NASDA Policy Statements

Updated Feb, 25 2013
Downloaded May, 02 2013

NASDA Policy Statements updated with amendments passed during the 2013 Winter Policy Conference.

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1 Animal Health Protection and Disease Control

1.1 INTRODUCTION

The need for basic and applied animal health protection and disease control research continues to demand attention. There is a critical need to strengthen integrated animal health management programs to facilitate the transfer of information and technology from laboratory to the producer/consumer. Research is needed to prevent introductions of pathogens into the food chain by developing methods to reduce or eliminate them from animals during production.

Currently not enough scientifically-based information is available to define what constitutes a state of well-being in animals. Behavioral, physiological, health, and production parameters need to be incorporated into animal health research. This will lead to improved management practices and systems which will ensure the well-being of animals while maintaining affordability and competitiveness for producers.

1.2 FOREIGN AND DOMESTIC ANIMAL HEALTH ISSUES

1.2.1 Cost-Share Criteria for APHIS Emergency Programs

APHIS has published a proposed rule that would codify a standardized cost-sharing formula for animal disease and plant pest and disease emergency eradication programs that are conducted cooperatively with states. Unfortunately, expanding world trade and the threat of bio-terrorism have increased the risk of destructive pests and diseases being introduced into the United States. The United States Department of Agriculture (USDA) is the federal agency statutorily charged with preventing the introduction, spread and establishment of plant pests and diseases, noxious weeds and pests and diseases of livestock in the United States. States are not federally mandated to partner with USDA in this endeavor yet have historically done so with great success. Developing a plan on how the USDA should respond to emergencies is not without merit. In fact, NASDA's Animal Health Safeguarding Review and the Safeguarding American Plant Resources Review conducted by the National Plant Board contain recommendations that would facilitate the kind of out year planning envisioned in the proposed rule.

Emergency programs relating to animal and plant health by their very nature, however, do not accommodate a "one size fits all" approach. While some suggest a cost-share formula would yield savings to the Federal Government in future years, it will actually result in quite the opposite for states, who are already bearing significant costs associated with plant and animal pest and diseases that are not detected at the border.

NASDA urges USDA to withdraw the proposed rule and work with states toward the development of a joint system for the early detection and eradication of plant and animal pests and diseases. NASDA's Animal Health Safeguarding Review and the Safeguarding American Plant Resources Review would provide a sound footing for the development of a science-based rule

that combines the unique abilities of each partner. NASDA discourages attempts to construct meaningful eradication programs around budgetary decisions.

1.2.2 Infectious Disease Concerns of Poultry and Other Birds

Outbreaks of Exotic Newcastle disease (END) and avian influenza (AI) are costly and disruptive events for many Americans and significant threats to the U.S. food supply. There is a 30-year-history of repeated outbreaks of END and AI, and other dangerous avian diseases. The danger of these diseases is significantly magnified when they spread into and among backyard and barnyard flocks of poultry, game birds, game fowl, waterfowl and other avian species. Thousands of these types of flocks exist in many states, often in close proximity to commercial poultry operations. The composition, management and exact locations of these critically important flocks are often unknown. Therefore, mitigation of this dangerous situation by education and, when needed, regulatory action first requires the identification of the addresses and geographical locations of these flocks. Such identification would benefit from assistance from various grassroot county and township agencies. NASDA encourages states to give high priority to the formation of pilot studies, in cooperation with grassroot agencies, to find locally appropriate ways and means to precisely locate backyard and barnyard flocks, and other birds. In addition, states are encouraged to explore a national strategy to advance the identification and biosecurity of backyard and barnyard flocks, and other birds. NASDA will survey states to learn of their policies, activities and concerns related to regulation of backyard and barnyard flocks, and other birds.

1.2.3 Regional Equine Event Permits

The movement of equine between states in the southern region for special events (e.g. exhibition, trail rides, horse fairs) has become increasingly popular. All states require a Certificate of Veterinary Inspection (CVI) issued within the previous 30 days and evidence of a negative equine infectious anemia test for a specified length of time (typically 12 months) in order for equine to enter their states. Georgia, Alabama, and Florida have had a mutual agreement for approximately 15 years that allows movement of equine for special events for a six month period through the issuance of an Equine Event Permit issued by the state of origin. An additional agreement with South Carolina has been in place for approximately one year. Such permit is not valid for change of ownership.

The Southern Animal Health Association is currently pursuing a Memorandum of Agreement between the southern states for a Regional Equine Event Permit. The southern state veterinarians agree that such a permit for this type of equine movement presents minimal risk for the introduction of disease and facilitates movement of equine throughout the southern region. NASDA supports efforts to implement a Regional Equine Event Permit and encourages each member to approve its use in their state, recognizing that appropriate safeguards must still be taken to ensure proper disease control.

1.2.4 Rights of States

NASDA diligently supported the Animal Health Protection Act (AHPA), the purpose of which was to modernize this nation's ability to safeguard animal health. State animal health officials were careful to ensure that AHPA language did not appear to preclude states from enacting and administering laws and regulations more stringent than federal requirements in order to safeguard an individual state's animal industries.

To the surprise of state officials, APHIS administrators in April 2003 reported that enforcement of state animal health requirements which are more restrictive than federal policy could be legally challenged. Federal officials cited legal interpretation of the new AHPA language as their authority for federal preemption of state regulations. From a state perspective, lack of enforcement of state requirements could result in state officials being in violation of their own state statutes.

The long and successful history of major federal disease control programs (e.g. brucellosis, tuberculosis, pseudorabies) have historically relied upon preceded actions at the state level for successful eradication, in collaboration with the private sector. The Livestock and Horticulture Subcommittee of the United States House of Representatives Agriculture Committee is considering a hearing to address the implementation status and areas of concerns of the AHPA.

NASDA defends the rights of states to adopt and enforce statutes, regulations, policies that may be more restrictive than federal requirements in order to have necessary protections of animal health and animal industries in their state.

1.2.5 Uniform Disease Testing

Uniformity in livestock disease quarantine protocols between the United States, Canada and Mexico demands some attention. In some cases, the United States' requirements are unnecessary and, perhaps, redundant, while in other cases, compliance with those import requirements is not being met. Disease testing requirements that are applied by all three countries would assure that protocols are being met and that each country's animal and public health is adequately protected.

NASDA believes that the United States, Canada, and Mexico should work together to develop disease testing protocols which are based on the assessment of risk of disease introduction and to develop uniformity and transparency in disease control programs.

1.2.6 Wild and Exotic Animals

The unregulated, or inadequately regulated importation, commercialization, interstate movement and reintroduction of wild and exotic animals, including Cervidae and other wild and exotic ungulate species, poses a disease risk to domestic livestock. Even the barter and sale of surplus animals from quarantined zoos could result in the dissemination of diseases presently foreign to the domestic livestock. There is a need within the United States to address all

susceptible animal species in disease control regulations. USDA should obtain authority over all animal species in order to provide for adequate control measures. The failure to do so will jeopardize the success of national disease eradication programs.

Non-indigenous ticks are entering the United States with imported “wildlife” such as lizards, snakes and tortoises, which are imported for the pet trade. These ticks threaten cattle and wildlife by possible transmission of diseases that could cause great economic hardships to agriculture and inhibit foreign trade. Apparently no federal agency has responsibility for the inspection and control of these invasive pests as they arrive on “wildlife” from countries with known infestations of dangerous foreign diseases. Few acaricides have been approved for treatment inside the United States of these “wildlife” for the pests. NASDA encourages the USDA and all other agencies to work closely with foreign governments, with frequent interchanges of information and technical assistance between countries, so that the prevention/eradication efforts and elimination from all animals being exported can be coordinated with prevention/eradication of these pests in the United States. NASDA urges that APHIS and the U.S. Fish and Wildlife Service take all necessary measures to prevent the introduction of non-indigenous ticks into the United States.

1.2.7 Disposal of Animal Carcasses and Animal Parts

Significant animal mortalities from natural disasters as well as recent outbreaks of infectious animal diseases such as Avian influenza demand expeditious and appropriate disposal of animal carcasses in a manner that will prevent disease spread, prevent excessive air emissions and prevent ground water and environmental contamination by infectious agents or by the byproducts of decomposition. State and federal agencies must have protocols, authorities and approvals in place for appropriate animal carcass disposal prior to, and not after, emergency disease or emergency mortality events. NASDA supports the development of a national coordinated carcass and SRM disposal / utilization plan / guidance that will enable states to be better prepared to address emergency and routine livestock disposal while protecting both public health and the environment.

Accurate identification of animals and products, traceability, and documentation of events is essential to ensure appropriate measures. In addition, adequate laboratory and diagnostic capabilities as well as essential interagency real time communication of critical information are important elements for animal carcass disposal. States must have necessary statutory authorities to deal with proper disposal of affected agricultural materials from either disease or other disaster incidences whether from imported or domestic animal production.

NASDA will work to formulate and gain approval from all agriculture and environmental agencies of appropriate protocols for permit sanitary carcass disposal; to provide effective systems of identification; to promulgate needed authority in model language; to authorize needed resources and laboratory and diagnostics capacities; and to effectively incorporate interagency communication agreements.

1.2.8 Emergency Disease Preparedness/Response

Government infrastructure for emergency animal disease preparedness has decreased significantly at both the state and national levels. This has led to serious concerns regarding our ability to control and eradicate foreign animal and poultry diseases in the United States. The economic and trade implications are enormous.

Successful strategies for emergency disease preparedness will require the combined cooperative effort of industry, government, and academia. USDA, the states, and regional groups must work in concert to improve communications and to prepare for dealing with emergencies involving the introduction of foreign animal or poultry diseases. NASDA supports the Animal Health Protection Act (AHPA) introduced in Congress in 2000. The AHPA would be a powerful tool for safeguarding the United States from dangerous incursions by granting the USDA broader authority. Appropriate funding must be available to carry out an effective emergency disease response program.

The National Veterinary Services Laboratory (NVSL) provides vital support for the animal health programs of the Animal & Plant Health Inspection Service (APHIS). The NVSL plays a crucial role in safeguarding the agriculture of the United States from harmful disease events. Because of its importance in protecting American agriculture, NASDA supports funding for necessary upgrades to the NVSL Ames, Iowa, facility.

The heightened awareness of foreign animal diseases due to natural events as well as intentional introductions has been met with like attention to the needs of appropriate funding and infrastructure to implement an effective emergency disease response program.

Although the threat for introducing any foreign animal disease into the US is high, the spread of Chronic Wasting Disease (CWD) poses the most immediate threat in the US, as well as multifaceted challenges that impact State Departments of Agriculture, Natural Resources, animal diagnostic laboratories, the farmed cervid industry, deer processors and hunters:

- The health of captive herds must be carefully monitored to protect the economic future of the captive cervid industry
- Surveillance of the free roaming cervid population must be conducted to determine the prevalence and spread of the disease.
- Hunters must have a means of determining whether the animals they harvest are free of disease.
- The annual deer harvest must be sufficient to control population.
- Licensed deer processors require assurance of the disease status of hunter-killed deer in order to protect conditions in their facilities.

Central to the challenges is the need for reliable, rapid diagnostic testing for CWD. Current restrictions on state testing do not promote the broad-based, rapid testing necessary to meet potential demand. USDA's National Veterinary Services Laboratory (NVSL) conducts CWD surveillance, but is not equipped to provide the fast-turn around testing service required by hunters and processors and necessary to support programs of the Departments of Agriculture and Natural Resources. The current timetable for CWD results at NVSL is two to four weeks.

State laboratories must be able to provide CWD testing service. The majority of state-run diagnostic laboratories are prohibited from possessing reagents necessary to run the tests. A limited number of laboratories recently authorized under contract with NVSL are required to use specific equipment (Ventana) and protocols established by NVSL. Non-contract laboratories that own and use quality immunohistochemistry stainers capable of producing accurate CWD test results must purchase a $45,000 Ventana immunohistochemistry stainer and a host of expensive commodities to be recognized by NVSL.

NASDA acknowledges that prevention, containment and eradication of foreign animal diseases will require cooperative efforts of federal and state governments, industry, and academia. Further, NASDA urges USDA to:

- Expand the authorities of state-run diagnostic labs to conduct tests for foreign animal diseases, including CWD:

- Implementation of appropriate protocols to enhance the nation's infrastructure to address foreign animal diseases, including accepting test results from laboratories that utilize systems other than Ventana, which produce accurate foreign animal disease test results.

1.2.9 Bovine Spongiform Encephalopathy

Bovine Spongiform Encephalopathy (BSE) in livestock has gained much of the world's attention with its identification in Western and Eastern Europe, Israel, Japan and North America. BSE and other TSEs are considered serious animal health concerns. BSE has also become a public health issue as a result of the connection that has been made between BSE in cattle and variant Creutzfeld-Jakob Disease (vCJD) in humans. Public confidence in the beef supply is potentially affected each time another case of BSE in cattle is identified. Many questions remain that can only be resolved through further research, on-going evaluation and assessing the risks involved. Maintaining an adequate food safety system while additional knowledge is obtained remains a primary objective. NASDA supports a policy which assures that the U. S. actions are supported by the best available science–a policy that embraces research as a method to advance current knowledge and understanding, is based on risk analysis, is able to assure the consuming public that the beef supply is safe because of the actions taken by U. S. public agencies and is fair to U. S. beef producers. Within this context, NASDA supports—

- Development of a feed ban based on the best available science and is enforceable.

- Increased research – especially to develop an in vitro testing procedure that is rapid, accurate, and cost efficient, further analysis of other possible methods of transmission of the disease in cattle (e. g., blood/tissue), other possible avenues of transmission to humans, disposal options for SRM, infectivity of tissue from animals under 30 months of age, develop and implement effective methods for inactivation of transmissible spongiform encephalopathy (TSE) agents, further determination of pathways by which the agent causes the disease.

- Risk assessment – determine options for proper actions based on risk assessment.

- Normalization of trade and consideration of regionalized barriers, where appropriate, to minimize the overall effect on U. S. producers while regional issues are worked out. Regionalization areas may be across international borders.

- An emphasis on developing whatever is needed to allow the U. S. to qualify for better than minimal risk status with our trading partners.

- The need for an animal ID system that is operational as soon as practical.

- Harmonization of all animal health standards. Harmonization of BSE Standards while avoiding reaching agreement on other standards is not generally recognized as free trade in the U. S. No feeder cattle should be allowed to be imported until agreement is reached on harmonization of other animal health standards, especially bluetongue, anaplasmosis, brucellosis, and tuberculosis.

- NASDA realizes there is no such thing as a no cost policy-if the U. S. needs to take actions to assure eradication in a reasonable timeframe, NASDA believes that affected sectors of the industry (e.g., renderers, perhaps others) should be assisted to assure compliance is reached as reasonably as possible.

- Surveillance programs that assure the U. S. is compliant with OIE Standards and that go beyond compliance where such actions can lead to the removal of infected animals from the U. S. herd (e.g., due diligence on trace-forwards, trace-backs and cohorts).

1.2.10 Animal Disease Eradication and Control

The completion of several disease control programs of significance to the economic viability of livestock production agriculture in the United States is nearing. Bovine tuberculosis, bovine brucellosis, swine brucellosis and pseudorabies are examples of diseases that will likely be eradicated from domestic livestock. Funding cuts and other resource constraints threaten the ability of USDA, specifically the Animal and Plant Health Inspection Service (APHIS), to complete these important programs.

As international trade has increased, the threat of an outbreak of a foreign animal disease in the United States has also increased. Such an outbreak would disrupt production of food animals,

interrupt the domestic meat and poultry supply, adversely affect food processing, marketing and the distribution chain, and cause the loss of export markets for United States livestock and livestock products. The loss to the United States would be billions of dollars in trade of agricultural products. NASDA encourages APHIS to accept the DNA test in sheep, proven by ARS researchers as well as scientists in Great Britain as reliable, in determining scrapie susceptibility.

NASDA believes that disease control programs are essential if eradication of animal and poultry diseases and the prevention of the introduction or outbreak of foreign or domestic diseases is to be successful. Priority should be given to programs whose efforts are aimed at preventing the outbreak of animal health diseases and protecting our nation's domestic livestock from foreign diseases. Valid tests should also be developed to properly detect diseases that pose a risk to animal health. Some animal health diseases that require specific attention are:

- Avian Influenza
- Bluetongue
- Brucellosis
- Johnes Disease
- Pseudorabies
- Raccoon Strain Rabies
- Scrapie
- Tuberculosis
- Vesicular Stomatitis
- Chronic Wasting Disease
- Anaplasmosis
- West Nile Viral Encephalitis

Sufficient resources should be made available for such programs so that the appropriate agencies can provide indemnity to owners of diseased livestock, which will encourage the elimination of remaining infected herds, and maintain an adequate number of animal health professionals able to respond to animal health issues.

NASDA believes that any comprehensive program to control or eradicate disease from domestic livestock should include provisions for testing, quarantining exposed animals, and indemnifying diseased animals. All susceptible species should be included in regulations addressing disease control, including non-livestock species that can harbor and/or transmit diseases of concern.

Historically, animal disease eradication and control programs have been cooperative state/federal programs and should continue to be cooperative state/federal programs.

APHIS has published a proposed rule that would codify a standardized cost sharing formula for animal disease and plant pest and disease emergency eradication programs that are conducted cooperatively with states. Unfortunately, expanding world trade and the threat of bioterrorism have increased the risk of destructive pests and diseases being introduced into the United States. The United States Department of Agriculture (USDA) is the federal agency statutorily charged with preventing the introduction, spread and establishment of plant pests and diseases, noxious weeds and pests and diseases of livestock in the United States. States are not federally mandated to partner with USDA in this endeavor yet have historically done so with great success. Developing a plan on how the United States Department of Agriculture should respond to emergencies is not without merit. In fact, NASDA's Animal Health Safeguarding Review and the Safeguarding American Plant Resources Review conducted by the National Plant Board contain recommendations that would facilitate the kind of out year planning envisioned in the proposed rule.

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1.2.11 Homeland Security and Agriculture

NASDA strongly supports the pest exclusion mission area known as Agricultural Quarantine Inspection (AQI) at the nation’s ports of entry that serve to protect our domestic agriculture industry from a foreign pest or disease incursion. After the events of September 11, 2001 and the anthrax incidents that followed, AQI functions were transferred from the United States Department of Agriculture (USDA) to the newly created Department of Homeland Security ("DHS") in an effort to consolidate all governmental functions that protect the nation against threats to the homeland into one agency. NASDA strongly supports the mission and efforts of DHS to prevent terrorists and terrorist weapons from entering the United States. While the prevention of terrorists and terrorist weapons from entering the United States is vital to the security of the nation, so too, is the protection of the nation's food supply, our agricultural economy, and animal health. Introductions of foreign animal diseases, such as Exotic Newcastle Disease and emerging diseases, such as West Nile Virus, Avian Influenza and Chronic Wasting

Disease, are of great concern to the nation's livestock and animal producers and could cause significant impacts to the nation's agricultural economy.

Unfortunately, since the AQI transfer, pest and disease introductions have increased dramatically. It is clear that DHS' administration of the AQI program lacks efficacy and currently there are no performance measures relative to AQI functions that DHS must meet to ensure the resources that DHS receives to protect the U.S. domestic agriculture sector are being utilized for this purpose. In addition, in order for AQI to remain effective while housed at DHS, it was essential that DHS and APHIS establish a consistent and clear communication structure that provides for problem resolution with built-in accountability in order to provide the greatest degree of risk reduction. Unfortunately, DHS' mission is so broad that AQI is not viewed within the agency as a critical function either in terms of staffing or funding. Therefore, NASDA supports the re-assignment of the AQI mission area back to USDA APHIS given that they have the expertise to carry out a focused, coordinated and effective agricultural safeguarding effort and are statutorily charged with managing exotic pests and diseases.

NASDA urges that increased emphasis be placed on the mission of safeguarding agriculture and strongly supports the immediate adoption of quantifiable performance measures for AQI functions to ensure the program is meeting the statutory mission for which it was created – protecting American agriculture from a foreign plant or animal pest or disease. These performance measures should consider the interdiction, control, eradication and suppression costs borne by state and local governments for foreign pests and diseases that AQI fails to interdict at the ports of entry. These costs shall be assessed to the budget of the parent department of AQI. In addition, NASDA urges DHS' Office of Domestic Preparedness to provide specific funding opportunities to state departments of agriculture for local preparedness similar to grants provided to state departments of health.

1.3 APHIS REORGANIZATION AND CONSOLIDATION

USDA's Animal and Plant Health Inspection Service (APHIS) consolidated the following offices — Veterinary Services (VS), Plant Protection and Quarantine (PPQ), Wildlife Services, Animal Care, and Investigations and Enforcement Services — into two regional offices. The consolidation streamlined the administration of programs, permitted cross utilization of personnel, and made the agency more responsive to the needs of the states and their constituencies. NASDA commends APHIS for its efforts to seek efficiency within the federal government and to improve satisfaction of its constituencies. We recognize the importance of the consolidation of APHIS programs into eastern and western regional offices as a cost savings measure, while maintaining accessibility by customers and partners. NASDA recommends that, to prevent negative impacts on services, costs for future reorganizations should not be taken from operational programs, but from agency overhead savings.

Further, NASDA recognizes that plant and animal health issues may not be similar within the consolidated regions and that current funding levels of programs in a particular region may be diminished due to priority setting as a result of the regional consolidation. NASDA urges APHIS

to consider the plant and animal health needs of the states within the current regional composition when allocating program funding.

