tons (mt.), October was the best month of the year so far in terms of volume. As for value, at \$274.7 million, the October figure was the third best of the year, slightly behind May and June.

While still below year-ago levels, October's beef exports show a 12% increase in volume and 5% in value over the prior month and exceed the 2009 monthly average by 11% in volume and 7.5% in value.

"This has been a tough year globally for the beef industry due to the rough economic conditions," said Philip Seng, USMEF president and CEO. "This year USMEF realigned its resources to put a lot of our emphasis on markets and niches within markets that showed potential for near-term growth, such as the convenience store niche in Japan, and that has helped limit the overall decline even though the strong U.S. dollar made our products relatively more expensive."

Japan also continues to outpace 2008 totals by a significant margin. October exports of U.S. beef were up 24% in volume and 26% in value over October 2008. January-October exports to Japan totaled 78,823 mt., valued at \$404.9 million – an increase of 22% in both volume and value.

To see more of the data from USMEF, go to <http://www.usmef.org/TradeLibrary/files/October%202009%203.pdf>.

**Oklahoma Attorney General Drew Edmondson Suffered More Setbacks** in his lawsuit against 11 poultry companies, according to accounts by the *Tulsa World* and *Feedstuffs*. The case involves Edmondson's efforts to prevent poultry growers from applying poultry litter as fertilizer on land in the Illinois River watershed.

In Tulsa this week, Federal Judge Gregory Frizzell threw out the state's claim that poultry litter is solid waste under federal statute. Also, the judge ordered the state to hand over records of all soil tests conducted by the state in the watershed after attorneys for the defendants argued that the state was "cherry picking" data to show especially high levels of phosphorous in the soil and waters.

The state rested its case this week. As the defense took its turn, it began by seeking to prove that poultry litter is not a significant source of phosphorous and algae growth in the watershed, and that wastewater treatment plants are more the concern.

**More Government Assistance For The Dairy Industry Is On The Way.** USDA has announced implementation of the new Dairy Economic Loss Assistance Payment (DELAP) program. The 2010 Agricultural Appropriations Bill authorized \$290 million for loss assistance payments to eligible dairy producers.

Eligible producers will receive a one-time direct payment based on the amount of milk both produced and commercially marketed by their operation during the months of February through July 2009. Production information from these months will be used to estimate a full year's production for an operation to calculate the payments, using a 6 million pound-per-dairy operation limit. *Reuters* reported the maximum payment available to a producer would be \$19,200.

For more information about DELAP, go to [http://www.fsa.usda.gov/FSA/newsReleases?area=newsroom&subject=landing&topic=ner&newstype=newsrel&type=detail&item=nr\\_20091217\\_rel\\_0619.html](http://www.fsa.usda.gov/FSA/newsReleases?area=newsroom&subject=landing&topic=ner&newstype=newsrel&type=detail&item=nr_20091217_rel_0619.html).

**Americans Rank Food Safety Concerns As The Top Food Story Of 2009**, according to a survey commissioned by Hunter Public Relations.

The survey, conducted by the market research firm Wakefield, asked 1,000 American adults what they considered to be the most memorable food stories of the year. Here is the survey respondents' top ten list:

1. Food safety concerns
2. Newly poor swell lines at food banks
3. Consumers cut food spending sharply
4. Pork industry fights concerns over swine flu
5. 2 million enjoy free breakfast at Denny's
6. Health experts propose soda tax
7. Michelle Obama's agenda including healthful eating
8. Julia Child biopic: Julie and Julia
9. President Obama orders burger with spicy mustard
10. Gourmet magazine goes out of print

Survey responses also produced the following top ten list of the most significant food stories of the decade:

1. Childhood obesity
2. Bovine spongiform encephalopathy
3. Rise of food safety concerns
4. China's tainted milk scandal
5. Trans-fat revolution
6. Genetically modified foods
7. Organic food becomes mainstream
8. Expansion of the food pyramid
9. Atkins diet and the low-carb craze
10. Nutraceuticals and the popularity of herbs, vitamins and functional foods

**TCFA Offices Will Be Closed** Thursday, Dec. 24 and Friday, Dec. 25 for Christmas. There will be no *Newsletter* next week. The TCFA offices will also be closed on Friday, Jan. 1 for New Year's. The Jan. 1 edition of *Newsletter* will be sent out one day early on Dec. 31. TCFA wishes everyone a Merry Christmas and a prosperous 2010.

Please note: All links are still available at <http://www.tcfa.org> under This Week's Newsletter links.