NASDA strongly supports increasing funding to PPQ Unit for the purpose of interception of illegal and smuggled food products that pose a direct threat to the food security of the United States of America and to homeland security. NASDA also strongly supports increasing APHIS's ability to fine and prosecute offenders of United States' agricultural import laws. NASDA also recognizes that the 48 inspectors that the PPQ Smuggling and Interdiction Program has for inspection of all imported food and agricultural products into the United States is severely inadequate and further poses a direct flaw in the United States' ability to ensure food security and homeland security.

1.4 ANIMAL DAMAGE CONTROL

(Updated February 8, 2010)

USDA's Wildlife Services program (formerly the Animal Damage Control program) provides leadership in managing problems caused by wildlife. Because wildlife can cause significant damage to private and public property, natural resources, agricultural crops, forests, pastures, and urban and rural structures, as well as pose a serious threat to livestock and human health and safety, proper wildlife management is essential. NASDA supports full funding for the USDA Wildlife Services Programs and encourages the U.S. Congress and the Administration to provide the necessary resources to strengthen such programs for the benefit of the American Public.

The emergence and demonstrated spread of rabies in the United States has overwhelmed state rabies control and prevention programs. NASDA supports the appropriation of federal funds to support rabies control and vaccination programs.

1.5 ANIMAL DRUGS

Livestock Tampering at Exhibitions

Livestock tampering and the use of illegal drugs at exhibitions around the nation have become prevalent. Some states have passed laws or have considered legislation making it a felony to administer illegal or unapproved drugs to livestock, or otherwise illegally tamper with livestock before or during exhibition. Valid tests have been developed to detect the use of drugs in livestock exhibitions.

Several implications exist if action is not taken on this issue. First, public safety and health issues exist regarding the wholesomeness of meat and dairy products. Second, the use of illegal, unapproved, or off-label drugs in exhibition livestock jeopardizes consumer confidence in the safety of meat and the integrity of our inspection system. And, third, the "win at all cost" attitude of some exhibitors and fitters encourages unethical practices.

NASDA denounces tampering and other unethical practices at livestock exhibitions and encourages states to aggressively survey and test, including ultrasound at exhibitions to ensure that food safety, consumer confidence and ethical standards are upheld. The federal government should provide aid in combating the administration of illegal drugs to exhibition livestock. Further, a national code of conduct/practices for showing exhibition livestock should be developed by the National Association of Agricultural Fair Agencies.

1.6 ANIMAL WELFARE

Quality animal care is at the heart of farm animal production in an age when science and technology have moved farming from horsepower to computer power. Farmers and ranchers devote their lives to providing a safe, ample supply of food and fiber for the nation and many beyond our borders. Farming is a business and farm animals are not pets. Because the margin between costs of production and marketing products is so small, today's producers recognize that poor or inhumane management is never profitable. Our nation's farmers and ranchers must use the highest quality, most nutritious feeds, provide safe, clean stress free environments couple with a love genuine concern for their animals. However, there is a clear distinction between animal welfare and animal rights:

- *Animal Welfare* is the proper care and management of animals. Farmers and ranchers believe animals raised under humane conditions and practices will be productive and profitable.

- *Animal Rights* philosophy goes beyond the promise of protecting the physical well-being of animals and seeks to establish that animals have inherent legal and ethical rights that are equal to those of humans. Adhering to this philosophy would mean the complete elimination of all uses of animals for food, clothing, leisure or research. This would lead to the total abolition of animal agriculture.

A healthy diet is based upon moderation and animal food products are an excellent source of essential dietary nutrients. Fat is necessary for hormone production and healthy skin and enables the body to absorb fat-soluble vitamins such as A, D, E, and K as well as providing calories for energy. Advances in modern medicine, as well as agriculture production, have been made possible as a result of research involving the use of animals. We support the humane and judicious use of animals in research carried out under good laboratory practices.

There is a growing need for adding animal welfare, which will include information on the value of farm animals, to the curriculum for elementary, middle and junior high schools. Youth programs should provide appropriate developmental and learning opportunities through working with farm, companion or when appropriate, research animals.

Public concern about animal welfare continues to increase. The industry should address such concerns including the increasing need for both consumer and industry education about the welfare of animals and their value to the nation, new techniques to assure and improve the

welfare of animals, national voluntary standards for animal husbandry practices, mechanisms to assure fair and proper enforcement of animal welfare regulations, government funding for this increased regulatory burden, and stronger laws and regulations to end threats, harassment, destruction and disruptive actions by animal rights activists. Animal welfare regulations and guidelines should be developed and promoted by the appropriate industry segment. These regulations should include guidelines about animals used in biomedical research; standards of practice for all livestock species, both for production and marketing including transportation; the handling of downer animals; and animal care including a protocol for farmers and ranchers to use to evaluate the welfare of animals on their farms and ranches. NASDA also encourages the dairy industry to adopt voluntary guidelines for the care of dairy cattle, and to urge that any requirements regarding the treatment of animals be based on science.

We support the humane and compassionate care of all animals and encourage the development of educational programs and activities that communicate factual information on food and fiber production to the public. Research should be conducted that evaluates and develops production systems that insure an environment that provides for the health and well-being of animals, while simultaneously providing an economic and wholesome food and fiber supply for the nation's consumers.

Further, we support establishment of guidelines for use by livestock exhibitions, including petting zoos, to encourage minimized or controlled animal contact by the public, and to promote handwashing/sanitizing by the public. It is recognized that effective handwash practices protect both the public and animals from potential illness.

We believe that the goal of all persons involved in production animal agriculture should be to produce a quality food or fiber product for consumers. In order to accomplish this goal, producers and all other components of the marketing chain must operate in a profitable manner. Maintaining the health, welfare and value of animals as they are raised, marketed, transported and processed is of central importance.

Horses for Slaughter

As animals—particularly horses—age, their ability to survive without extensive care decreases. Current policies allow humane, veterinarian-supervised euthanasia of horses slaughtered for human consumption. These policies assist in the humane treatment of animals as they age, since they continue to maintain a market value. If limitations on uses of horse meat are enacted, many horses will die from abandonment and disposal problems will also result. NASDA supports policies which allow horse slaughter for human consumption to continue to be available to producers.

1.7 DOMESTIC BEE PROTECTION

The continued production of high quality food and fiber crops in the United States depends on the ability of the American beekeeping industry to provide pollination services. Research

initiatives conducted by the U.S. Department of Agriculture-Agriculture Research Service (USDA-ARS) to protect and improve pollination resources have allowed the American beekeeping industry to become the finest in the world. International trade agreements such as GATT and NAFTA were intended to lower international trade barriers, the effect of which may have contributed to the increase in the recent introduction of undesirable honey bee diseases, parasites, pests, and/or genetic strains of bees into the United States. These recent introductions of bee diseases and pests have increased the burden on American beekeepers to maintain a healthy domestic supply of bees. An example is the Africanized honey bee. The Africanized honey bee (AHB) has characteristics that pose a threat to the United States beekeeping industry and the general public.

It is essential to maintain a healthy domestic bee stock to pollinate crops, and for the production of honey. NASDA encourages the USDA to vigorously enforce the Federal Honey Bee Act in order to protect the beekeeping industry from introductions of undesirable honey bee diseases, parasites, pests, or genetic strains of bees in the United States. Pollinator and bee disease research programs should also continue to receive adequate funding.

New regulations are being established for the importation of honeybees and related articles. It is therefore important that APHIS has data of the current status and risks of honeybee diseases and pests available so that informed decisions may be made regarding future import requests. NASDA requests that APHIS provide a mechanism similar to the Cooperative Agricultural Pest Survey (CAPS) for the purpose of establishing an ongoing, coordinated, nationwide survey to document the presence and/or absence of pests and pathogens which affect honeybees.

1.8 BRUCELLOSIS IN YELLOWSTONE BISON

Brucellosis has been known to exist in the bison of Yellowstone National Park (YNP) since 1917 and in the elk of the Greater Yellowstone Area (GYA) since the 1930s. Numerous intermittent efforts during the time between 1935 and the 1970s have been made by USDA and state animal health officials to gain cooperation of the National Park Service (NPS) to control and eradicate brucellosis from YNP bison. More diligent efforts have been continuous since 1988.

Until 1967, NPS officials conducted population controls of both bison and elk in YNP to maintain the population of bison and elk within the "carrying capacity" of the park (425 bison and 3,500 elk). These controls included capture and slaughter of bison, and the shooting of bison and elk. In addition, bison were tested periodically and reactors removed. YNP officials removed bison from the park and transferred ownership of YNP bison to other federal agencies and to private citizens. Some of these transfers were made without regard to the disease status of the bison.

In 1967, NPS initiated a policy of "natural regulation" (hands off management) within YNP. The bison population in YNP was 397 head in 1967. The bison population in YNP has been reduced from an estimated 3,500 head in 1996 to approximately 1,700 head as a result of the destruction of approximately 1100 head and the starvation of approximately 1000 head in YNP

during the winter of 1996/1997. The current population in GYA consists of 2,5000 bison and 120,000 elk. The Grand Teton National Park contains 250 bison.

Brucellosis infection in cattle, resulting from exposure to brucellosis-infected wildlife, may not be discernible for many months after the exposure occurred. The end result could be transmission of brucellosis to herds in a number of states. Without brucellosis eradication, efforts to set aside additional lands outside YNP are deceiving to the public and dangerous to domestic livestock and should be discouraged.

The President should delegate authority and responsibility for animal disease control over livestock, and animals carrying disease which may affect livestock, to APHIS, the agency specifically established for that responsibility. APHIS should be involved in the effort of eradicating brucellosis from the wild populations of bison and elk living within the Greater Yellowstone Area (GYA). The NPS should take responsibility for managing the wildlife, implementing a brucellosis management plan for bison and other species located in Yellowstone-Teton National Parks, and other parks in the system, and maintaining numerically, biologically, and genetically viable bison populations in the parks that will maintain the brucellosis Class Free status of Wyoming, Montana, and Idaho, thus protecting the ability of livestock producers to freely market and buy livestock, eliminating brucellosis-related risks to public health.

NASDA urges the Administration to direct Agriculture and Interior to collaborate with state agencies to address Brucellosis in wildlife in the GYA and to provide sufficient resources to control and eliminate Brucellosis from wildlife of the GYA.

1.9 AQUACULTURE

Aquaculture — the business of farming aquatic plants and animals — is the fastest growing segment of U.S. agriculture. Aquaculture is based on sustained production of renewable resources, promotes a healthy environment and provides an economically viable form of agriculture. As phenomenal as the growth of aquaculture has been over the past three decades, there remains significant constraints to realizing its full potential as a major force in American agriculture.

NASDA believes aquaculture should be considered a form of agriculture in the broadest sense and aquaculture products should be viewed and treated as agricultural commodities. This means that the aquaculture industry should have access to USDA financing, crop insurance, soil and water conservation, commodity grading and other marketing services and be subject to USDA's inspection and regulatory requirements comparable to those currently applicable to meat and poultry. Development of the aquaculture industry would be enhanced if the Department of Agriculture's (USDA) leadership role in aquaculture was reaffirmed. Furthermore, we encourage USDA to work with other federal agencies including established Sea Grant and National Marine Fisheries Service (NMFS) programs in the Department of Commerce and U.S.

Fish and Wildlife Service (FWS) programs within the Department of the Interior in order to enhance the role of the aquaculture industry in agriculture.

NASDA believes regulatory constraints imposed upon the aquaculture industry should be clarified, streamlined, and consolidated. The treatment of aquaculture as a form of agriculture by local, state and federal regulatory agencies should enhance development of the industry from a regulatory standpoint and provide a positive climate for development. Water Quality standards and regulation need to be based on science and reasonable risk assessment procedures. The US Environmental Protection Agency should rely strongly on the expertise within USDA and the aquaculture organizations in evaluating new technologies and best management practices for aquaculture, which can be utilized to improve water quality.

We believe the development of sound marketing strategies is crucial to the orderly and progressive development of the U.S. aquaculture industry. The research, extension and market development infrastructure utilized for other agricultural commodities has not adequately addressed opportunities for aquaculture. There is a need for collaborative research and education (with industry participation) to better identify consumption trends, market structure, market access, market elasticity, regional preferences, product form and demand equations from a regional, national, and international perspective. The opportunity for new international markets and the rise in competition from abroad increases the need for continued and expanded evaluation of foreign markets, trade constraints and markets potentials.

Further, there is a need for improved crop and marketing reports and a better definition of market relationships among domestic and foreign aquaculture products and traditional fisheries products. We support strong marketing education of producers and processors as well as consumers such as home processing, preparation and the nutritional quality of aquaculture products.

NASDA urges the Office of Management and Budget to approve USDA's National Agricultural Statistics Service funding for an annual aquaculture census which would provide statistics on the number of aquaculture farms, number of units sold, total sales, and average price per unit for most species for places which have or normally have $1,000 or more in agricultural sales. The census would provide data for the major species under the following categories: food fish, baitfish, ornamental fish, sport or game fish, crustaceans, and mollusks. Aggregated information for other fish and aquaculture products would also be published. Estimates would be published for each of the 50 states and the United States, except where prohibited by confidentiality laws. The estimated cost of conducting a census of this scope is $213,240 per year. The first annual census would update the information published in the 1998 Census of Aquaculture. This is the only source of aquaculture information for all 50 states and the United States.

NASDA believes the development of improved processing technologies and new products development represent important opportunities for the aquaculture industry. New value -added products can contribute to both domestic and export markets. NASDA endorses the HACCP principles for aquaculture processing and encourages USDA and FDA to provide on-going

training for the industry that is both cost effective and focused. Adoption of uniform quality standards throughout the aquaculture industry and assurance of product safety and high quality could assure a competitive edge for aquaculture products over the traditional capture fisheries or imported aquaculture products.

NASDA believes the process of development of minimum health standards by USDA should be with the direct involvement of the major aquaculture organizations, insuring coverage of all species groups and uses for the interstate and international movement of aquatic animals and plants. This is critical to the continued viability and growth of the aquaculture industry, domestically and abroad. The recognition of these standards will facilitate the movement of aquaculture products in commerce and protect the industry from losses due to disease outbreaks and adverse public opinion. Further, there is need for the development of rapid, non-lethal sampling and testing techniques for the diagnosis of aquatic diseases as well as state and national surveillance systems to identify disease early in its course. Regulatory constraints utilizing new identification methods and testing protocols should have nationally accepted validation and interpretation prior to adoption.

The development of the U.S. aquaculture industry is severely constrained by a lack of federally approved chemicals, vaccines, and therapeutic compounds that could contribute to increased production efficiency and offset annual losses of millions of dollars to disease and parasites. The process of certifying shipments of live fish and aquaculture products for export needs to be streamlined in the areas of jurisdiction as well as the use of therapeutants and disease free status. There is opportunity to facilitate the process of clearance and approval of desirable and safe therapeutants through research to provide necessary information, through improved communications among government agencies and the industry, and through increased understanding of the aquaculture industry by regulatory agencies. We encourage the enhancement of the role of the National Research Support Program - 7 (NRSP-7), formerly IR-4 Program, in order to provide further assistance to aquaculture for development of minor use drugs.

1.10 ANIMAL IDENTIFICATION

The number of animals officially identified in existing animal disease program databases the United States has been decreasing rapidly over the last few years due to the successes of disease eradication programs that have historically provided the foundation for animal identification. The ability to efficiently track food producing animals from birth to slaughter is vital to safeguarding animal health, protecting the safety of the U.S. food supply and promoting the economic vitality of animal agriculture. More than ever, States need modern tools for capturing animal health data in an integrated and automated fashion to track the health of livestock populations. USDA's National Animal Identification System (NAIS) is a voluntary partnership among producers and government that seeks to ensure a 48-hour traceback of livestock in the United States. NAIS utilizes three components - premise registration, animal

identification, and animal tracing - to locate and eliminate potentially diseased animals. The system and all 3 components are based on voluntary enrollment by livestock producers.

NASDA supports and encourages the U.S. Congress to legislatively remove livestock from the J-List, an amendment to the Tariff Act of 1930 (19 U.S.C. § 1304(a)(3)(J); 19 C.F.R. § 134.33) This would allow animal health authorities to identify imported livestock, in concert with the recently enacted Country of Origin Labeling provisions in the 2008 Farm Bill (Food, Conservation, and Energy Act of 2008, Section 11002.). Moreover, identification of imported livestock is necessary to facilitate quick traceback of livestock that were previously and unknowingly exposed to potential new and emerging diseases, or diseases with long incubation periods, such as BSE and tuberculosis. The need to locate these animals may not be realized until many years after the date of importation.

The USDA released a draft Business Plan for implementing NAIS in December 2007. The primary focus of the business plan is streamlining current animal health programs to increase NAIS participants through these systems. The basic strategies outlined in the business plan include; focusing on cattle breeding herds as first priority, harmonizing and standardizing data collection methods using NAIS standards across existing government programs; integrating automated data capture technologies within existing disease programs; expanding partnerships with state and tribal governments; collaboration with industry; and continued exploration of new technologies and their applications.

NASDA supports USDA's efforts within the NAIS draft Business Plan to form a more workable, common sense approach to enhance animal ID for animal health and disease surveillance purpose. NASDA further supports the recent producer confidentiality provision within the 2008 Farm Bill (Food, Conservation, and Energy Act of 2008, Section 1619.) Section 1619 prohibits disclosure of information that agricultural producers or owners of land have provided to USDA concerning agricultural operations, farming or conservation practices, or the land itself, in order to participate in USDA programs such as NAIS.

NASDA also supports and encourages the use of state-held animal ID program databases that are fully equipped to communicate with the other state-held animal ID program databases to trace animal movement in the event of a disease outbreak. NASDA further supports the use of a standardized animal identification numbering system for livestock that is technology-neutral, enabling producers to choose the identification tag that best fits their operations and management practices allowing producers to manage costs.

2 Plant Health Protection and Disease Control

2.1 INTRODUCTION

Protecting the health of our nation's crops is becoming an increasingly important and difficult task. The passage of trade agreements has increased the flow of fruits, vegetables, and propagative plant materials across our borders making the United States more susceptible to plant pests and diseases. The possible introduction of foreign plant pests and diseases, coupled with current efforts to control pests and diseases already inhabiting the United States, and the phase out of methyl bromide use, make the need for 1) federal-state collaboration and cooperation in program delivery and 2) basic and applied research more important than ever. Research should be aimed at preventing the introduction of pathogens, controlling plant pest and diseases and developing new methods for reducing and eliminating potential plant health hazards during the production process.

The consumption of and demand for fresh fruit and vegetables and propagative plant materials continues to grow and the agricultural industry must strengthen its efforts to integrate plant health and management programs. Facilitating the transfer of information and technology from the laboratory to the producer/consumer will ensure an adequate and safe supply of food, feed and fuel products.

2.2 DOMESTIC PLANT PEST AND DISEASE ISSUES

The agricultural industry is faced with a wide range of plant pests and diseases that threaten to damage crops and cause farmers to suffer severe economic losses. Programs have been established at the federal and state level to combat plant health concerns. NASDA recognizes the importance of controlling devastating pests and diseases and believes that the federal government should provide adequate funding to carry out existing programs and to perform research on ways to control and eradicate serious pests and diseases. Cooperative agreements with states and growers should be encouraged as a way of developing appropriate management strategies. Criteria under consideration by USDA to calculate state and federal participation in cooperative funding for pest and disease eradication and control must be flexible and take into consideration that each problem is unique and may not readily fit a formal criterion. To control and eradicate pests and diseases, early response is critical.

NASDA supports maintaining or increasing the funding for the following serious plant pest and disease programs:

- Asian Longhorned Beetle
- Avocado Lace Bug
- Boll Weevil Eradication Program

- Emerald Ash Borer
- Citrus Canker Cooperative Eradication Agreements
- Cogongrass
- Federal Scab Initiative
- Fruit Flies of Economic Importance
- Glassy Winged Sharpshooter and Pierce's Disease
- Golden Nematode Quarantine Efforts
- Grasshopper/Mormon Cricket Program
- Gypsy Moth "Slow the Spread" Strategy
- Honeybee Pests and Diseases
- Imported Fire Ant Program
- National Program Proposal on Late Blight
- Pest Detection and Management
- Pink Hibiscus Mealybug
- Plum Pox Cooperative Eradication Agreements
- Potato Diseases including Potato Virus Yn Complex
- Sudden Oak Death
- Tropical Soda Apple
- Vine Mealybug
- Wood Insect Research Laboratory and Termiticide Efficacy Data

Plant Quarantine and Inspection Guidelines

The pest prevention mission of public agricultural agencies in the United States is to protect agriculture, the environment, and its citizens from the economic and environmental harm that injurious plant pests can cause. Satisfying this mission while, at the same time, providing for equitable and orderly domestic and international trade, is a major challenge. The ideal pest

prevention system is one that is mutually agreed to and uniformly applied. The system must efficiently and effectively identify pest harm and assess and manage pest risk.

Mutual agreement among pest prevention officials and agencies cannot be achieved unless the functions, activities, and tasks involved in pest harm identification and pest risk assessment and management are understood. Uniformity cannot be achieved if there are no mutually agreed upon guidelines that serve as a standard against which various systems and actions can be measured and readjusted as needed.

The current array of international, federal, and state plant pest and disease regulatory requirements varies considerably, giving rise to occasional disputes and charges of unfair trade practices. In addition to these inconsistencies, a number of other trends create a need to increase the consistency and effectiveness of pest prevention programs. These trends include increased responsibility of the states, rather than the federal government, to be wholly involved in the management of plant inspection and quarantine programs for both domestic and international trade; heightened awareness and concern about the adverse environmental impacts of plant pests and the resulting increased use of pesticides; the importance of pest prevention programs in facilitating commodity exports as specified in both the North American Free Trade Agreement (NAFTA) and the General Agreement on Trade and Tariffs (GATT); and the frequency of breaches in existing quarantines.

Given these trends, uniformity among states becomes even more important from a federal and international standpoint. States should evaluate their current pest prevention programs for conformity with the National Plant Board guidelines and consider modifying their programs in order to achieve uniformity with them. The USDA should make provision for approval of state quarantine and plant health program regulations as "official control" programs. Pests covered should include quarantine and regulated non-quarantine pests as defined in the International Plant Protection Convention.

In addition, the USDA should optimize federal domestic program delivery via state plant pest prevention organizations. This can be accomplished using various agreements including 1) partnership agreements as detailed in NASDA's "Key Principles of A Cooperative Relationship" Policy Statement, 2) memoranda of understanding, and 3) contractual agreements.

Taxonomic Expertise Resource List

Accurate and timely diagnosis is critical to making effective regulatory decisions when pests, weeds, and diseases of possible regulatory significance are found associated with commodities in foreign and interstate commerce. The existing diagnosis experts are few in number and located among various federal, state, and county governmental agencies, universities, museums, and private industry. Retiring diagnostic experts are not being replaced in many organizations and universities are training fewer and fewer biosystematists.

NASDA believes that the National Plant Board should work with USDA-APHIS-PPQ, USDA-ARS and other appropriate groups to address this issue. USDA-APHIS-PPQ should coordinate this

effort. NASDA also believes it would be beneficial for a catalog of existing taxonomic expertise in the United States to be developed and recognizes that the catalog will need regular updating and suggests APHIS maintain the catalog. It is also advisable for the National Plant Board and the USDA to review protocols for identification of potential pests, weeds, and disease found associated with commodities in foreign and interstate commerce, and develop a more efficient system based on a network of approved expert collaborators from cooperating organizations. NASDA encourages the further adoption of technological advances (PCR, digital imaging systems) to address identification needs and reduce processing time. NASDA also believes these systems should be developed to their fullest extent within individual states and link with federal cooperators.

Emergency Eradication and Official Control Funding

Federal-state cooperative programs that control invasive pest species, plant and animal, benefit all states by controlling the spread of such pests and, thereby, limiting the damage to agricultural crops nationwide. States which are found to harbor an invasive pest species have recently been required by the Office of Management and Budget (OMB) to contribute a minimum of 15% of the costs associated with controlling such pests in order to receive emergency federal assistance through USDA's Animal & Plant Health Inspection Service (APHIS). NASDA recommends that the cost-share requirements for funding federal-state plant pest control containment and eradication efforts be eliminated. Emergency eradication and official control funding should be negotiated on a case by case basis with the state and should take into account the damage resulting from pest activity in the affected state, the economic impact upon the state's regulated businesses, the financial and competitive disadvantages that are inherent when a state discovers an invasive pest species within its borders and the potential economic impact on the rest of the country.

NASDA wishes to remind OMB that the Plant Protection Act authorizes the Secretary of Agriculture to cooperate with state and local governments, but **does not** authorize or obligate states to perform plant pest or disease emergency (eradication) project activities. The USDA alone is responsible for the eradication of federally regulated plant pests and diseases. The federal government should accept responsibility for full funding of **its** programs, declare its intent to cooperate with the affected state(s), implement cooperative agreements to fund state eradication and control program costs, and exercise leadership.

Cost-Share Criteria for APHIS Emergency Programs

APHIS has published a proposed rule that would codify a standardized cost-sharing formula for animal disease and plant pest and disease emergency eradication programs that are conducted cooperatively with states. Unfortunately, expanding world trade and the threat of bio-terrorism have increased the risk of destructive pests and diseases being introduced into the United States. The USDA is the federal agency statutorily charged with preventing the introduction, spread and establishment of plant pests and diseases, noxious weeds and pests and diseases of livestock in the United States. States are not federally mandated to partner with USDA in this

endeavor yet have historically done so with great success. Developing a plan on how the USDA should respond to emergencies is not without merit. In fact, NASDA's Animal Health Safeguarding Review and the Safeguarding American Plant Resources Review conducted by the National Plant Board contain recommendations that would facilitate the kind of out year planning envisioned in the proposed rule.

Emergency programs relating to animal and plant health by their very nature, however, do not accommodate a "one size fits all" approach. While some suggest a cost-share formula would yield savings to the Federal Government in future years, it will actually result in quite the opposite for states, who are already bearing significant costs associated with plant and animal pest and diseases that are not detected at the border.

NASDA urges USDA to withdraw the proposed rule and work with states toward the development of a joint system for the early detection and eradication of plant and animal pests and diseases. NASDA's Animal Health Safeguarding Review and the Safeguarding American Plant Resources Review would provide a sound footing for the development of a science-based rule that combines the unique abilities of each partner. NASDA discourages attempts to construct meaningful eradication programs around budgetary decisions.

2.3 FOREIGN PLANT PEST AND DISEASE ISSUES

Homeland Security and Agriculture

NASDA strongly supports the pest exclusion mission area known as Agricultural Quarantine Inspection (AQI) at the nation’s ports of entry that serve to protect our domestic agriculture industry from a foreign pest or disease incursion. After the events of September 11, 2001 and the anthrax incidents that followed, AQI functions were transferred from the United States Department of Agriculture (USDA) to the newly created Department of Homeland Security ("DHS") in an effort to consolidate all governmental functions that protect the nation against threats to the homeland into one agency. NASDA strongly supports the mission and efforts of DHS to prevent terrorists and terrorist weapons from entering the United States. While the prevention of terrorists and terrorist weapons from entering the United States is vital to the security of the nation, so too, is the protection of the nation's food supply, our agricultural economy, and plant resources and health. Introductions of foreign plant pests and diseases, such as Asian long-horned beetle, Emerald Ash Borer, Light Brown Apple Moth and Plum pox virus are of great concern to the U.S. agricultural economy, and to plant and animal health. The orderly flow of trade and timely inspections of perishable items are vital to agriculture and to agribusiness. The introduction of foreign or invasive plant pests remains a constant threat to nation’s agricultural crops and forests.

Unfortunately, since the AQI transfer, pest and disease introductions have increased dramatically. It is clear that DHS’ administration of the AQI program lacks efficacy and currently there are no performance measures relative to AQI functions that DHS must meet to ensure the resources that DHS receives to protect the U.S. domestic agriculture sector are being utilized for

this purpose. In addition, in order for AQI to remain effective while housed at DHS, it was essential that DHS and APHIS establish a consistent and clear communication structure that provides for problem resolution with built-in accountability in order to provide the greatest degree of risk reduction. Unfortunately, DHS' mission is so broad that AQI is not viewed within the agency as a critical function either in terms of staffing or funding. Therefore, NASDA supports the re-assignment of the AQI mission area back to USDA APHIS given that they have the expertise to carry out a focused, coordinated and effective agricultural safeguarding effort and are statutorily charged with managing exotic pests and diseases.

NASDA urges that increased emphasis be placed on the mission of safeguarding agriculture and strongly supports the immediate adoption of quantifiable performance measures for AQI functions to ensure the program is meeting the statutory mission for which it was created – protecting American agriculture from a foreign plant or animal pest or disease. These performance measures should consider the interdiction, control, eradication and suppression costs borne by state and local governments for foreign pests and diseases that AQI fails to interdict at the ports of entry. These costs shall be assessed to the budget of the parent department of AQI. In addition, NASDA urges DHS' Office of Domestic Preparedness to provide specific funding opportunities to state departments of agriculture for local preparedness similar to grants provided to state departments of health.

Pest Exclusion

The introduction of foreign pests has cost the nation millions of dollars in control and eradication efforts and lost production. Foreign pest invasions should be recognized as a national problem, not just the problem of the state in which the pest originally entered the United States. Regardless of the entry point of the disease, it still poses a threat to the entire agriculture industry. Initiatives should be focused on pest exclusion activities including tighter security. In order to be successful, traditional APHIS pest management programs must be fully funded to meet this objective, and maintain current quarantines for federally regulated pests.

User Fees

APHIS should seek authority to use the Agricultural Quarantine Inspection user fees collected from the traveling public and the shipping industry for better surveillance and protection of the plant industry in the United States. Further, APHIS should seek to expand or increase the user fees charged to conduct a comprehensive pest prevention program.

Plant Pest Survey

Given the passage of the North American Free Trade Agreement (NAFTA) and the General Agreement on Tariffs and Trade (GATT), several states have taken initiatives to develop agreements which support the export of agricultural crops and commodities. A primary concern of importing countries in the negotiation of these agreements is the risk of introducing exotic or threatening pests. U.S. exporters face a host of phytosanitary barriers around the world resulting in millions of dollars of lost trade opportunities.

To help resolve this concern, a list of known pests associated with a crop or commodity is required by the importing country. In some cases, the crop or commodity is prohibited from export if the target pest is known to occur in the exporting state. In other situations, the importer allows entry, providing that the state can declare that a particular pest does not occur in the country of origin or growing site. Statewide pest survey programs that are supported by USDA-APHIS-PPQ through the Cooperative Agricultural Pest Survey (CAPS) can help address these phytosanitary concerns. The CAPS Program utilizes a National Agricultural Pest Information System (NAPIS) database for efficient pest management.

Proper funding for the CAPS Program should continue so that pest data can be collected and the exporting of agricultural crops and commodities can be enhanced. States should also consider conducting survey programs to complement the federal program.

Interagency Offshore Pest Exclusion Program

In response to introductions and interceptions of the Asian gypsy moth in the early 1990s in the U.S., an offshore program in Russian Far Eastern Port Areas was initiated to exclude this and two other exotic major pests of forest and urban trees and shrubs. This program, which was initiated in 1993, has tracked the population density and distribution of three pests of Lymantria species, including the Asian gypsy moth (L. dispar), the nun moth (L. monacha), and the rosy gypsy moth (L. mathura) and implemented measures to minimize the risk of their introduction into the United States since the initiation of this monitoring program.

This cooperative project between the United States Department of Agriculture's Animal and Plant Health Inspection Service (APHIS), the USDA Forest Service, the Federal Forest Service of Russia, and the State Plant Quarantine Service of Russia is largely supported with funds provided by APHIS and the Forest Service. During FY 2001, APHIS and the Forest Service will jointly provide about $150,000. Most of these funds are provided by APHIS. Populations of the Asian and rosy gypsy moths typically begin to peak in the Russian Far East during the late spring and early summer. This translates into a higher risk of artificial movements of these pests on ships and cargo.

NASDA urges the U.S. Department of Interior and USDA to fund this program for as long as these pests pose a significant risk of introduction into North America. NASDA also urges USDA-APHIS and the USDA Forest Service to evaluate the risks arising from the movement of ships and cargo from other areas infested by these pests, such as Japan, Korea, and China. NASDA encourages the expansion of this program to cover other known pest threats and threats which may be identified through the timely completion of pest risk analyses in the future.

The detection, in early 2002, of live Mediterranean fruit fly larvae in Spanish Clementine citrus fruit delivered throughout the U.S. poses a serious threat to all fruit and vegetable areas. This unfortunate phytosanitary certification program failure makes it abundantly clear that proper safeguards were not adequately developed to protect our valuable agricultural resources from exotic plant pest introductions. The Spanish Clementine/medfly phytosanitary failure indicates

there may be other agricultural protocols that are not adequate to protect our valuable food and fiber resources. USDA should take immediate steps to review the safeguards that are needed to assure all fruits and vegetables from any foreign country, as well as the current situation including citrus fruit from Spain are pest and disease free upon entry. The reviews should include treatment efficacy, pest surveillance, mitigation at origin, inspection at port of export, and inspection upon arrival. The expertise of NASDA as well as the expertise of the USDA-ARS, National Plant Board, and university system should be involved in the review which should be ongoing as new programs are proposed.

Imported Wood Regulation

Current pest risk analyses have addressed surface or shallow wood pests. However, there is concern over a potential deficiency in the current imported wood regulations with regard to railroad ties, temperate hardwood logs, wood chips, bark chips, humus, and similar materials. Experience with the currently regulated commodities to date indicates that the current regulations do not completely address the potential risks associated with these materials. Specifically, evidence that pathogenic fungi and live insects have been imported on railroad ties, that fumigation does not always control deep wood insects or fungi, and recent experiences with Asian longhorned beetle and citrus longhorned beetle demonstrate that insects that bore deep into wood still pose a serious threat. It was determined by the Oregon Department of Agriculture that live fungi, including pathogenic species, have been found in imported fumigated wood and inside fumigated bark.

NASDA urges USDA-APHIS-PPQ to conduct additional pest risk analyses and revise the wood regulations to mitigate pathways for introduction of potential deep wood pests and diseases through imported wood products.

Quarantine 37

Any proposed changes to CFR 319.37 commonly known as “Quarantine 37" must be based on a comprehensive biological assessment of the pest and disease introduction risk associated with the commodity and country of origin. The current request to allow additional plant species to enter the U.S. is of concern and must be subjected to a full assessment including evaluation from areas of the U.S. that are considered to be most at risk from exotic plant introductions. As Quarantine 37 has been, and remains, an important part of our first line of defense against exotic plant pests of concern to the U.S. nursery industry as well as other segments of agriculture, it must maintain its current high degree of biological integrity.

2.4 STRATEGIES FOR CONTROLLING PESTS

Biological Pest Control

Classical biological control is a pest control strategy that involves the importation of new natural enemies to control introduced pests. Classical biological control has been successfully

implemented in the U.S. over the last 100 years. The use of this strategy of pest management is experiencing renewed attention because it is extremely cost effective and environmentally sound. Both the agricultural and urban populations in the U.S. have much to gain from the continued use of such efforts. Once an effective natural enemy is established, control is self-sustaining, requiring no additional revenues. Because the biocontrol agent is specific to the pest organism, its introduction has no adverse effect on the environment.

Currently, there is no coordinated effort between the federal government and the state departments of agriculture to support and promote classical biological control at regional and national levels. NASDA believes that a coordinated approach is essential so as to encourage continued importation of new natural enemies into the United States. NASDA urges Congress to appropriate funds to adequately support the research and development of biological control agents and establish this effort as a priority within USDA-APHIS to combat established invasive species.

Land grant institutions and the USDA have played a critical role in current and past biological control projects. However, funding has been shifting to basic research in the field of biotechnology. Although the products of this new technology hold much promise, classic biological control is a proven pest management strategy benefiting a broad range of concerns that must be financially supported by government agencies as well as the agricultural community. Private enterprise cannot promote the development of classic biological control because the profit motive for controlling individual organisms vanishes when a pest problem is permanently solved.

Regional plant protection centers are critical research facilities which provide biological control agents for the surrounding states in the region. Strong regional support is important as heavy biological control needs demand the facilitation of interstate and international shipping of commodities while reducing the trend of strict pesticide use. NASDA supports classic biological control in dealing with established invasive species and other agricultural plant pests.

Irradiation

Irradiation is the process of using ionizing energy derived from electronic beams, x-rays and other energy sources to treat possible sources of contamination. Ionizing energy has a number of applications in food processing and pest control. The increased energy state, which evolves from the irradiation process, attacks and destroys microorganisms, parasites, insects and bacteria. It can be used to treat plant or animal products including fruits, vegetables and meats. It is also an important tool for preventing the introduction, through importation, of plant pests. Irradiation, a process considered safe by national and world health organizations and accepted by many countries, is a technological development that can be applied to agricultural products in a safe manner.

NASDA believes that the USDA should encourage the use of irradiation for pest control. This is an important technology that can be applied to agricultural products to ensure a safe and healthy food supply.

Integrated Crop Management and Integrated Pest Management

The American consumer has the safest, most abundant, and secure source of food in the world. America's farmers and ranchers have continually used the most up to date technology available to feed the American public. However, today's farmers and ranchers are being criticized for abusing our natural resources while still being asked to provide more and cheaper food. Producers and scientists across the country are searching for new and safer ways to meet the consumer needs that are also economic and environmentally friendly. Two practices currently expanding in use are Integrated Crop Management (ICM) and Integrated Pest Management (IPM).

Integrated crop management (ICM) is the practice of monitoring and treating pests, diseases and soil conditions on a field by field basis with the goal of reducing cost and production inputs. Integrated pest management (IPM) is a component of the ICM system of management. IPM is a sustainable approach to managing pests by combining biological, cultural, physical and chemical tools in a way that minimizes economic, health and environmental risks.

Major advances have been made in the use of agricultural chemicals and in the development of management practices using chemicals in combination with non-chemical production tools. Developing a system of setting goals and measuring progress would result in real and positive changes in America's agriculture toward the underlying objectives of reducing environmental impact and increasing public confidence in the safety of foods.

IPM should be implemented nationally to reduce the reliance on chemical pesticides and increase the use of non-chemical tools over the long term. It will probably take at least $40 million to $50 million to implement a national system that defines appropriate federal and state roles, for many of the highest priority invasive plant pests that threaten our agriculture and environment.

IPM will reduce the reliance on chemicals, but chemical use will continue with varying degree due to such factors as non-uniform pest problems, regional differences in climate, pest resistance problems, and reductions in pesticide use already achieved by IPM programs currently in use.

The following IPM principles are important to the implementation of such strategies in each state:

- Assessment of pest problems associated with the planting, growing, harvesting, storing and processing of raw agricultural commodities, ingredients and processed foods for human and animal consumption.

- Determination of management plans that emphasize non-chemical tactics to deal with pest problems.
- Establishment of thresholds for each pest problem to define when corrective action must be implemented.
- Implementation of monitoring procedures for each pest.
- Implementation of corrective action when a threshold is reached for any pest problem.
- Implementation of a documentation system to catalogue and monitor information and to document management procedures.
- Establishment of evaluation and verification procedures to assure the IPM program is meeting stated risk reduction measures.

Any national IPM strategy should consider the following principles and goals:

- Adoption of IPM practices through a combination of education and cost-sharing programs with USDA's Water Quality Initiative and other conservation programs.
- Development of training and educational programs to teach extension agents, growers, consultants and processors specifics of IPM principles and regional crop guidelines.
- Establishment of economic incentives for growers to implement IPM practices.
- Issuance of an annual report for each region summarizing levels of adoption of IPM principles for each crop and area.
- Establishment of regional research priorities on the basis of annual results and recommendations from each region.
- Establishment of regional centers structured to meet regional IPM needs.

2.5 KARNAL BUNT

Karnal bunt is the disease of wheat, durum wheat, and triticale that is caused by *Tilletia indica*. Plant pathologists generally consider *Tilletia indica* to be a weak pathogen that causes a disease of minor production importance. Measurable yield loss is uncommon. The most severe adverse economic impacts are associated with the current domestic and the more than 50 foreign quarantines which have disrupted the traditional marketing of wheat produced in the United States. The presence of *Tilletia indica*-like teliospores jeopardizes wheat shipments in the marketplace.

There is a consensus, among the majority of the plant regulatory officials of the United States and plant pathologists, who work with smut diseases, that *Tilletia indica* can be effectively managed and controlled with normal crop management practices. Since Karnal bunt is a pathogen of minor significance, the USDA should emphasize and promote the successful management of Karnal bunt in the United States in discussions with our trading partners.

The USDA should call for deregulation of Karnal bunt as a quarantine pest by our trading partners and individual states immediately. Any revisions to domestic restrictions should include provisions for the shipment of seed from a potentially infected area if that seed is tested free of teliospores and treated with a fungicide. NASDA encourages USDA to immediately work with the National Plant Board to revise the federal domestic quarantine regulating grain to allow its movement while minimizing the spread of the disease. To this end, NASDA encourages USDA and the National Plant Board to analyze and review the pest risk posed by allowing movement based upon tests for bunted kernels versus teliospores. USDA also should revise the federal foreign quarantine to be consistent with the revised federal domestic quarantine.

Recognizing that, in the meantime, quarantine requirements will be established by importing countries, the USDA should continue efforts to prevent additional quarantine restrictions and to negotiate with trading partners for reasonable phytosanitary requirements. The national survey should continue to validate the pest-free status of all United States production areas, serve as the basis for further regulation on an annual basis and be the validation for Federal Phytosanitary Certificates.

Consistent with the Principles of Plant Quarantine, USDA should work with the scientific community to identify, prioritize, and facilitate the accomplishment of research objectives. Further, NASDA encourages the international scientific community to develop a scientific position statement on Karnal bunt and other smut diseases for the global community.

2.6 REGULATION OF INTERSTATE MOVEMENT OF NURSERY STOCK

NASDA supports the needs of the nursery stock industry to move products freely between states, but believes that nursery stock must adhere to a long established reciprocity agreement of inspection/certification by the state of origin which is re-enforced by state and/or federal quarantine regulations.

While standardized procedures for the inspection/certification process may be appropriate, non-infested states must be protected from potential introductions for several reasons. First, introductions of pests could put valuable forest and agricultural resources and urban/suburban forested areas that contribute substantially to the economic/social welfare of the state at risk. Second, considerable resources have been invested by non-infested states to eradicate localized infestations and to establish surveys to detect, delimit infestations and monitor control treatments. Third, environmental degradation and public chaos resulting from infestations and

pesticide treatments could result. Fourth, additional resources would be required to inspect high risk nursery stock imported to non-infested states at dealer locations that should be credibly inspected and certified at the grower location. Finally, trade agreements and markets for nursery, Christmas tree, and other regulated industries intending to export their crops or commodities could be hampered.

2.7 SEED HEALTH AND REGULATION

State Seed Regulatory Programs

All 50 states have seed laws which require individuals and seed firms to truthfully label all seed for sowing purposes which is offered for sale. Over the past years, a number of states have either reduced funding for their seed programs or eliminated them altogether. Biotechnology and other advances in seed technology will likely be marketed to the consumer through the genetic structure of seed, thus placing additional demands on seed regulatory programs. The situation has become very critical in the Northeast, where some states have reduced seed programs or eliminated their seed regulatory laboratories altogether.

Strong and efficient state seed programs ensure the consumer that the seed they have purchased is truthfully labeled and is routinely being sampled and tested for quality under the state seed laws of their state. Consumers of seed in states without viable seed programs may suffer financial losses when they unknowingly purchase poor quality seed sold or shipped into their state that would not be offered for sale in another state with a strong seed regulatory program. Since a large volume of seed is sold through interstate channels, it is in the best interests of all states to have strong and viable seed regulatory programs in order to create a level field for marketing of seed in the United States.

Seed-borne Pathogens

Seed-borne diseases constitute a demonstrated threat to American agriculture. Many seeds used by American agriculture are imported from foreign countries. Although such seed importations are frequently inspected for weeds or insect pests by the USDA, no such inspections are conducted or required for seed-borne pathogens. A testing and/or certification program for seed-borne pathogens is needed in the United States so as to protect agricultural crops.

Seed Health Initiative

A seed health initiative proposal would provide for the accreditation of seed laboratories and seed companies to perform seed health laboratory and field testing to provide supporting documentation for issuing phytosanitary certificates. This concept of a laboratory accreditation system has merit, but several concerns must be met. First, a chain of custody for samples, including who, when, and how they are drawn, transported, and submitted should be established. Public laboratories should also receive accreditation with consideration given to

cost, loss of public laboratory resources for working on minor crops and approval vs. accreditation. APHIS should maintain oversight authority over accredited laboratories. Consideration needs to be given to the types of laboratories that should be accredited, including concerns about conflicts of interest associated with private laboratories belonging to seed companies.

Finally, the availability of test data for plant pest officials' inclusion in the National Agricultural Pest Information System database should be addressed.

National Variety Name Registration

A National Variety Name Registration should be established in the Federal Seed Act for all agricultural and vegetable crops, and it is recommended that adequate funding be provided for variety name registration over current budget allocations or registration fees be implemented to administer the program. This program should be established because the release of new varieties into commerce has greatly increased with the advent of genetic engineering, the large proliferation of new variety releases are difficult to track and regulate, there is no national variety name registration within the United States, some cultivars may be illegally marketed by different variety names from one company to the next, confusion exists between variety labeling and brand labeling for some crop kinds, and some mixtures of agricultural crops are incorrectly labeled as single varieties.

2.8 NOXIOUS WEEDS

(Updated September 2012)

Invasive non-indigenous plant species threaten to destroy America's biological heritage and cause serious economic loss by polluting natural areas and agricultural systems. Biological pollution seriously impacts agricultural production and natural ecosystems causing economic and ecological losses. It has been estimated that the annual economic losses caused by these invasions is more than $20 billion.

Invasive, non-indigenous plants are assaulting America's wildlands, recreation areas, forest and pasture lands, replacing native vegetation, reducing the productivity and grazing land for livestock, degrading wildlife habitat, and clogging waterways. This invasion of harmful, non-indigenous plants is not like other resource management problems. It changes the very structure and function of critical ecosystems. In essence, these noxious weeds cause a blight at the ecosystem level and interfere with ecosystem management. Delays in controlling existing populations and preventing new invasive, non-indigenous plant species will only increase costs over time to America's agricultural industry and natural resource managers.

NASDA believes it is appropriate and vital that the federal government assert primary jurisdiction and assume a more dynamic leadership role in the interdiction and eradication of destructive invasive species. It is also critical that the federal agencies work in partnership with

state and local governments and non-government organizations in developing policies and procedures. Building greater capacity of state and local governments for effectively dealing with destructive invasives should be a paramount goal of this effort.

NASDA also believes that caution is warranted in the development of the Invasive Species Management Plan. It must clearly differentiate useful and beneficial "alien species" from destructive, invasive "alien species". NASDA recommends that the Council and the Advisory Committee avoid developing a "list" in the Plan that would combine the two categories of exotics. In fact, we see no need to develop such a list at all. The Plan should generally reference invasive or noxious lists developed by local councils or committees which have utilized input from a broad constituency and which have followed public participation policy requirements. The Plan should lay out a framework of federal action that focuses on prevention of accidental or intentional introduction of harmful invasives to the United States and its territories. It should also establish a foundation for a national monitoring and informational network to provide state and local government with early warning about new potentially destructive species.

Invasive Species are a major problem in all states. The species vary greatly from region to region but they are having major impacts on the health of our lands. The problem exists on private lands and public lands as well. In most western states due to large acres of federal lands, the impacts are often outside the authority of state agencies. State and local government should be more involved in the efforts of reducing the species that are doing so much damage to our landscapes. The problems are often regional in nature and thus include private, state and federal lands. We support a program of enhanced invasive species control and elimination projects that uses the knowledge of the state departments of agriculture and local government, especially conservation districts to manage and lead such activities. We believe a program must fund states in a significant manner, with funding levels taking into account all lands within a state, including federal lands. We believe states have the ability to deliver more money onto the ground and less to administration. This is an extension of the efforts of state agriculture departments efforts in invasive species control. Departments of agriculture should include other state and federal natural resources related agencies within the state in the process.

2.9 SOYBEAN RUST

Asian soybean rust (Phakopsora pachyrhi) is a plant disease that is currently found in Australia, Africa, Asia, and South America. Soybean rust is an airborne fungal disease that can cause premature defoliation, which results in fewer pods, lighter seeds and poor seed quality. Rust damaged crops can suffer up to an 80 percent yield loss. Soybean rust can be easily confused with other common soybean diseases such as bacterial pustule, bacterial blight or septoria brown spot. Soybean rust and the seed from rust infected plants are not shown to be harmful to humans or animals.

Soybean rust can be transferred many ways but most commonly it is transported by wind/air currents. Airborne spores can be carried for long distances and can infect and reproduce on numerous alternate host plants, including kudzu, which grows in many areas of the

southeastern United States. Soybean rust will be impossible to contain and eradicate in the continental United States, because the spores are produced in massive quantities on a variety of infected plants, and then dispersed via air currents. Spores may also be transmitted on infected plant material or on articles such as shoes and clothing.

Asian soybean rust has been detected in at least eight states since its initial discovery in a research plot in Louisiana on November 6, 2004. As predictive modeling indicated, soybean rust spores were introduced via hurricane activity, moving into the United States from the Southern Caribbean.

In the foreseeable future, the only way to control the disease is through timely fungicide applications and management plan development. Currently there are two fungicides registered for foliar application in the United States. Several other fungicides and application programs are being evaluated and an application for Section 18 status has been submitted to the EPA. Researchers continue to work to develop genetically resistant or tolerant varieties to be used as an alternative or in conjunction with fungicide applications. In addition, seed treatment options are being explored for possible effectiveness and efficacy.

Measures to Minimize Spread

NASDA believes communication among government agencies as well as within the farm community is central to monitoring and minimizing the damage from soybean rust. NASDA supports producer education about identification of the disease and about viable options to control the pest, so producers are well informed and equipped to address the problem.

Quarantine and eradication steps are not practical as the disease may infect many plant species (crop and non crop) found in the United States. Therefore, it is imperative that NASDA members, USDA and other federal officials coordinate their actions and quickly inform producers of a rust confirmation. Time is of the essence as under the right conditions, soybean rust may produce spores at an alarming rate, further infecting additional fields. The faster the news of a rust confirmation can be communicated with growers, the earlier the producers can apply fungicides to lessen the consequences of a soybean rust infestation.

Farmers must be assured that communication concerning infected fields with agricultural officials will not result in punitive actions. Rather, it must be emphasized that early detection allows officials to warn growers so that both protective and curative fungicide treatments can begin as soon as possible.

NASDA encourages the USDA to take a leadership role in the development of a soybean rust monitoring plan to determine the seasonal rate of spread. Further, the USDA should take the lead in the development of a soybean rust management plan.

Homeland Security Designation

NASDA urges the USDA and DHS to swiftly re-evaluate the pathogens currently on the Select Agents List. NASDA strongly urges the evaluation to disregard pathogens that are predicted to naturally spread to the United States, as rust is a prime example of a pathogen with no control mechanism to stop the airborne spread.

This Select Agent designation highlights soybean rust in an unnecessarily negative manner. Soybean rust should be treated as any other normal quarantinable pest that could enter the country at any time. As long as soybean rust is labeled a Select Agent, we raise the risk that trading partners could use rust as reason to block imports of U.S. soybeans.

3 Biotechnology - A Key to Agriculture's Future

3.1 INTRODUCTION

Biotechnology-enhanced products have now been commercially available for more than a decade in the US. Widespread adoption of genetically engineered (GE) varieties by US farmers has occurred, especially for major crops. Several benefits have driven this adoption. While a majority of consumers are confident in the safety of the food supply and express little to no concerns about food and agricultural biotechnology, awareness of food biotechnology is not very high and consumers are unsure about potential benefits. Since adoption by farmers, in the US and around the world, are projected to continue, a vigilant need exists to assure appropriate interests are well aware of perceived benefits and potential consequences associated with the further developments of this technology. The future of agriculture in the US, and perhaps in many other places around the world, entails the proper development and advancement of biotechnology traits in food and feed crops and animals and in plant and animal production of pharmaceuticals and industrial chemicals.

Humankind has used the traditional techniques of “biotechnology” – breeding and selection – for thousands of years to domesticate wild species for large-scale production and to change plants, animals, and microorganisms to create hybrids which produce higher yields, enhanced flavors and textures, increased resistance to pests, and a host of other desirable traits. While modern techniques of polyploidization, embryo rescue, mutagenesis and cell fusion don’t occur naturally, they have been employed safely for decades. As a result, the genetic “parents” of many common foods we eat would be virtually unrecognizable as the foods we know today.

Advances in molecular biology resulting in what is known as recombinant DNA (rDNA) technology or genetic “engineering” are the latest in plant and animal husbandry. This technology, which applies the science of biology, offers the opportunity to move more quickly, precisely selected, well-characterized genetic material between organisms than could be done through the traditional techniques.

The term “biotechnology” refers to the latest, most modern husbandry technique to modify plants, animals, or microorganisms by introducing into their genetic code genes for specific desired traits, often from different species. The tools of biotechnology, such as polyploidization, embryo rescue, mutagenesis and cell fusion don’t occur naturally, but yet have been employed safely for decades. The potential benefits to the world from future discoveries in biotechnology are almost too vast to comprehend. The products derived from rDNA technology can significantly enhance our quality of life from the medicines we use, to the food we eat, to the environment in which we live.

3.2 BIOTECH'S IMPACT ON AGRICULTURE

Adoption of rDNA technology by the farm sector is an accomplished fact, particularly so in the United States. In 2006, 22 nations (1/2 developing countries and 1/2 industrial countries) allowed biotechnology-enhanced crops to be grown commercially; in addition, another 29 countries granted regulatory approvals for biotech crops for import for food and feed use and for release into the environment. Of the 10.3 million farmers that grew biotechnology-enhanced crops on 252 million acres, 90% (9.3 million) were small scale farmers in developing countries. Stacked product was the fastest growing trait group followed by insect resistance and then herbicide tolerance.

Clearly, agricultural biotechnology is here to stay. However, the issues surrounding agricultural biotechnology are complex and varied. The USDA's Economic Research Service summed them up this way:

"The complexity of issues stems from the creation and management of the science, the ownership of intellectual property, the economic nature of the industry undertaking the research, the interaction between public and private research and the marketing of the products. Adding to the complexity are concerns about the implications of biotechnology for new agricultural products, markets and contractual arrangements between producers, processors, and marketers.

The acceptance of the technology depends critically on the perceptions and attitudes of consumers, both domestic and foreign, and on the expected impacts on food safety, health, and the environment. The degree of foreign acceptance can significantly affect international trade and may create the need to segregate and identify genetically engineered products."

3.3 PRODUCTION AND MARKETING

The presence of biotech products in the marketplace, coupled with the disparate status of regulatory approvals in major world markets and changing patterns of consumer acceptance, has introduced great complexity and poses a huge management challenge to the U.S. bulk commodity handling system. No longer can farmers plant seed and assume the harvested product will be accepted universally by all buyers or under traditional terms and conditions. To aid the establishment of global markets for US products, technology providers are encouraged to seek all appropriate approvals to assure the regulatory acceptance of new biotech events in the global marketplace.

The impact on the industry clearly illustrates the urgent need to develop an internationally accepted identity preservation system based on sound-science that can assure biotechnology-enhanced products will reach appropriate markets. As new varieties become available, it will become more important to have a proven channeling/segregation/certification program guaranteeing that tolerance levels/marketing standards are met. This will be necessary to

provide customers with the products they desire while supporting the development, production and promotion of additional biotech crops that are acceptable to domestic and foreign markets.

The tools necessary to implement such a system are:

- A standardized definition of biotechnology
- Standardized tests and methodology for detecting biotechnology-enhanced products within the food chain.
- A threshold or tolerance for adventitious or accidental inclusion of biotechnologically-derived traits consistent with sound science and commercial reality.
- Ensure the availability of “pure seed” to meet internationally accepted tolerance.
- A “stewardship program” consisting of biotechnology and seed companies working together with producers to ensure that crops are grown in accordance with recommended practices and marketed through appropriate channels and certification systems.
- Effective regulatory oversight to assure integrity of marketing system. This includes such things as sampling protocols and proper and timely calibration of equipment

NASDA supports and encourages the continued development of voluntary "stewardship" program efforts by USDA and the agricultural biotechnology industry.

Over the past two decades, it has become clear that genetic engineering is a powerful tool for creating improved crop varieties that can be integrated into existing agricultural production systems, and that it has the potential to benefit agriculture, the environment, human health and the U.S. economy. It is also true that the introduction of GE traits has complicated a basic principle in the U.S.: that farmers should be able to produce commodities by any method they prefer and to market them in any market available, assuming they meet all safety and marketing standards.

The need to segregate crops by production method is a relatively new development in agriculture. Strict, though varying, rules regarding GE crops in international markets are a key driver of the issue. At the same time, this situation provides a marketing opportunity for producers and marketers who can successfully navigate the maze of standards and regulations.

Some complicating issues do exist:

- In recent years, market access problems have arisen such that growers of conventional and organic crops have at times not been able to meet desired specifications, due to unintended commingling with GE plant material.

- While the U.S. has accepted testing methodologies and protocols, the results of these tests are not uniformly accepted internationally. The lack of standardized, internationally accepted testing methodologies and protocols and/or the lack of acceptance of results of U.S. accepted tests pose significant challenges to the smooth and efficient operation of both domestic and international marketing chains.

- Zero tolerance of genetic material that poses minimal risk may not be achievable. Low-level presence, often called adventitious presence, of a GE trait should be tolerated in a seed, commodity or products produced from a commodity, so long as it does not pose a plant pest risk or a health or environmental safety concern.

Wherever possible, developing, fostering, and assisting market channels where producers can market their commodities, regardless of the method of production, is an important goal. In reality, all of these production methods provide key market opportunities for U.S. farmers and are critical to the long-term viability of our rural communities.

3.4 INTERNATIONAL TRADE AND MARKET ACCESS

The United States must work toward the goal of internationally accepted, science-based standards for trade in biotechnology-enhanced products. These science-based standards must include testing methodologies, sampling protocols, and tolerance levels. Given the novelty of agricultural biotech products, harmonized regulatory oversight by major trading countries will be a work in progress for quite a while. Indeed many countries have no approval process for these products at all. The U.S. government must participate in all appropriate international, multilateral and bilateral forums to ensure that all international standards, guidelines or recommendations for commodities and food developed through the use of biotechnology, are based on sound science and prudent risk analysis and result in fair trade practices that allow for the unrestricted shipment of such commodities and products in international markets.

The international bodies established to administer the sanitary and phytosanitary agreement of the World Trade Organization should continue to have the authority to regulate the international trade of genetically enhanced agricultural products. The United States should use all available means to improve international understanding of the science-based processes used by U.S. agencies when approving products that have been developed through biotechnology. The Codex Alimentarius Commission of the United Nations is currently developing international guidelines for analyzing the risks of foods derived from biotechnology that countries may use in establishing their own product approval regulations. Many countries simply adopt the Codex standards as their own. For this reason, the Codex Alimentarius Commission of the United Nations should fast-track this process.

In order to facilitate advances in technology based off of already approved products, NASDA supports the enhancement of science and innovation associated with the use of these genetic traits and supports the development of new products for commercialization from this technology. NASDA also supports maintaining international regulatory approvals of patented materials after patent expiration and encourages the industry to develop an effective and collaborative process to accomplish this goal.

In a customer-driven market, the terms of product acceptability may change rapidly. There is additional risk in this kind of marketplace that can be managed only if there is good communication at every level of the food chain. If the United States does not have a system that can reliably and consistently deliver products that the customer wants, U.S. agriculture may lose part of its customer base.

3.5 REGULATION AND OVERSIGHT

The Coordinated Framework for Regulation of Biotechnology, prepared by the Office of Science and Technology Policy (OSTP) and published June 1986, is the comprehensive U.S. policy for ensuring the safety of biotechnology research and resulting products. It explains the coordination among federal agencies and the basis for regulation. Under the Framework, the United States applies existing food safety and environmental protection laws and regulations to biotech products and makes decisions on approvals based on characteristics of products rather than whether they are derived from biotechnology. The “products, not process” scheme is objective, transparent, and scientifically sound.

It is appropriate to periodically review federal regulatory oversight in order to ensure comprehensive, efficient, appropriate regulatory review of new genetically modified crops and foods. Governments, biotech companies, producers, processors, and the scientific community must work to maintain a responsive regulatory system in which the public has confidence. Oversight of agricultural biotechnology should continue to be a careful, objective, science-based evaluation of technologies and products through continuous testing, safety assessments for reasonably foreseeable risks, continued implementation of appropriate biosafety and environmental controls, frequent review of safety evaluation procedures, and economic assessments. The basis for regulation should continue to be the characteristics of the organism, its intended use, and the environment into which it is to be introduced, and not the method used to produce it. To avoid an inconsistent patchwork of regulations, NASDA does not support local/county initiatives and/or ordinances that would prohibit, restrict, or otherwise regulate plant and/or animal biotechnology. NASDA supports the federal framework (EPA, FDA, USDA), which regulates agricultural products produced through biotechnology.

It is critical that federal and state agencies be informed, knowledgeable, and work as partners in all phases of the ongoing biotechnology regulatory policy process. State agencies should be active partners, sharing oversight responsibilities with federal agencies, while carrying out their responsibilities to the state’s agricultural community, the environmental community and the consuming public at large. As new advances are made in plant and animal production, it is

critical to ensure that private and public issues are adequately reviewed. Providers of seeds and biotech-enhanced ingredients should provide adequate information in a timely fashion to ensure that new products do not create new or unexpected concerns.

Government has a vital role in the commercialization of biotechnology products for the future. Regulation and oversight should include:

- Periodic review of the federal biotech regulatory system in an effort to maintain a responsive system and public confidence.
- Evaluation of the technologies and products through science-based continuous testing, safety assessments for reasonably foreseeable risks, continued implementation of appropriate biosafety and environmental controls, frequent review of safety evaluation procedures, and economic and benefits assessments.
- Oversight based on the characteristics of the organism, its intended use, and the environment into which it is to be introduced, not by the method used to produce it.
- Support for state agencies as active partnerships, sharing oversight responsibilities with federal agencies, on biotech issues.
- Establishment of a system that can enforce the tolerance levels/marketing standards and established certification/channeling process, testing protocols, and equipment testing.
- Enforcement of and support for humane animal care in research and prosecute acts of terrorism on research and research facilities of any kind.
- Monitor strategic actions, both vertical and horizontal, of biotechnology firms so that new practices and products are competitive and do not unfairly burden producers or restrict fair and free market activities.
- Protect agricultural producers from liability for damages resulting from biotech-enhanced product use if recommended practices and procedures have been followed.
- Provide clear identification and aggressive communication of export approval status of hybrid-specific seed and the approval status of all seed varieties.
- Provide significant investment in publicly-funded biotech research to establish independent verification of privately-owned information.

NASDA should play a key leadership role in the following issues:

- Work with the U.S. Trade Representative, USDA, and others to establish tolerance levels/marketing standards for biotechnology products that is accepted domestically and internationally.

- Cooperate with the U.S. seed industry and ensure that “pure seed” is made available to producers.

- Cooperate with EPA, FDA, and USDA, to establish standardized testing methodologies and equipment standardizations and calibrations.

- Assist state efforts to establish grain production/handling/marketing/processing/food industry supply chain channeling/segregation/certification programs that can enforce the tolerance levels/marketing standards.

- Advocate the rights of U.S. farmers and producers in the world marketplace.

Coordinate and lead work with EPA, FDA, and USDA, to prevent an inconsistent patchwork of county/municipal regulations/ordinances that would prohibit, restrict or otherwise regulate plant and/or animal biotechnology.

3.6 FOOD SAFETY AND LABELING

Numerous authoritative groups worldwide have concluded that modern gene transfer technologies offer no unique risk to human or animal health or the environment. These groups include official commissions, scientific bodies, and international organizations, such as the OECD, the Codex Alimentarius Commission and our own US government, which are staffed with experts from all relevant disciplines.

The evaluation of food, food ingredients, and animal feed obtained from organisms developed using rDNA technology does not require a fundamental change in established principles of food safety; nor does it require a different standard of safety. The science that underlies biotechnology-derived foods does not support more stringent safety standards than those that apply to conventional foods. Current FDA policy reflects this view.

Federal law requires specific labeling on food products to inform consumers of the existence of material facts that are significant and relevant to the issues of safety, efficacy, and purity. Any changes to a food product that alter the chemical or nutritional composition or allergenicity of the product must be disclosed to the consumer. Under this requirement, if a food derived from modern biotechnology affects any of these aspects, FDA requires that the food be so labeled. If the product is not materially different from its conventional counterpart, it does not require special labeling. NASDA supports the role and responsibility of FDA to determine appropriate food labeling and to provide regulatory guidance to the food industry on the voluntary labeling of products to meet consumer preferences. The agency should communicate a clear definition as to what constitutes genetically modified food or food products and require that voluntary

labeling claims can be substantiated by identity-preserved supply chains based on a clear and factual certification process. The Federal Trade Commission should develop comparable guidelines for advertising claims about food biotechnology.

Industry has the legal responsibility to ensure the safety of foods and feeds it puts on the market, and governments have the legal responsibility to ensure oversight of foods, feeds and food or feed ingredients. These duties are important whether the products are produced by biotechnology, conventional or organic means; it is imperative that a safe and stable food and feed supply is ensured and maintained.

4 Food Regulation and Safety

4.1 INTRODUCTION

Consumers in the United States enjoy the safest and healthiest food supply in the world. The foundation of this success is our system of food safety and inspection laws. Important federal regulatory programs have been effectively applied in recent years to improve all segments of our extensive food safety system, including food production and distribution chain, animal and plant husbandry, processing, transportation, and preparation. Recently there has been increased interest in nutrition policy. It is recognized that healthy and nutritious products are critical to preventing cancer and other diseases, reducing obesity and diabetes, and maintaining overall good health.

The U.S. food safety system should be consistently reviewed and updated. Reform should be based on risk, as well as the best available, scientifically-proven technologies, such as irradiation. It should eliminate duplication and improve efficiency. It should ensure consistency between federal agencies, and afford state regulators and industry a forum in which to seek clarification when information is inconsistent. Reform should also retain those elements of current laws which meet the current-science standard, and which have assured the U.S. the safest food supply to date.

4.2 GLOBAL FOOD SAFETY SYSTEM

Today's global economy and threats of terrorism require that we take a new look at how we ensure a safe food supply in the United States. Our food supply could provide a vulnerable point for intentional acts of terrorism. However, because we source food products from all corners of the globe, we also increase our vulnerability to pathogens, contaminants, adulterants, diseases and a myriad of food quality issues. The U.S. is well-positioned to address these threats by improving the way that federal, state and local food protection agencies work together. The answer is an efficient and effective, integrated, seamless food safety system. Such a system leverages resources that already exist at all levels of government, it clearly defines roles and responsibilities, it allows for maximum information flow between government agencies, it recognizes and accredits the expertise of all parties, and it results in higher degree of uniformity and protection across the nation's food safety programs.

4.3 ROLES & RESPONSIBILITIES

Our current food safety regulatory system is the shared responsibility of local, state and federal partners. The Food and Drug Administration (FDA) is responsible for ensuring that domestic and imported food products are safe, sanitary, nutritious, wholesome and properly labeled. The primary statutes governing FDA's activities are the Federal Food, Drug, and Cosmetic Act (FFDCA) and the Public Health Services Act. The FDA establishes regulatory requirements and

guidance for assuring that food is safe and not adulterated. State, local and county public health and agriculture departments play a major role in helping FDA carry out these responsibilities by conducting state inspections of food establishments, laboratory analyses of foods, and by taking enforcement action when violations result in unacceptable risk to the public. FDA works with states to set safety standards for food establishments and commodities, and evaluates the states' performance in upholding such standards as well as any federal standards that may apply.

While FDA has primary authority in the food safety network, there is an entire system of complementary state and local laws working in harmony to protect our national food supply. Because all problems exist locally first, states often act as sentinels for emerging issues and have the ability to rapidly respond, often before such issues rise to the level of national concern, and thus before FDA takes action.

To support FDA's statutory authority, state agencies are primarily responsible for the actual inspections, enforcement, training, and carrying out a wide range of other food safety regulatory activities. For example, FDA contracts with states to monitor medicated animal feeds and to investigate incidents of pesticide or drug residues in foods. Approximately 80 percent of food safety inspections in the United States are completed at the state and local level.

These numbers dwarf the activities of our federal partners and demonstrate a real commitment to food safety at the state and local level. States for the most part have greater regulatory authority than FDA, including license revocation, detention (embargo) authority, and administrative penalties. This highly-integrated system has resulted in a more effective and efficient regulatory process than FDA could achieve alone. We use our resources to the utmost in our efforts against food-borne illness, food adulteration, and intentional contamination of our food supply.

State Food Inspection Programs

NASDA believes the federal government should guide the collaborative development of food safety goals and policy and provide for national consistency through technical support, audit/oversight, and a significant level of funding.

Ideally (conceptually at least), state and local governments should be the primary deliverers of domestic food safety regulatory services, so the federal government could devote more resources to imported foods. This funding must be: adequate, ongoing, allocated based on risk, used flexibly by states to minimize food safety risk, and contingent on federally evaluated attainment of agreed upon food safety outcomes (e.g., program performance standards).

This concept is not a new. A program funded by FDA from 1998 - 2002 called the "National Food Safety System" project [NFSS] was intended to integrate the food safety resources of government at all levels. The primary objective of NFSS was to improve food safety through a collaborative effort of federal, state and local government. The belief being a fully integrated seamless system, which was science-based, would build consumer confidence and address all of

our food safety challenges. It would be foolish to ignore some of the progress already in place, which resulted from the activities of the NFSS project. The following are examples of significant NFSS accomplishments achieved since the inception of this project in 1998:

- eLEXNET – a secure electronic data sharing system for food safety laboratory data
- ISO Accreditation – an internationally recognized laboratory accreditation program aimed at assuring uniform methodologies for federal, state and local laboratories.
- Directory of Laboratory Capabilities – a compilation that identifies federal, state and local laboratory capabilities in preparation for emergency needs.
- AFDO Recall Workgroup – an effort involving state and federal (FDA and FSIS) officials to streamline and better coordinate recalls for increased effectiveness in removal of contaminated product from the marketplace.
- Validation of Laboratory Methodologies – a joint federal/state effort to standardize and develop national rapid detection methods.
- Foodborne Illness Outbreak Coordination Guidelines – developed to provide uniform investigational procedures and information-sharing protocols.
- ORA-U – development of a comprehensive national training and certification system to better facilitate uniform food safety activities among all federal, state and local field inspectors.
- Uniform Criteria Workgroup – development of uniform national regulatory program standards.
- Integrated Food Safety Partnership – provides a pilot program that integrates the food safety functions of a state and the FDA.

The goals of the NFSS project are to establish a system that would better utilize and leverage all the committed food safety resources [at all levels of government], build uniformity and consistency [with inspectional, analytical, enforcement and surveillance activities], increase the level of consumer confidence by improving food safety, and implementation of ONE food safety system.

NASDA believes there is a need to double the value of new federal funding by funding state regulatory programs.

The food safety bills being proposed by Congress today fail to take into consideration food safety networks already exist within each state – but they need bolstering and support. There is no need to re-create existing infrastructure at the federal level. Utilizing a cooperative

agreement model such as EPA uses in pesticide enforcement and USDA/FSIS uses for state meat inspection programs, FDA should provide funding to existing state programs and obtain the following "seamless food safety system" benefits:

- Establishment of food safety program standards;
- Provide national food safety priorities, uniformity and a response network;
- Greatly increase the total number of food safety inspections done throughout the nation;
- Establish a national food safety communication system and database;
- Obtain twice the value in work for the money expended;
- Accessible and uniform regulator training programs;
- Allow for a quick response down to the local level throughout the nation, especially important with food safety crisis issues;
- Free up the federal agencies to focus on 1) border protection, 2) setting national food safety standards, and 3) cooperative agreement compliance.

NASDA believes there is a need to expand and fund cooperative agreements. A line item in the federal budget should be established for funding state contracts, partnerships, and cooperative agreements.

FDA should have cooperative agreements with state and local food protection programs for the purpose of conducting strategic food safety inspections and surveillance. Currently, three unfunded cooperative programs exist where states perform independent regulatory control: interstate milk shipments, retail food and food service, and shellfish shipment. The Environmental Protection Agency [EPA] has cooperative agreements with state pesticide programs and utilizes the states activities and results for enforcement and planning purposes. Utilizing cooperative programs and nationally recognized standards will create national uniformity, reduce duplication of efforts, and allow us to address food safety challenges in a more coordinated fashion. States are better positioned, for example, to take on new roles in mandatory food safety regulation beginning at the farm level. Working with imported foods is another burgeoning area to leverage state resources.

There is ample precedence for federal funding of state and local environmental protection efforts. FDA and USDA simply do not have the resources to protect the nation’s food supply without State and Local government assistance. According to the AFDO 2001 survey, State and Local Departments of Health and Agriculture conduct more than 2,500,000 food safety

inspections at food and dairy facilities and take over 100,000 enforcement actions each year. Federal funding should be adequate, ongoing, allocated based on risk, used flexibly by states to minimize food safety risk, and contingent on federally evaluated attainment of agreed upon food safety outcomes (e.g., program performance standards). This funding should also be directed for training of state and local officials to ensure uniformity in the application of food safety laws and regulations.

Federal Preemption

Federal preemption of state food regulation under the Federal Food, Drug, and Cosmetic Act should not be allowed. States should retain the right to regulate the food supply in a manner at least equal to or greater than federal standards, and have the authority to regulate food products and food handling establishments not regulated by the federal government. The effect of federal preemption is to take away states' authority to impose requirements to ensure the safety of the food, drug, and cosmetic supply. States would not be able to impose stricter food safety standards than the federal government.

State Meat Inspection Programs

State and federal meat inspection programs should function together as a seamless system in both intrastate and interstate commerce. The 1967 and 1968 Meat and Poultry Acts prohibit state-inspected products (beef, poultry, pork, lamb, and goat) from being sold in interstate commerce. However, the prohibition does not apply to "non-amenable" products such as venison, pheasant, quail, rabbit, alligator, and a host of others. State-inspected meat and poultry are the only commodities that are restricted from sale across state lines. Removing the outdated 1967 ban on interstate sales would create a more uniform system and enhance consumer confidence in the food supply.

Today there are no real distinctions between federal and state inspection requirements. State meat and poultry inspection programs must equal or exceed the level of food safety for the federal inspection program. This has been verified through USDA's annual reviews and oversight of state inspection programs over the past 35 years. The question of allowing interstate sales of state-inspected products is a simple fairness issue. Most of the state-inspected meat plants are owned and operated by small business owners. The prohibition on interstate meat sales—the only such prohibition of any food product—disrupts the free flow of trade and restricts the ability of small business entrepreneurs to economically compete in the marketplace. Interstate sales will spur more competition and innovation in the industry by giving farmers and ranchers more opportunities to sell their livestock at a better price. Without change, growing concentration in the processing sector will continue to leave smaller farmers and ranchers with fewer buyers for their livestock and poultry.

Passage of interstate meat legislation in the 2008 Farm Bill will resolve a basic issue of inequity which has existed since 1967. Interstate markets for state-inspected products will spur more competition and innovation in the industry that will provide consumers with more choices in the

supermarket. Increased markets will stimulate small business sales, expand rural development and increase local tax bases—all of which will benefit farmers and ranchers, processors, related industries, and consumers.

State Meat Inspection Programs are required to be audited by the FSIS Office of Program Enforcement, Evaluations and Review (OPEER) to be verified as meeting "equal to" requirements set by FSIS. The audit or review process consists of two parts; the self assessment and the on-site audit. Self assessments are written documentation of how a state program implements its program in a manner "equal to" FSIS and are annually submitted to OPEER. On-site audits are conducted every three years to verify the information in the state self assessments. This process has become fundamentally flawed because of three primary issues; FSIS is exceeding its statutory authority by requiring state programs to address all federal directives, notices and policies; FSIS has no standard to measure "equal to" criteria because the audit branch does not review federally inspected plants and; FSIS continually changes its expectations of state programs. It is unreasonable for state inspection programs to be subject to ever-changing expectations and standards. NASDA urges FSIS to develop standards which are applied to federal inspection practices and require OPEER auditors to use those standards as the benchmark for determining "equal to" status of state inspection programs.

Amenability

NASDA strongly supports an inspection system that is fair and equitable to all segments of the industry. The system must be based on risk, rather than the point of sale or origin of the product.

Traditionally, the Secretary has assumed authority over various segments of the meat and poultry industry based on the type of operations being conducted such as inspection at wholesale operations but not at retail operations. Inspection of the production of meat and poultry food products has been based on the amount of meat or poultry in a product and not on the potential risks of those products.

A more efficient and effective method of inspection would include a risk assessment of the food safety hazards associated with the type of product or processes involved in production. The percentage of meat or poultry in a product should not be the determining factor in a food safety program. The process used to control, monitor, and verify the production of that food is the most important consideration for consumers.

All food entering commerce, both traditional and non-traditional, aquatic and exotic animals, should be included in the inspection process. Many of the currently exempted items pose the same potential health risks as those presently mandated for inspection. With increased productivity, varying consumer preference, and the lack of a consistent nationwide inspection program, exempting meat and poultry food products from inspection as is currently done under the present system cannot be justified.

Redeployment of Federal Inspectors in Retail—In an effort to re-deploy federal inspection staff, USDA has proposed an "in-distribution" pilot test project. Under this proposal, federal inspectors will expand a presence at retail-level food establishments. State and local food agencies have traditional responsibility at this level.

The National Academy of Sciences, in its August 1998 report, "Ensuring Safe Food From Production to Consumption," stated that the ideal federal food safety system would be "organized to be responsive to and work in true partnership with nonfederal partners. These include state and local governments, the food industry, and consumers." The FSIS is testing the feasibility of using its inspectors in food safety activities outside of federally inspected plants. Many of the activities proposed for the "in-distribution" FSIS inspections have historically been conducted by FSIS compliance officers. Responses by the leadership of the Association of Food and Drug Officials (AFDO) and the Food Marketing Institute (FMI) suggest inadequate FSIS coordination with its nonfederal partners for this initiative.

NASDA has urged the USDA, Food Safety Inspection Service (FSIS) to ensure that its food safety initiatives are integrated with food safety activities of its nonfederal partners. Potential impacts if this is not done include:

- Limited federal resources deployed without a systematic evaluation of risk or need
- Duplication of regulatory effort between federal and nonfederal agencies
- Precedent for unilateral federal action without effective coordination with nonfederal food safety agencies.

State Egg Inspection and Quality Assurance

State egg inspection and egg quality assurance programs have worked in cooperation with the table egg industry for many years to reduce the risk of Salmonella enteritidis in shell eggs. As the responsible federal agencies discuss their approach to reducing the public health risk of Salmonella enteritidis in shell eggs, the success and expertise of state programs should be recognized and included. If a mandatory federal program is implemented, the state programs that are equal to the federal program should be accepted. Aspects of quality assurance programs that should be addressed for the egg industry include biosecurity, rodent and pest control programs, environmental and egg sampling, etc. If a mandatory federal program is implemented, the state programs that are equal to the federal program should be accepted.

Dairy Product Safety

As the marketing of dairy products expands further into international markets, NASDA supports milk regulatory agencies utilizing uniform interpretations of the FDA Pasteurized Milk Ordinance

and the USDA Milk for Manufacturing Purposes and its Production and Processing Recommended Requirements.

Passage of the GATT and NAFTA agreements are advancing the National Conference on Interstate Milk Shipments (NCIMS) into the area of international trade. State and federal milk regulators and the NCIMS Program must ensure that regulations are uniform and equivalent, providing a safe and wholesome product, while allowing international commerce to progress.

Only pasteurized milk, milk products and properly aged cheeses should be sold for human consumption. Sale includes distribution by use of animal or herd sharing, bartering, exchange or agistment. In those states where the sale of unpasteurized milk is authorized, those products should be labeled "Not Pasteurized and May Contain Organisms that cause Human Disease."

Apparently healthy cows and goats can shed in their milk organisms which are pathogenic to human beings and may cause diseases such as brucellosis, Campylobacter enteritis, salmonellosis, and tuberculosis; and inasmuch as milk handlers may introduce pathogenic agents during the handling of unpasteurized milk (including certified raw milk). As a precondition for the importation of all dairy products (Grade A and Non-Grade A) into this country, the FDA should be required, through legislation or other means, to make a timely determination as to whether a dairy product proposed to be imported meets the sanitary standards of this country. The determination could be made by either (1) inspection of individual plants and farms by FDA or by FDA certified private firms or individuals; or (2) by FDA's determination that the foreign country's dairy inspection system is equivalent to that of the United States.

Verification of Food Safety Programs for Fresh Produce and Citrus

NASDA supports the concept of uniform third party audits as a means of verification of produce supplier food safety programs, providing the audit programs are science based, and utilize trained licensed federal or state auditors, or suitably licensed private auditors.

Fresh fruits and vegetables are important to the health and well being of the American consumer. Consumers enjoy one of the safest supplies of fresh produce in the world. However, over the last several years, the detection of outbreaks of food borne illness associated with both domestic and imported fresh fruits and vegetables has increased.

In 1997 the U.S. Food and Drug Administration and the U.S. Department of Agriculture collaborated to produce the "Guidance for Industry" - a guide to minimize microbial food safety hazards for fresh fruits and vegetables. This guidance document (The Guide) addresses microbial food safety hazards and good agriculture and management practices common to growing, harvesting, washing, sorting, packing, and transporting most fruits and vegetables sold to consumers in an unprocessed or minimally processed (raw) form. Both domestic and foreign fresh fruit and vegetable producers can use this voluntary science based guidance to help insure the safety of their produce.

The produce guide is guidance, not a regulation. As guidance, and if applied as appropriate and feasible to individual fruit and vegetable production operations, the guide will help to minimize microbial food safety hazards for fresh produce.

The food retail companies have an ever-increasing awareness of the consumer demand for safe food. Due to this awareness, these companies are requiring their suppliers of fresh fruits and vegetables to adhere to the guidance document and minimize the possibility of microbial contamination to the food supply. The retail food companies are requesting that their suppliers provide verification of their food safety programs through third party audits. The third party audit system in no way provides or implies any assurance that suppliers produce is free from microbial contamination. It is only a means to verify that the producers have a system in place to minimize microbial contamination.

Imported Food

NASDA encourages FDA and USDA to ensure that regulations and inspection methods for imported foods be based on risk-based analysis; that the regulatory and inspection process be applied in a uniform manner by both agencies; that resources for import activities be distributed equally across both agencies; and that state food safety agencies who meet federal accreditation standards be a key partner in the import activities.

International trade agreements have dramatically increased the amount of imported and exported food products to and from the United States. Most trade agreements addressed the issues of non-tariff trade barriers and other mechanisms often used to support domestic production programs. Phytosanitary restrictions, intended to provide safeguards against the importation of new, exotic, or serious pest problems, are still in place and allowable under the trade agreements. However, an issue that has not been adequately addressed is harmonization of food safety standards among trading partners. While the United States has imposed many restrictions on domestic food producers - limiting use of pesticides, mandating production under HACCP plans, mandatory labeling and container requirements - these requirements are not uniformly imposed upon imported products. This creates problems in two areas - uniformity of food safety for United States consumers and economic uniformity among the industry. NASDA strongly encourages the federal government to seek legislative and trade agreement reform that will ensure a uniform standard for food safety on both domestically - produced and imported food products.

All regions of the United States have been faced with significant and continuing problems regarding the safety and threat posed by certain imported foods, and the potential for a bioterrorism threat involving the safety of our foods from deliberate contamination is a reality.

FDA & USDA regulations and inspection methods for imported foods should be based on risk-based analysis. The regulations and inspection methods resulting from this process should be applied in a uniform manner by both agencies. Resources allocated for import inspection activities should distributed equitably across agency lines.

The federal government must assure that all imported food is subject to the same food safety standards required of US food manufacturers. This will require the federal agency with jurisdiction over a particular category of food products to make an equivalency determination in regard to a country's food safety system for that product before imports are allowed into the US from that country. Additionally the federal agency must also establish appropriate auditing and monitoring systems to assure that the food safety system is operating effectively. Furthermore, for those items that are involved in a previous food contamination and food safety incident, a full risk assessment, analytical testing, and certification of food items should be required by USDA and APHIS before importation of those items.

Repeated incidents involving imported foods including four years of food borne outbreaks from Salmonella poona in imported Mexican cantaloupes, recent findings of chloramphenicol residues in Asian shrimp, other seafood species, and honey in the U.S., Canada and Europe, and the findings of Mediterranean fruit fly in Clementine fruit from Spain illustrate the need for heightened surveillance and inspections.

NASDA urges all states to modify their programs to inspect and test for the food safety problems being noted in the marketplace involving antibiotic residues, food borne pathogens, and pesticide residues, and strongly encourages the federal government to provide needed resources to conduct such programs.

NASDA commends APHIS for action to prohibit the entry of medfly infested Spanish Clementine fruit and urges APHIS to continue this prohibition until adequate medfly-free certification criteria can be implemented. NASDA urges the U.S. Food and Drug Administration to establish systems and procedures to prevent the introduction of food borne pathogens, antibiotic residues, and pesticide residues into the food supply from other nations and to prohibit further importation of products involved in known problems until assurances of contamination problems can be resolved.

The United States still imports milk products from foreign countries without regard to whether those countries have equivalent inspection systems to assure the safety of those products, subject only to spot-checking of these products on arrival in the United States, except in cases where state laws have forced state authorities to establish more stringent controls. The Import Milk Act should be amended to extend the prohibitions applicable to the importation of milk to milk products, so that neither may be imported unless the Food and Drug Administration has conducted its own premises inspection, accepted a foreign official's certification of the quality of the product in question, or determined that the shipping country maintains a milk and milk product inspection and control system equivalent to that of the United States.

NASDA believes a more integrated approach for addressing imported foods is needed. By allowing state agencies to handle more of the domestic food safety matters, FDA can devote more time to imported food concerns.

FDA should expand current contracts with States to assist in import food surveillance. States are well positioned to utilize unique authorities to monitor and analyze imported foods in domestic and import status.

Despite the added resources provided to FDA, less than 1% of imported foods entering into this country is physically examined. The imported food models that exist in New York and Texas should be used as a national strategy. In New York and Texas, state investigators are utilized for imported food inspections at border crossings, food warehouses, and ethnic food stores. State authorities are employed where necessary and information is shared among all government agencies associated with imports.

FDA should provide training for states in imported food issues and fund strategic cooperative agreements with importing states and state laboratories to monitor imported food products marketed domestically.

Transportation

As authorized by the 2005 Sanitary Food Transportation Act, FDA should write regulations to support an integrated food transportation oversight and regulatory program. The rules should recognize the role of states in their responsibility to assure the protection of food and feed in transit.

An important component of the "farm to fork" food safety continuum is transportation. Food and feed are susceptible to contamination from a wide variety of physical, microbial, and chemical hazards while being held, transported, or delivered. Whether transported by truck, rail, air, or ship, the oversight and regulation of the transportation of food products across our country can be one of the weakest links in the food distribution system.

The 2005 Sanitary Food Transportation Act shifted authority for the regulation of sanitary food transportation practice from DOT to FDA. The Act requires FDA to develop regulations governing the safe transportation of food and food products. As of 2008, those rules have not been developed but FDA has begun the research process that will lead to rule promulgation.

Food protection and defense of in-transit food & feed can be improved by the control of hazards through the use of preventive measures. Those measures include good sanitation practices, tracking & documentation, temperature control, and the use of HACCP systems throughout the distribution chain. Not all current transportation industry practices employ adequate controls. State agriculture agencies can play a large role in safe food & feed transportation using new and existing authorities to focus regulatory attention on this segment of the food supply chain.

The federal government should fund cooperative agreements or contracts with states to monitor food transportation.

4.4 INFORMATION, COMMUNICATIONS & INTEGRATION

***Food Recall Management*—FDA should have cooperative agreements with state and local food protection programs for the purpose of conducting strategic food safety inspections and surveillance.**

Currently, three unfunded cooperative programs exist where states perform independent regulatory control: interstate milk shipments, retail food and food service, and shellfish shipment. The Environmental Protection Agency [EPA] has cooperative agreements with state pesticide programs and utilizes the states activities and results for enforcement and planning purposes. Utilizing cooperative programs and nationally recognized standards will create national uniformity, reduce duplication of efforts, and allow us to address food safety challenges in a more coordinated fashion. States are better positioned, for example, to take on new roles in mandatory food safety regulation beginning at the farm level. Working with imported foods is another burgeoning area to leverage state resources.

A number of states are leading the way in mandatory requirements for vegetable growers and packers. California and Florida have introduced mandatory programs for specific commodities in their states. FDA should model these programs through cooperative agreements so they become nationally accepted. New York and Texas have imported food initiatives with various federal agencies in these states and successfully monitor imported foods that enter into domestic commerce. These programs should be expanded to other states through cooperative agreements.

Federal food safety agencies must be authorized to share food product distribution information with State and Local government during the course of outbreak investigations, recalls and other food emergencies.

Quick response action prevents foodborne illness and saves lives. State and Local agencies are in the best position to respond quickly or to conduct recall effectiveness audits and ensure that contaminated food products are removed from commerce. State Health agencies need distribution information to conduct thorough foodborne illness outbreak investigations and link similarly exposed cases of illness. Currently, distribution information is held as proprietary information and the federal agencies are unable to share this information unless State representatives sign non-disclosure agreements or memorandum of understanding agreements that cannot be adhered to or may place States in violation of the federal Freedom of Information Act. Effective response to emergency situations such as Class 1 recalls, which involve contaminated foods cannot be accomplished until this matter is resolved.

For example, North Carolina recently employed an Incident Command System [ICS] utilizing state and local government officials from a multitude of agencies within that state to address a widely marketed chili sauce recall. They performed more recall audit checks in North Carolina than the rest of the country combined and removed from sale approximately 32,000 units of the tainted product from domestic channels in that state. They also found a large number of these botulism-tainted products in children's camps and other non-traditional food venues ready for

sale or service. Federal agencies need to review their response efforts with recalls and establish a formalized strategy with state and local government to significantly improve recall response as was done in North Carolina.

FoodShield– The National Communications Platform for ALL Food Protection Stakeholders

Rapid and accurate communications between federal, state, and local officials and industry is the foundation of a successful response to minimize the public health and economic impact of any food emergency. The need for improved communications between all stakeholders is commonly cited in lessons learned from real events and exercises. The FDA and USDA must require all federal, state, and local food regulators, public health officials, and other agencies with a role in food protection to use a central communications platform.

FoodSHIELD allows the diverse groups of regulators, public health officials, laboratories, industries, academia, and other stakeholders that are responsible for protecting the nation's food supply to interact and function as one unified network. The result will be enhanced emergency preparedness, identification, response, and recovery efforts to minimize the public health and economic impact of any food emergency. Multiple layers of security exist within FoodSHIELD allowing users to securely share information with a targeted audience. Communication tools including workgroups for sharing documents, polling tools for obtaining situational awareness, 24/7 emergency contact directory, and webinars for training and meetings build the partnerships necessary before, during, and after an emergency.

FoodSHIELD is the premiere national communication, collaboration, education, and training tool among the farm-to-table food and agricultural sectors. However, the lack of investment and promotion by Federal counterparts has limited its adoption. NASDA recommends further promotion, adoption, and funding of FoodSHIELD as the national communications platform for all food protection stakeholders.

Laboratory Issues

NASDA believes that federal agencies should be directed to establish protocols by which they can accept state inspection and food sampling analytical work and use it in enforcement activities including import alerts. The promotion of ISO 17025 accreditation by providing funds to meet and maintain accreditation will exponentially increase the Nation's laboratory capability and capacity and allow for international acceptability of data.

Failure to accept food safety information developed by the states creates delays in addressing public health risks and increased costs. A 2001 survey of food safety program managers from all 50 States, conducted by AFDO found that, nationally, State Public Health and Agriculture labs analyze more than 300,000 food samples each year. Federal agencies must integrate state and federal inspection and analytical data to guide operational, enforcement, and policy decisions. The U.S. Food & Drug Administration [FDA] does not currently accept State inspection and analytical data and must duplicate analysis before acting to protect consumer health and safety.

In the last 5 years, the New York State Department of Agriculture and Markets has coordinated 1,400 recalls of imported food products from 61 countries based on laboratory analysis of the food products. FDA re-analyzed only 13 of these food samples from the 1,400 and issued an import alert in all 13 instances. FDA did not act on the remainder of these foods that NYS found to be in violation of State and Federal requirements.

The Food Emergency Response Network (FERN) is a nationwide network of federal and state laboratories capable of testing foods for biological, chemical, and radiological contamination. The FERN network builds vital analytic surge capacity for responding to a terrorist attack on food. NASDA supports efforts to expand the FERN system through cooperative agreements and technical support to states.

Food Labeling

More effort needs to be placed on finding effective ways to inform consumers of risk without relying solely on warning statements placed on food products. Criteria need to be established on which to base justification for warning statements or any other disclosure about a food product. Food label claims must be both true and not misleading. Labels are powerful ways to inform, persuade, frighten or misinform consumers and care should be exercised to require only information that represents a material fact. Warning information should only be required when warranted by experimental or clinical evidence.

The United States food supply is rapidly changing as consumers demand diverse and minimally processed foods. At the same time, the number of people at high risk for foodborne illness (pregnant women, individuals with compromised immune systems, the elderly and the very young) has never been higher. Unfortunately, food safety educational efforts have not kept pace.

Consumers frequently cannot evaluate microbiological risks when they are purchasing food products. Organisms such as E. coli 0157:H7 can cause severe illness when a susceptible individual consumes even a few organisms. Consumers have no way of knowing when low level contamination is present and they must rely on government agencies and the food industry to ensure that the foods they purchase are safe. Although outbreaks of severe illness are relatively rare, when they do occur, they are often associated with consumer feelings of outrage and broken trust.

Warning and safe handling labels are used to inform consumers of potential foodborne illness risks. Food producers are reluctant to have their products publicly linked with foodborne illness and prefer more general food safety educational approaches, such as the "Fight BAC" campaign. A 1996 consumer survey conducted by the Food Marketing Institute suggested that consumers take action to reduce their risks of foodborne illness in response to information contained in safe handling labels. Sixty five percent of consumers participating in the survey indicated the labels made them more aware of food safety issues. However, only 43% reported changing their

behavior based on this information. It was not determined if the behavioral changes were maintained over a long period of time. The most commonly reported changes were:

- Increased cleaning/disinfecting for food contact surfaces (41%)
- Cooking foods to proper temperatures (19%)
- Increased handwashing (19%)
- Not thawing meat on kitchen counter (11%).

Disparagement of Ag Products

NASDA supports laws and regulations that requiring factual information be used when making allegations against agricultural products and/or producers will protect the industry and enhance the general public welfare by prohibiting the dissemination of false, disparaging, and economically damaging information.

Apple growers were financially devastated in 1989 by the highly-publicized Alar scare. It was later determined that disseminators of the sensationalized allegations against apples had no recognized, scientific data to validate their charges. This prompted agricultural interests aggrieved by the apple scare to seek ways to deter such efforts in the future. One option, which several state legislatures have enacted, is to promulgate legislation protecting producers from unfounded scare campaigns. Biotechnology is an emerging tool that will likely become an important part of agriculture's future, resulting in the development of a host of new food products. This technology and its products are and will continue to be the subject of emotionalized, undocumented, unscientific attacks by certain organizations. To prevent this situation from occurring, the free flow of agricultural products and the financial security of producers must be protected.

Education

Public education should include a general, science-based food safety program directed toward all consumers and target programs for those persons at high risk for foodborne illness. Consumer education should also provide information on technological advances, such as irradiation and agriculture biotechnology that can enhance the safety of the food supply, to promote wider consumer acceptance of such beneficial progress. Federal law should also provide consistent information regarding warning labels and other information statements on food products.

The final control in any system of food safety rests with the consumer. Observations in the United States and other countries have demonstrated that the incidence of foodborne illness can dramatically decline as a result of active public education and effective media coverage.

Government and industry must share the responsibility for educating consumers on appropriate food handling and cooking practices.

While it is important to make information available to sensitive populations, statements that are required on some products, but not on other similar products, lead to confusion and misinformation about those products. NASDA would welcome the opportunity to work with federal policymakers on a consistent label and information policy for food products.

4.5 PREVENTION

4.5.1 Risk in Perspective

Very conservative risk assumptions, which are intended to err on the side of health protection, may frequently result in substantial overestimates of risk. There is a need for improved methods of estimating potential foodborne disease in order to prevent and reduce foodborne illness, while ensuring a strong and viable food industry.

Risk is often put into perspective using numerical estimates, such as "a one in one million chance" of an accident occurring. How are these numbers derived? Many statistics, such as the average person's risk of dying from accidents and violence, are based on hard actuarial data. In contrast, the human cancer risks resulting from low-level chemical exposure in air, food, and water are rarely based on direct observation of human populations. These figures are typically based on high-dose animal studies, which are then extrapolated to determine risks to humans from exposure to low doses.

Within the field of environmental health, some risks are far less speculative than others. The risks of childhood lead poisoning, indoor air pollution, and occupational exposures to chemicals are relatively well understood by citizens and policy makers. Some of the non-cancer health effects from pollution, ranging from aggravation of asthma to neurobehavioral effects, have a stronger technical foundation than is commonly realized. In contrast, many of the traditionally popular and expensive environmental protection programs have a weak foundation in risk analysis.

4.5.2 The Science of Risk Assessment

NASDA supports the development of uniform food safety regulations and policies that also permit a certain degree of state flexibility to promulgate regulations that address circumstances that may be unique to that state.

No subject is a greater source of misinformation and public confusion than the assessment of relative risk to human health, safety, and the environment. The mathematics of probability is not easy to understand. It is difficult to distinguish the relative difference in the degree of risk between a probability of one in 10,000 and a probability of one in 1,000,000. The issue is further complicated when seemingly qualified scientists dispute the underlying data and assumptions

upon which risk calculations rest. Even when the science of risk assessment is crystal clear, there are still value judgments to be made about which risks deserve the highest priority and how safe is safe enough.

Generally, when public health issues are ranked by experts, microbial threats are a greater problem than chemical hazards. However, both chemical and biological hazards present separate potential public health problems that must be addressed in the nation's food safety policy. While microbial threats are often manifested in immediate, acute reactions ranging from gastrointestinal upset to death, chemical threats may take a lifetime to manifest themselves as disease or genetic changes that affect the next generation. Both problems demand a diligent and effective response from state and federal governments.

No magic risk number can substitute for informed and thoughtful consideration by accountable officials who work with the public to make balanced decisions. Public officials play a key role in determining which involuntary threats to human health are unacceptable and which are acceptable based upon the best available science and not just perception.

In general these regulations and policies should be applied in a consistent manner across federal, state and local agencies. However a necessary first step in the introduction of uniform nationwide food safety policy and the prioritizing of resource allocation is the need to develop sound scientific information on which to base that policy.

A national risk assessment model must be developed at the federal level for use in conducting risk assessments of commercial food handling operations from farm to retail. The model should be suitable for use in assessing the risks associated with both accidental and intentional contamination of our food supply and should take into account both food safety and food defense. Standardized risk management procedures based on risk assessment results should be used to weigh policy alternatives and to develop and implement the appropriate regulatory response. An active risk communication network should be established to facilitate the exchange of information among those in industry and government who are assessing risk or developing methods to mitigate or manage risk.

A voluntary Model Food Defense Code should be developed to ensure that states have the tools necessary to close gaps identified through risk assessments. The development of standardized food safety protocols embodied in the Model Food Code have enabled jurisdictions at all levels to establish a uniform system of regulation to ensure that food is safe for consumers. The very real threat of an attack on the food supply demands that additional measures be taken to ensure that food offered for sale has been handled under the most secure conditions from farm to table.

4.5.3 Decisions Based on Sound Science

No magic risk number can substitute for informed and thoughtful consideration by accountable officials who work with the public to make balanced decisions. Public officials play a key role in

determining which involuntary threats to human health are unacceptable and which are acceptable based upon the best available science and not just perception.

4.5.4 Risk Analysis In Food Safety Regulation

A national risk assessment model must be developed at the federal level for use in conducting risk assessments of commercial food handling operations from farm to retail. A voluntary Model Food Defense Code should be developed to ensure that states have the tools necessary to close gaps identified through risk assessments. NASDA supports the development of uniform food safety regulations and policies that also permit a certain degree of state flexibility to promulgate regulations that address circumstances that may be unique to that state. In general these regulations and policies should be applied in a consistent manner across federal, state and local agencies. However a necessary first step in the introduction of uniform nationwide food safety policy and the prioritizing of resource allocation is the need to develop sound scientific information on which to base that policy.

The model should be suitable for use in assessing the risks associated with both accidental and intentional contamination of our food supply and should take into account both food safety and food defense. Standardized risk management procedures based on risk assessment results should be used to weigh policy alternatives and to develop and implement the appropriate regulatory response. An active risk communication network should be established to facilitate the exchange of information among those in industry and government who are assessing risk or developing methods to mitigate or manage risk.

The development of standardized food safety protocols embodied in the Model Food Code have enabled jurisdictions at all levels to establish a uniform system of regulation to ensure that food is safe for consumers. The very real threat of an attack on the food supply demands that additional measures be taken to ensure that food offered for sale has been handled under the most secure conditions from farm to table.

Microbiological testing, as necessary to verify the effectiveness of an establishment's procedures for controlling microbiological hazards, should be an integral part of the risk-based system. This testing should be done to determine if the process is effective and not attempt to establish microbiological standards. The frequency of testing required should be proportional to production volume and frequency of detection, and not based on a calendar schedule.

A significant difference exists between microbiological testing in raw and ready-to-eat foods. Science and technology indicate that it is currently impossible to ensure that raw meats and poultry are free of potential pathogens. As a result, microbiological testing of raw meat and poultry for other than informational purposes and verification of HACCP systems is inappropriate. Microbiological testing in ready-to-eat foods is appropriate and should continue to be mandatory.

4.5.5 HACCP and HACCP Plans

In order to provide efficient utilization of current resources, risk assessments must be made in all segments of meat, poultry, exotic, and aquatic food production, and resources should be allocated in areas where significant risks to consumers can be reduced.

The production of wholesome food for consumers is a cooperative effort between the food industry and governmental agencies. In order to be successful, a sincere spirit of cooperation between the food industry and the government is essential. The incorporation of HACCP plans into the industry must change the way the Secretary of Agriculture allocates resources for inspection.

While HACCP has primarily been required in the meat, poultry, exotic animal, and aquatic industries, HACCP's application is much broader than just food inspections. HACCP has proved effective in canned food processing, and HACCP or HACCP-compatible systems should be applied to all food production and processing. General guidelines to assist producers, processors, and distributors in HACCP plan development should be available. Testing should be used as a tool to verify the effectiveness of HACCP plans.

HACCP programs can result in enormous safeguarding benefits for the food system, however, it requires a resource commitment on the part of industry. Government agencies should support the movement towards HACCP systems in the food industry. Support could be in the areas of training, research, model plans, and other tools to assist the industry in HACCP implementation.

These HACCP plans must be unique for each operation. Critical control points should be identified, critical limits established, and corrective action procedures developed for processes that are outside of acceptable limits. These plans must be reviewed and updated on a regular basis. Flexibility is necessary in preparation and implementation of these plans. The Secretary of Agriculture and state meat and poultry inspection agencies should monitor the overall effectiveness of these industry plans. A sincere sense of cooperation and collaboration between the industry and the government is essential for a successful risk-based inspection system.

While NASDA supports the use of HACCP programs along the complete "farm to fork" continuum, we recognize that there are major gaps in knowledge and information, making it effectively impossible to implement in some areas. In particular, we know little about effective intervention at the farm production level.

Modernization of the nation's meat, poultry, and seafood inspection system must be based on the principal idea of reducing the risks of foodborne disease to consumers. Inspection programs should provide oversight that focuses on prevention of food safety hazards. Risk-based inspection will lead to overall safer products by focusing scarce inspection resources in areas with a greater risk potential. Government resources can then more efficiently be directed at ensuring that the hazard control procedures achieve the program's objective through monitoring and verification of the industry's activities.

The main value of a Hazard Analysis and Critical Control Point (HACCP) system is prevention rather than detection. The HACCP system involves determining points along the food production chain where contamination can occur. Safeguards are then developed for these critical control points to prevent food safety hazards. Records are kept to help trace problems to their origin. Verification systems are established to ensure that the program is effective.

Therefore it is unwise to mandate HACCP programs. However, with sufficient research we believe it possible to identify strategies that will significantly reduce the incidence of on-farm foodborne contamination. Furthermore, it is critical to have an effective transfer of technology and information to the farm. Coordination of research efforts is necessary between state and federal agencies. Enhanced disease reporting procedures would allow agencies to identify research needs at an early stage.

4.5.6 Expanded Use of HACC

NASDA believes government agencies must focus regulatory efforts on preventing or minimizing food safety risks (i.e., verifying the efficacy and application industry designed and operated food safety systems).

Food safety management regulations based upon the Hazard Analysis Critical Control Point [HACCP] principle currently exist at the federal level for meat & poultry products, fruit juices, and fishery products. HACCP is recognized as a systematic and prevention oriented control mechanism for dealing with food safety hazards. It should be employed for all food processing types.

4.5.7 Research

While NASDA supports the use of HACCP programs along the complete "farm to fork" continuum, we recognize that there are major gaps in knowledge and information, making it effectively impossible to implement in some areas. In particular, we know little about effective intervention at the farm production level; therefore it is unwise to mandate HACCP programs. However, with sufficient research we believe it possible to identify strategies that will significantly reduce the incidence of on-farm foodborne contamination. Furthermore, it is critical to have an effective transfer of technology and information to the farm. Coordination of research efforts is necessary between state and federal agencies. Enhanced disease reporting procedures would allow agencies to identify research needs at an early stage

4.5.8 Preharvest Food Safety

NASDA supports development of uniform, but voluntary standards for pre-harvest food safety, with input from all parties and a clear articulation of the risks and benefits associated with adoption of those standards. Basic and applied research is needed to define specific interventions that will positively impact food safety, and which can be used in the development of uniform standards. Moreover, pre-harvest food safety efforts should also be integrated with

overlapping issues such as nutrient and waste management, environmental protection, rural economic development, and animal health and welfare.

NASDA encourages continued work on the Federal/State National Auditing Alliance to verify good agricultural practices and good handling practices. NASDA also supports the concept, similar to the approach used for environmental protection efforts, to provide federal support and incentives to producers who voluntarily establish verifiable pre-harvest food safety programs. NASDA proposes a Food Safety Quality Assurance block grant program, administered by the states, to facilitate the adoption of innovative food safety assurance programs on farm. In addition, there is a need for uniform education regarding the national program to Retailers and International Market Buyers of the USDA Federal State Program. NASDA requests that USDA AMS Fresh Products Branch begin an educational campaign to inform retail buyers of the program and the advantage of the uniformity provided by the Federal State Auditing Program.

Pre-harvest food safety relies on activities conducted by livestock and crop producers which prevent or reduce the occurrence of organisms, agents or conditions that pose an animal health or food safety risk. Most current regulatory programs, however, are focused on post-harvest food safety practices (transportation, processing, retail sale). NASDA believes measures can be taken at the farm level to minimize or reduce the potential for foodborne illness further down the processing chain. We believe this because such measures are successfully being taken in many cases.

Many food retailers and distributors are now calling for third-party food safety inspections of their producer suppliers. In these instances, producers engage the services of a third party to verify that plant and animal production is occurring in accordance with a set of standards. The on-farm standards used vary among states, third-party verifiers, buyers, as well as by crop or animal produced. Consistent standards are needed to ensure that food producers can ensure food safety, satisfy consumer concerns, address the emergence of new organisms and satisfy current and potential export markets. On-farm quality assurance standards should be voluntary, well conceived, sustainable over time, flexible, transparent, uniform and include an evaluation mechanism. Many states are already moving forward to design and implement effective producer-oriented quality assurance programs. For example, the California Department of Food & Agriculture is participating in several on-farm quality assurance programs. The structure of the programs and degree of involvement varies by commodity and their unique needs. More basic and applied research, as well as educational efforts, is also needed.

Incentives, technical assistance, and a comprehensive approach can be used to increase the speed and the extent that standards are adopted on farms. Because of the nature of food handling activities on farms, a comprehensive, integrated approach is needed for ensuring that standards are utilized. Verification that food safety standards are being utilized effectively can be accomplished in a number of ways including third party, HACCP, an overarching audit, or by epidemiological indicators.

4.5.9 Harvest

NASDA supports requiring those facilities involved in animal harvest to develop and implement written HACCP plans, which identify and control public health hazards for products of animal origin during harvest. The plans should encompass ante-mortem and post-mortem procedures in addition to other identified critical control points (i.e. dressing procedures, sanitation, facility requirements, etc.).

Harvest activities include the conversion process from a live animal to a carcass, the removal of plant material from its growing media, and the harvesting, picking, or collecting of a raw agricultural product or seafood. Once a facility's plan has been satisfactorily implemented, the Secretary of Agriculture should focus efforts on verifying the effectiveness of the facility's plan and the facility's compliance with it. The intensity of government oversight should depend upon many factors including the risks presented by particular products and slaughter operations, the effectiveness of a facility's plan, and each facility's compliance with the plan. In facilities that slaughter a uniform, high quality animal, produced under an effective, well documented quality assurance program, the Secretary should not be required to provide 100 percent evaluation of the animals for disease or aesthetic defects (organoleptic inspection). The facility should assume this responsibility as a part of its HACCP plan. A HACCP system developed and implemented by the establishment which could include government verification and minimal inspection oversight would be superior to continuous organoleptic inspection used alone. Facilities harvesting animals that are not uniform and/or of high quality or originate from farms that do not have an effective quality assurance program should still be subject to 100 percent evaluation of animals by the Secretary for disease or aesthetic defects. Facilities involved in plant material harvest should follow HACCP-compatible good agricultural and sanitation practices.

4.5.10 Processing

The most significant reduction in risk of foodborne disease can be made by controlling the processes that occur during post harvest production. Processing includes the wholesale and retail handling and modification of plant and food products after the harvest phase and prior to consumption. Wholesale processing includes meat and poultry processing, egg product processing, and further processing of other food products for wholesale and distribution in commerce. It also includes cooking, baking, heating, drying, mixing, churning, separating, extracting, cutting, freezing, or otherwise manufacturing a food or changing the physical characteristics of a food, and the packaging, canning or otherwise enclosing such food in a container, but does not mean the sorting, cleaning, or water-rinsing of a food. Retail processing includes the handling of foods at restaurants, retail stores, vending operations, and other institutions. The steps that are taken at these facilities pose risks to consumers.

4.5.11 Wholesale Processing

Mandatory HACCP plans should be required for all post harvest wholesale processing operations. Each wholesale food processing facility should develop a HACCP plan to control,

monitor, and verify the critical processes that are conducted in that operation. Plant operators and plant employees should be responsible for implementing these plans and taking control of the food production processes in their operations. The Secretary of Agriculture and states should monitor and verify the implementation of those plans.

It is important to note that not all establishments must have a HACCP plan. NASDA believes all processors should conduct a "hazard analysis" of their operation. Where significant hazards are identified, then a HACCP plan is required. Many establishments will not have significant hazards and would not need a HACCP plan.

4.5.12 Manufactured Food Regulatory Program Standards (MFRPS)

MFRPS is currently being piloted in five states, such as North Carolina. The goal of MFPRS is to establish equivalency among the state regulatory programs by identifying key elements of a high quality regulatory program such as laboratory, resources, inspection program, outreach, training, etc. NASDA encourages states to participate in MFPRS and urges FDA to provide additional funding for states to fulfill the requirements of the standards.

4.6 RESPONSE

4.6.1 Tracebacks

NASDA strongly urges the immediate development and implementation of a uniform farm animal identification and tracking system, as well as systems that make possible the identification and tracking of domestic and imported food products.

The need for an ability to track crops, livestock and food products from farm to table cannot be overstated in terms of protecting public health and preserving the economic viability of the food and agriculture industry. Consumer and market demands have already begun driving trends to greater accountability and traceability. Increasing threats from a food safety and animal health perspective alone would be sufficient argument in favor of developing comprehensive product identification and tracking systems. Last summer Canada was, and now the United States is, under a global microscope as we struggle to trace the source of a cow infected with BSE as well as other animals associated with that cow. The specter of terrorist attacks makes the development and implementation of such systems even more imperative. If we require more than a few hours to locate all products associated with a terrorist incident, we risk a massive loss of consumer confidence in the nation’s food and agriculture system. That could have far costlier consequences than the immediate cost of the incident.

An effective preharvest quality assurance program should contain a feedback loop whereby food producers and food processors share relevant information on disease agents and disease incidences, diagnostic procedures and intervention strategies. The various segments of the industries can work together through an effective quality assurance program to identify and implement effective intervention strategies to achieve a safer food supply for consumers.

The Secretary should have some oversight of preharvest activities and authority to trace disease agents through all points of production to the place of origin, or at least to the last point of production. In order to make such tracing of organisms and agents possible, the Secretary should have the authority to require appropriate identification of individual animals and plant material. Such identification can lead to a more effective, rapid recall of potentially contaminated food products along the entire food chain, as well as minimization of illness and/or death resulting from exposure. Such a system also provides increased consumer confidence, while possibly minimizing the economic loss to industry in the event of a product recall. Plant records should identify the grower, and such identification could be coded.

Traceback of foods that are inapparent carriers of potential human pathogens should be for the purpose of developing ecological, epidemiological, diagnostic and intervention information and strategies. Quarantine of farms, however, is inappropriate for potential foodborne pathogens that have a number of host species, are found in the environment, and for which there are no effective preharvest diagnostic procedures or intervention strategies. Should quarantine authority become necessary it should continue to reside with state animal health agencies. Seizures/embargo authorization is necessary to halt the movement of adulterated products in commerce.

The federal government should work closely with state governments and industry to develop an identification system that will address the diversity of production, marketing and distribution mechanisms for fresh and processed food products.

It is also important for consumers and industry, as they move between states, to have the confidence that a consistent and uniform set of minimum standards exists that will ensure the safety of the food they serve and consume. This can be accomplished by having all states incorporate the FDA Model Food Code. The 1997 FDA Model Food Code is a document that provides scientifically based retail food safety advice for food regulatory agencies at all levels of government. It is a living document that will continue to be reviewed and updated on a regular basis through input from state and local food regulatory agencies, industry, academia, and consumers through such forums as the Conference for Food Protection and the Association of Food and Drug Officials. It has received endorsement from USDA, CDC, and various food industry organizations.

4.6.2 FDA Rapid Response Team and Infrastructure Development

NASDA believes FDA should expand the grant program to include additional states. This is the most efficient way to increase the Nation's capability to rapidly identify and respond to a food safety issue. The grants provide not only training and exercising of RRT members, but also for infrastructure development necessary to support the teams.

4.7 RECOVERY

4.7.1 Salvage Food

In order to assure that the public health of consumers is protected from the sale or distribution of foods which have become adulterated or misbranded, a fully integrated and uniform system of salvaging and reconditioning of these products is needed. The Model Food and Drug Salvage/Recondition Code to regulate food and drug salvage processing plants and distributors should be offered to and adopted by the states. State and federal agencies should require that HACCP or HACCP-compatible plans are in place for all salvage food operations.

Food and drug products can become distressed or non-marketable for a variety of reasons that include but are not limited to natural disasters (floods, tornadoes, hurricanes, etc.), shipping accidents, fires, etc. Some food and drug products can be reconditioned or salvaged safely for redistribution and sale to the ultimate consumer.

4.8 FOOD DEFENSE

4.8.1 Emergency Action Plans

All states either have developed or are developing livestock, crop and food emergency response plans. NASDA has developed a model Food Emergency Response Plan through a cooperative agreement with federal partners. The state departments of agriculture and other state government agencies need assistance to develop and implement these plans, along with preparedness training and education. NASDA urges the Department of Homeland Security to provide funding for these activities. We believe it is cost-effective to provide state and local government with a valuable readiness tool to facilitate seamless regional and national responses to food emergencies.

4.8.2 National Incident Management System (NIMS)

NIMs was developed so that local, state and federal responders from different jurisdictions and disciplines can work together in responding to natural disasters, emergencies and terrorism. NIMS provides a unified approach to incident management using the Incident Command Structure (ICS). NASDA believes more efforts are needed to address the communications gap between state and federal partners in the sharing of critical information and intelligence. NASDA also believes the development of rapid communications and incident notification systems should be a top priority and include both public and private sector decision-makers.

North Carolina recently employed an Incident Command System [ICS] utilizing state and local government officials from a multitude of agencies within that state to address a widely marketed chili sauce recall. They performed more recall audit checks in North Carolina than the rest of the country combined and removed from sale approximately 32,000 units of the tainted product from domestic channels in that state. They also found a large number of these

botulism-tainted products in children's camps and other non-traditional food venues ready for sale or service. Federal agencies need to review their response efforts with recalls and establish a formalized strategy with state and local government to significantly improve recall response as was done in North Carolina.

4.9 NEW TECHNOLOGIES

4.9.1 Biotechnology/Genetically Modified Organisms (GMOs)

NASDA supports the role and responsibility of FDA to determine appropriate food labeling and to provide regulatory guidance to the food industry on the voluntary labeling of products to meet consumer preferences. The agency should communicate a clear definition as to what constitutes genetically modified food or food products, and require that voluntary labeling claims can be substantiated by identity-preserved supply chains based on a clear and factual certification process. The Federal Trade Commission should develop comparable guidelines for advertising claims about food biotechnology.

Numerous authoritative groups worldwide have concluded that modern gene transfer technologies offer no unique risk to human or animal health or the environment. These groups include official commissions, scientific bodies, and international organizations, such as the OECD, the Codex Alimentarius Commission and our own U.S. government, which are staffed with experts from all relevant disciplines.

The evaluation of food, food ingredients, and animal feed obtained from organisms developed using rDNA technology does not require a fundamental change in established principles of food safety; nor does it require a different standard of safety. The science that underlies biotechnology-derived foods does not support more stringent safety standards than those that apply to conventional foods. Current FDA policy reflects this view.

Federal law requires specific labeling on food products to inform consumers of the existence of material facts that are significant and relevant to the issues of safety, efficacy, and purity. Any changes to a food product that alter the chemical or nutritional composition, or allergenicity of the product must be disclosed to the consumer. Under this requirement, if a food derived from modern biotechnology affects any of these aspects, FDA requires that the food be so labeled. If the product is not materially different from its conventional counterpart, it does not require special labeling.

Industry has the legal responsibility to ensure the safety of foods and feeds it puts on the market, and governments have the legal responsibility to ensure oversight of foods, feeds and food or feed ingredients. These duties are important whether the products are produced by biotechnology, conventional or organic means; it is imperative that a safe and stable food and feed supply is ensured and maintained

4.9.2 Food Irradiation

NASDA supports the expanded use of food irradiation to include ready-to-eat meat and poultry products and fruit and vegetable products. As additional approvals are given, USDA must also fund educational efforts in order to provide consumers with accurate information about the technologies used to ensure food safety. NASDA supports the federal regulatory agencies as they continue to expedite review of food irradiation petitions. FDA should also review current regulation that considers food irradiation as a food additive rather than a food process.

Scientists, food regulators, public health officials, and food industry leaders all strongly support the use of irradiation technology to enhance food safety, quality, and to control pest dissemination. While the regulatory approval process in the United States has been viewed as an obstacle to widespread adoption, the USDA has recently defined uses of food irradiation to include treatment of frozen and refrigerated uncooked meat and meat byproducts.

A parallel exists between the current food irradiation debate and the concerns debated during the adoption of an earlier food safety technology – milk pasteurization. Several decades ago, there was a prolonged period when the public was uninformed about the benefits of milk pasteurization and therefore suspicious of adverse health effects associated with consumption of pasteurized products. Consumers were slow to accept this important method of ensuring milk safety in part because public health and agricultural authorities at the time did not publicly advocate its use. A parallel exists between the current food irradiation debate and the concerns debated during the adoption of an earlier food safety technology – milk pasteurization. Several decades ago, there was a prolonged period when the public was uninformed about the benefits of milk pasteurization and therefore suspicious of adverse health effects associated with consumption of pasteurized products. Consumers were slow to accept this important method of ensuring milk safety in part because public health and agricultural authorities at the time did not publicly advocate its use.

We encourage NASDA members to develop partnerships within their respective states and initiate effective consumer food safety education programs that includes information about the safety associated with the use of food irradiation. And finally, similar to NASDA's biotechnology policy, it is particularly important that food labels convey useful and accurate information in a way that is not misleading to the consumer.

5 Nutrition and Food Assistance

5.1 INTRODUCTION

Any examination of the history of agriculture shows its vital importance. But even as the world progresses in other such sophisticated areas as communications and technology, the simple need to grow and distribute food becomes even more critical. In a world which during the past 40 years has seen remarkable progress by many nations in agricultural production, the fact remains that the future prospects for meeting world food needs still depend heavily on one nation — the United States.

Several hundred million people in the world struggle for daily survival on incomes which cannot provide even the minimum diet required for good health. These millions of people spend the majority of their incomes on food, usually the cheapest food that will sustain human life. In Bangladesh, for example, 80 percent of the total caloric intake has historically come from food grains, and in most of the poorest nations, such grains account for well over half of total calories. However in the U.S., consumers enjoy the safest, most wholesome, most nutritious, and varied food supply in the world. The contrast with the developing countries could not be more striking.

In addition to the variety of food available for U.S. consumers, Americans also enjoy the benefits of an inexpensive food supply. In the United States, the average family spends less than 10 percent of their disposable income on food. That same family in France spends 16 percent, in Japan 18 percent, in Thailand 29 percent, in Mexico 48 percent, and in India 53 percent.

Over the next several years, prospects for food supply and equitable distribution are fair at best. The United States today has an opportunity — as well as an obligation — to lead the world toward a more secure food policy. A major portion of that policy is the development of sound regulatory policies and programs which provide for the production of a safe and nutritious food supply for American consumers and the rest of the world.

5.2 CHILD NUTRITION PROGRAMS

National School Lunch/Breakfast Programs

(Updated September 2012)

The National School Lunch Program and the School Breakfast Program are a federally assisted meal programs that operate in public and nonprofit private schools and residential child care institutions. Under the school lunch program, nutritionally balanced, low-cost or free lunches are provided to more than 25 million children every day. The school breakfast program ensures that eligible children receive a nutritious breakfast every morning.

Through agreements with local school districts and independent schools, USDA provides cash reimbursement and donates assistance for each meal to participants in the program. In turn for this federal assistance, schools are required to serve lunches that meet federal nutrition requirements, and to offer free and reduced price lunches to eligible children.

In 1994, the USDA began an effort to improve the nutritional quality of school meals through the School Meals Initiative for Healthy Children. This was the first full reform of the school lunch program since its establishment. Under this new initiative, school meals are required to conform to the Dietary Guidelines for Americans and provides schools with the opportunity to update nutritional standards for meals and expand menu planning options. It has helped to improve the nutritional quality of school lunches and breakfasts.

The 2002 Farm Bill encouraged institutions participating in the National School Lunch Program to purchase local foods where practical. The Farmmâ?tooâ?School Program provides a means for sending locally grown nutritional fresh fruits and vegetables to schools and gives local producers an additional market for their products. NASDA opposes any change to this program that would provide less fresh produce to the schools and put local producers at a disadvantage.

The Healthy, Hunger-Free Kids Act of 2010 reauthorized funding for school meals and child nutrition programs. The Act also gave USDA the authority to set nutritional guidelines on all food sold in schools including vending machines, school stores, and “a la carte” lunch lines.

NASDA opposes restrictive dietary guidelines on meat protein and calories served through the National School Lunch and Breakfast program that do not take into consideration individual needs, especially those of physically active and growing students. Dietary guidelines should not deprive students of sufficient calories and protein for healthy growth and mental alertness.

Overly restrictive dietary guidelines in the school lunch program will not solve the serious, national problem of childhood obesity. Rather, a more comprehensive approach, including dietary education and increased physical activity, is needed to help students adopt a healthier lifestyle.

Continued support for the National School Lunch Program, the School Breakfast Program, and the School Meals for Health Children Initiative will ensure that our nation’s neediest children are guaranteed meals in school that meet proper nutritional guidelines.

Special Milk Program

Children in schools and child care institutions that do not participate in other federal child nutrition meal service programs can receive milk under the Special Milk Program. Under the milk program, schools are reimbursed for each half-pint milk they serve.

More than 151 million half-pints of milk were served through the program in 1995. Unflavored and flavored whole milk, low-fat milk, skim milk and cultured buttered milk that meet state and local standards can be offered under this program.

5.3 FOOD ASSISTANCE PROGRAMS

Food Stamp Program

The food stamp program traces its earliest origins back to the food stamp plan, which helped needy families during the Depression era. The modern program began as a pilot program in 1961 and was authorized as a permanent program in the Food Stamp Act of 1964. Expansion of the program occurred most dramatically after 1974 when Congress required all states to offer food stamps to low-income households. Participation generally peaks in periods of high unemployment, inflation, and recession.

The program helps put food on the table for more than 27 million Americans every day. It provides low income households with coupons that can be used like cash at most grocery stores to ensure that they have access to a healthy diet.

In 1996, the Congress passed and the President signed legislation reforming welfare programs. Included in that legislation were changes to both the food stamp and commodity distribution programs. Most notably, these changes included the implementation of an electronic benefit transfer system, the creation of a means for homeless individuals to utilize food coupons, and authorization for the federal government to purchase various commodities for distribution. The present Food Stamp program should be broadened to include a coupon program, similar to the WIC Farmers' Market Nutrition Program, to encourage participants to purchase local agricultural food products.

The effectiveness in providing a healthy diet for the needy under the food stamp program depends upon improvements in providing food to the needy. The elimination of provisions allowing for the cash-out of food stamps is important to protecting the program from increased fraud and abuse.

Women, Infants, and Children (WIC) Program

Under the Special Supplemental Nutrition Program for Women, Infants and Children (WIC), low income women, infants and children have access to food, nutrition counseling, and health services. Federal grants are provided to states to support the efforts of the WIC program. At the state level, most WIC programs provide vouchers that participants can use at authorized food stores. All states including the District of Columbia, 32 tribal organizations, Puerto Rico, the Virgin Islands, American Samoa, and Guam participate in the WIC program.

Children tend to be the largest recipient of the WIC benefits, but such benefits are not always able to reach or serve all eligible participants. Nutritionally at-risk women, infants and children eligible to participate in the program should be able to take advantage of its benefits.

WIC Farmers' Market Nutrition Program

The WIC farmers' market nutrition program (FMNP) was established by Congress in 1992 in order to expand the use and awareness of farmers' markets, and provide locally grown, nutritious, fresh fruits and vegetables from farmers to women, infants, and children who are nutritionally at risk. The FMNP currently operates in 35 states, Washington, D.C., four Indian tribal organizations, and one territory. Under the FMNP, WIC participants are provided with a limited promotional and educational benefit to encourage a change in their eating and shopping behavior. In 2000, more than 2000 farmers' markets; 13,000 farmers; and 1.9 million women, infants, and children benefited from the FMNP.

One hundred percent of the food funds budgeted for the FMNP go into farmers' pockets. In 2000, farmers earned in excess of $17.6 million in direct sales from FMNP coupons. Two-thirds of the WIC participants said they continue to shop with the farmers after their FMNP benefits are expended.

USDA provides grants to assist states with up to 70 percent of the cost to implement the FMNP. The success of the FMNP has encouraged additional state departments of agriculture and/or departments of health to seek federal funding to implement the FMNP. Moreover, states that already have FMNP grants would like to expand their programs to additional farmers' markets.

FMNP has proven to be a highly cost-effective means to stimulate production of locally grown fresh fruits and vegetables and encourage the growth of farmers' markets. These farmers' markets provide an important outlet for local farmers while enhancing communities and providing consumers a wider variety of choices and greater access to local farm production.

The FMNP is an outstanding investment for agriculture and the nation and should be supported. Expansion of the WIC Farmers' Market Nutrition Program to additional states and farmers' markets should also be strongly supported.

Senior Farmers' Market Nutrition Programs

The Seniors Farmers' Market Nutrition Program (SFMNP) was established as a pilot program in 2001 in an effort to provide a direct tie between nutrition and production agriculture by allowing eligible individuals to purchase fresh local produce directly from farmers.

The SFMNP is designed to increase the consumption of agricultural commodities by expanding or aiding in the development of farmers' markets and by providing fresh, nutritious, unprepared, locally grown fruits, vegetables, and herbs to low-income seniors.

Scientific research has shown that a diet rich in fruits and vegetables provides essential nutrients and helps reduce the incidence of certain illnesses, including cancer. I believe this program is critically important to providing seniors- who are increasingly faced with fixed incomes- with these nutritious foods.

The 2002 Farm Security and Rural Investment Act of 2002 allows USDA's Food and Nutrition Service to continue the program by providing SFMNP grants to 32 states, 3 Indian Tribal

Organizations, Guam, Puerto Rico and the District of Columbia. Fiscal year 2002 grants totaled $15 million.

The SFMNP Expect to serve 400,000 low-income senior citizens who utilize coupons to purchase fruit, vegetables and herbs from approximately 3,500 farmers at nearly 2,000 markets, roadside stands or community supported agriculture programs.

NASDA encourages Congress to continue funding for the SFMNP as a means of enhancing the relationship between seniors and local farmers who provide fruits and vegetables at local farmers' markets. NASDA further supports expanding the program to additional states and farmers' markets.

5.4 FOOD DISTRIBUTION

Emergency Food Assistance Program (TEFAP)

The North American Free Trade Agreement (NAFTA) was passed by Congress in November, 1993. Its purpose is to remove many of the Mexico — United States and Mexico — Canada trade restrictions. U.S. farmers will now face increased competition from Mexican producers who do not have the same stringent agrichemical environmental restrictions and farm labor requirements. NAFTA will allow for greater importation of fruits and vegetables into the United States which will compete with those grown domestically.

USDA purchases commodities for distribution through its various programs. It is a concern amongst the agricultural sector that the USDA will now purchase a significant amount of product from the other NAFTA members. Continued purchase of domestic product by USDA would retain a viable market outlet for these U.S. producers.

The Emergency Food Assistance Program (TEFAP) provides nutritious domestic agricultural products to needy Americans, while also providing support to the agricultural community. TEFAP is protected under the General Agreement on Tariffs and Trade (GATT) giving the United States the ability to support agricultural producers by purchasing domestic commodities for food assistance programs.

Priority should always be given to domestically produced commodities for federally assisted programs. Coordination among government agencies and private organization involved in food assistance distribution should be encouraged to better meet the needs of disadvantaged individuals.

Commodity Letter of Credit (CLOC) Program

The USDA commodity price stabilization and surplus removal program supports U.S. agriculture when markets are weak and provides immediate and direct benefits to producers. Only about 13 percent of program funds go to directly support agricultural markets through the commodity program. The remainder is in cash payments to child nutrition programs. Commodity foods

represent about 20 percent of the food acquired in the National School Lunch Program (NSLP). Considerable flexibility is currently afforded school districts which can use the vast majority of funds for unrestricted uses including labor, food and other costs.

The positive effect of commodity programs needs to be retained. The existing commodity distribution program has been extremely valuable in stabilizing market prices of U.S. agricultural commodities and in providing nutritious and cost effective government feeding programs such as the school lunch and school breakfast programs. The market impact of agricultural support programs is more pronounced when the amount of product removed from the market represents a relatively large portion of the total market for that commodity.

In the early 1980s a pilot program called the Commodity Letter of Credit (CLOC) was established as an alternative to the existing commodity distribution system. CLOC purchases are made at the consumer end of the food pipeline and USDA purchases are made at or near the producer end. When a single large entity such as the federal government announces an upcoming large purchase, the market impact can be considerably different than if the approximately 20,000 school districts take delivery of small purchases from commercial distributors.

- USDA has acknowledged that CLOC may not have the advantage of responding quickly to unexpected market changes. This is particularly true for bonus commodity purchases targeted for specific regional relief.

- USDA can assure the purchase of domestic products, a statutory requirement guiding the commodity program. Current labeling requirements are not specific enough to provide local purchasers with this information.

- There is no guarantee that USDA funds are used to purchase U.S. produced commodities. Imported commodities may be being purchased with USDA dollars under the CLOC program.

The last official announcement from USDA did not support continuation or expansion of the Commodity Letter of Credit (CLOC) system. USDA's position was "The pilot sites testing CLOC and a cash alternative should return to the commodity system. It is in the best interest of agricultural producers, administrators of commodity distribution systems and recipients of USDA's domestic commodity programs to retain the traditional commodity program.

Traditional USDA commodity price stabilization, surplus removal and distribution programs should be continued. However, expansion of the Commodity Letter of Credit program should not be undertaken since it has not proven to be a viable alternative.

5.5 GLEANING AND FOOD RECOVERY

No one should ever go hungry in America. But, yet, millions of pounds of food each year goes to waste and many poor and needy people go hungry. Efforts to recover millions of pounds of

food before going to waste and to redirect it to the poor and the needy is important to agriculture and the American people.

6 International Marketing and Trade of Agricultural Products

6.1 INTRODUCTION

Federal and state governments play a critical role in ensuring American agricultural producers access to international markets that are operated in an equitable manner to our own. Obtaining market access for our agricultural products should be one of the highest priorities for the Administration and Congress.

6.2 EXPANSION OF TRADE

The multilateral WTO process has the greatest potential in raised and harmonized standards that level the playing field in regard to treating labor fairly, not degrading the environment and empowering family farmers and ranchers rather than exploiting them.

- NASDA supports efforts to liberalize world trade in agriculture that we believe should continue through the multilateral process and through regional free trade agreements.
- Until such time as other countries phase out their export subsidies entirely, NASDA encourages the federal government to work to end export subsidies across all countries.
- NASDA encourages the federal government to utilize export subsidies to the fullest level allowed under our current WTO commitments.

Trade with Cuba

Current U.S. economic sanctions against Cuba allow for U.S. food and agricultural sales to Cuba but contain very challenging and specific licensing and financial provisions to which U.S. exporters must adhere. U.S. trade policy to Cuba is inconsistent with trade policy to other countries.

- NASDA urges the Administration and the U.S. Congress to reexamine U.S. policy towards Cuba and lift the current embargo against Cuba. The U.S. should:
- eliminate the “Cash Only” sales provision of the current law as well as extend trade to other areas besides food and medicine;
- streamline laws and regulations related to visa and license requirements to better promote trade activities and
- allow long term contracts, which will provide more efficiencies for both parties;
- allow exchange of biotech research would have a benefit to both countries;

- allow importation of Cuban products into the U.S. only on the condition that there are appropriate safe guards for our domestic markets, particularly for import-sensitive commodities;

- hold Cuba to the same sanitary/phytosanitary standards as the rest of the world trading community; and

- ease travel and tourism restrictions for both countries, or at the very least, allow plant and animal health officials, as well as food safety officials of both countries to travel to and from Cuba.

- NASDA urges the Administration and the various U.S. government agencies to interpret the Trade Sanctions Reform and Export Enhancement Act as broadly as possible, especially the financial terms so companies can compete with other countries in the global marketplace.

Trade with China

China is a growing market for U.S. agriculture and the third largest market for U.S. exports in recent years. Expansion of the Chinese market for U.S. products could be larger if more Chinese buyers could visit U.S. suppliers but too often U.S. visas are delayed or denied to prospective China buyers, resulting in lost sales and decreased U.S. competitiveness in the China market.

- NASDA urges the Secretary of State to issue visas for temporary entry into the United States of Chinese nationals who demonstrate a full itinerary of purchasing activities.

- NASDA urges the Administration to continue to seek changes in the way China values their currency to ensure domestic producers are not competitively disadvantaged due to currency manipulations.

Unilateral Sanctions

Unilateral sanctions that limit commercial, government-assisted, or humanitarian movement of agricultural products have proven to be ineffective mechanisms to further foreign policy and are disruptive to international food trade.

- NASDA opposes any unilateral sanctions pertaining to agricultural exports.

Trade Promotion Authority

Under trade promotion authority, the President is able to negotiate trade agreements and submit them to Congress for a simple up or down vote. The Congress then has a limited time period in which to approve or reject the agreement without any amendments. Current fast track trade promotion authority expired in 2007.

- NASDA supports reauthorizing trade negotiating authority for the Administration to allow flexibility for U.S. negotiators but include consideration for import-sensitive commodities.

- NASDA supports the continuation of the position of the Office of Chief Agricultural Negotiator, an Ambassador level position, within the Office of the U.S. Trade Representative.

- NASDA urges the Agricultural Negotiator to ensure NASDA is included in stakeholder consultations during trade negotiations.

- NASDA further encourages the Agricultural Negotiator to work closely with USDA's Foreign Agricultural Service given their long history of promoting the sale and consumption of domestic agricultural products abroad.

- NASDA strongly recommends that the United States Congress once again grant Trade Promotion Authority (TPA) for the President.

Harmonization of International Standards[1]

Sanitary or phytosanitary measures provide for the protection of animal and plant health and are contained in the WTO Agreement on Sanitary and Phytosanitary Measures (SPS Agreement). Non-sanitary or phytosanitary measures (e.g., certain labeling requirements) also affect international trade in food and agricultural products and are contained in the WTO Agreement on Technical Barriers to Trade (TBT).

Sanitary and Phytosanitary (SPS) Measures

The SPS Agreement requires countries to base health and safety measures affecting products in international trade on sound science and appropriate risk assessment. Despite the agreement, a number of WTO member countries continue to impose sanitary and phytosanitary measures which lack a sound scientific basis, which create significant barriers to market access abroad for U.S. agricultural products.

- NASDA urges negotiators to actively seek trade remedies when the SPS Agreement is not being adhered to in accordance with trade agreements.

- NASDA urges the U.S. government to make the elimination of unjustified non-tariff barriers characterized as SPS measures a priority and to take all appropriate actions, consistent with our international rights and obligations, to redress this problem.

- NASDA urges the U.S. not to agree to reopen the SPS Agreement in either the current or any future WTO negotiations.

- NASDA urges U.S. regulatory bodies to work on a multilateral or bilateral basis with other trading partners interested in increased harmonization of SPS measures to reach agreements that would permit trade, as appropriate, on the basis of mutual recognition, equivalence or reciprocal agreement on the adoption of international standards.

Technical Barriers to Trade (TBT)

NASDA is concerned that the TBT Agreement does not currently provide for greater international harmonization of standards, and does not contain the types of enforceable disciplines that would permit U.S. exporters to effectively challenges protectionist trade measures.

- NASDA urges the U.S. government to pursue a stronger and clearer TBT Agreement in multilateral negotiations.

Genetically Modified Organisms (GMOs)

The movement of GMOs and other biotechnology products to the international market is constrained by the unwillingness of some foreign governments to accept these products. In addition, labeling of genetically modified products has been proposed by many foreign governments as a condition for accepting these products, potentially presenting an additional barrier to trade.

- NASDA urges the federal government should work to ensure that the same sanitary and phytosanitary measures and standards are applied to genetically modified organisms in the international market place. Labeling of such products should conform to international standards and should not be construed in a way that acts as a barrier to trade.

- NASDA supports global market access for genetically modified organisms in all WTO countries.

Highway Trade Corridors

The North American Free Trade Agreement contains provisions for national treatment of cross-border trucking. Differences in trucking standards between the three NAFTA countries have created inefficiencies and increased transportation costs borne by producers and shippers.

- NASDA supports the implementation of the trucking provisions contained in NAFTA and the elimination of transportation system barriers, which will help to lower transportation costs for continental trade in agricultural products and enhance the competitiveness of North American exports to world market.

- NASDA believes consideration should be given to harmonizing trucking standards among the three countries, including streamlining the obtainment of interstate and

international trucking permits and establishing one-stop, joint vehicle inspection facilities.

Cargo Preference Laws/Jones Act

The Cargo Preference Laws require up to 75 percent of U.S. food aid shipments to be shipped on U.S. flag vessels, increase the cost of shipping food aid and reduce the quantity of food aid that can be made available to needy countries. The Jones Act requires all goods carried from one point in the United States to another to be carried on vessels built and repaired in the United States, owned by U.S. citizens, manned by U.S. citizen crews, and registered in the United States, creating a competitive disadvantage for American agriculture, as compared to our foreign counterparts.

- NASDA supports repeal of the Cargo Preference Laws and the Jones Act.

State Trading Enterprises (STEs)

State trading enterprises can have the effect of distorting trade in the world market place. These enterprises can disrupt the market place if they become subsidized entities which enjoy monopoly buying authority.

- NASDA believes the federal government should ensure that future trade agreements address trade distorting effects of state trading enterprises to end monopoly rights and exclusive import rights.

- NASDA further believes the U.S. should require that activities of state trading enterprises be transparent and that the practice of subsidizing these enterprises be eliminated so as to remove price discrimination in the market place.

Perishable and Seasonal Commodities

When shipments of perishable and seasonal commodities, or live animals, get held up in a port of destination, due to SPS issues or other trade related disputes, a rapid resolution of the issue is critical to prevent deterioration of the perishable cargo. Very few trade agreements include protocols for resolving these kinds of situations in the timely fashion that is needed to allow the quick release of perishable and seasonal commodities.

- NASDA urges the Administration, when negotiating trade agreements, to include protocols that address the time sensitivity needed to move perishable and seasonal commodities, particularly related to dispute resolution.

Canadian Ministerial Exemption System

The Canadian system of ministerial exemptions, or “easements” that control the importation of U.S. produce, in particular potatoes, inhibits trade for U.S. producers and serves to protect Canadian producers from competition and supply from the United States.

NASDA urges the U.S. Trade Representative and the U.S. Department of Agriculture to include the ministerial exemption system on the agenda for bilateral trade negotiations, and seek its removal to facilitate agricultural trade between the United States and Canada.

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[1] *This section addresses the SPS agreement as it relates to trade. For NASDA policy on sanitary and phytosanitary measures please see Section 1 Animal Health and/or Section 2 Plant Health.*

6.3 FEDERAL DOMESTIC POLICIES AFFECTING TRADE

Legislation that blocks the use of federal resources for the agricultural marketing and promotion of a United States grown agricultural product hurts our farmers. Congress should be encouraged to repeal legislation that blocks promotion of any legal agricultural products grown in the United States.

- NASDA supports the promotion of international markets for American grown agricultural products and opposes legislative efforts that specifically exclude the ability to promote and market those products abroad.

Foreign Agriculture Service (FAS)

FAS provides valuable assistance to state departments of agriculture and agricultural producers of both bulk commodities and high valued food products in establishing and maintaining markets around the world and in promoting the sale and consumption of U.S. grown agricultural products through a variety of programs, including foreign market development, market promotion, outreach, direct credits and loan guarantees.

- NASDA supports FAS programs aimed at meeting the objective of expanding trade for agricultural products.

- NASDA supports fully funding, at the authorized levels, both the Foreign Market Development (FMD or "Cooperator") Program, which provides cost-share assistance to help boost U.S. agriculture exports and the Market Access Program (MAP), which helps U.S. agricultural producers, exporters, private companies and other organizations finance promotional activities overseas**.**

Market Access Program (MAP)

The Market Access Program authorizes funding to support partial reimbursement to private companies for qualified overseas brand promotion of U.S. agricultural products. The policy rationale is that the promotion of brands containing U.S. agricultural products helps to boost exports of U.S. products.

- NASDA supports the objectives of the MAP and believes the federal government and the Congress should support this critical resource for agricultural producers and promote an equitable international market place for agricultural products.

Export Financing & Credit Guarantees

Programs have been designed to increase or maintain U.S. agricultural exports by having a federal agency act as the guarantor of financing for sales of U.S. agricultural commodities in foreign markets. NASDA believes that export financing and credit guarantee like GSM 102 and 103 programs are important resources for agricultural producers entering the foreign market place.

- NASDA supports the expansion of these programs to cover transportation costs from the U.S. border to export destinations.

Export Enhancement Program

The Export Enhancement Program (EEP) and similar policies became necessary because U.S. exporters faced unfair and highly subsidized competition from the European Union. Current U.S trade policy favors the elimination of export subsidies and the United States has put forth an ambitious proposal in the current round of multilateral trade negotiations to eliminate export subsidies completely with reductions phased in over a five-year period in equal annual increments.

- NASDA supports export subsidy elimination in multilateral agreements if the implementing legislation for that agreement allows up to 50 percent of unused EEP funds to be used for related market development and promotion activities.

- NASDA's support for the elimination of the EEP and similar programs is contingent upon a world-wide commitment to end export subsidy practices.

NASDA supports the promotion of international markets for American grown agricultural products and opposes legislative efforts that specifically exclude the ability to promote and market those products abroad.

6.4 INTERNATIONAL FOOD AID

International food aid program budgets have been reduced over the years due to fiscal constraints.

- NASDA supports continued US efforts to provide humanitarian assistance in the form of food.

6.5 THE GLOBAL ECONOMY

Global economic conditions impact the value and volume of trade. It is in the United States' interest to promote and ensure a financially stable global marketplace so that trade between nations is not disrupted.

- NASDA supports efforts to promote and improve economic and financial stability in the global marketplace.

6.6 COUNTRY OF ORIGIN LABELING

Federal law requires most imports, including many food items to bear labels informing the ultimate purchaser of their country of origin. By expanding country of origin labeling requirements, American consumers will be provided important information on the source of the retail food supply.

- NASDA supports country of origin labeling.
- NASDA supports clarifying rules of origin regarding the transshipment and processing of animals and specification of where animals are born and raised, regardless of processing of the animal.

6.7 DISPUTE RESOLUTION

Under current U.S. law, the federal government has certain legal means and remedies in place to address concerns with agricultural trade. A special rapid dispute resolution mechanism should be established for use specific to perishable commodities.

- NASDA supports federal laws and rules designed to resolve agriculture trade issues and encourage their use by the USTR to ensure our domestic producers are not competitively disadvantaged by unfair trade practices.

6.8 MONETARY VALUATION AND EXCHANGE RATES

NASDA supports the establishment of international monitoring tools to address possible trade-distorting manipulation of monetary valuation and exchange rates.

7 Conservation and Resource Management

7.1 WORKING PARTNERSHIP BETWEEN AGRICULTURE AND THE ENVIRONMENT

One of the most significant trends in the last few decades is the growing awareness of nearly all elements of U.S. society in the importance of preserving our land, water, and air resources. As a whole, U.S. crop and livestock producers are among the most dedicated and effective conservationists, and many of them have voluntarily adopted environmentally friendly practices that have local, regional, and even global benefits. However, agriculture like any business sector still has environmental policy challenges to address. These include finding ways to keep high-quality working farmland in production, encouraging producers to implement additional conservation measures on working farmland, and developing more effective government programs that achieve conservation aims while making economic sense for landowners.

These include protecting high-quality farmland and open spaces from urban development, and developing more effective government programs that achieve conservation aims while making economic sense for landowners. There is also a need for the agricultural community to address the lingering perception in some corners of U.S. society that farmers are merely part of the environmental problem instead of key allies in conservation efforts.

Significant gains have been made in addressing traditional agricultural environmental concerns over the past decade. Soil erosion is down, wetlands protection has increased, and wildlife habitat has been enhanced. Existing USDA-managed conservation programs account for a good deal of this progress, and NASDA strongly supports their continuation. However, the scope and range of environmental challenges faced by farmers and ranchers has expanded, while environmental regulations have increased and changed along with the public perceptions, priorities, and science that underlie them. A new focus on partnership is needed to harness a new generation of environmental stewardship.

7.2 FOUNDATION PRINCIPLES

Certain critical principles must be adhered to as the country develops a working partnership with agriculture that must be sustained as part of our overall effort to meet the numerous environmental challenges we face. NASDA strongly encourages federal agencies to strengthen working relationships with the agricultural community and build more partnerships with farmers and ranchers to accomplish environmental goals. NASDA's principles include:

Working Cooperatively with Farmers, Ranchers and Forest Landowners

NASDA believes the nation's environmental efforts should emphasize and enlist the voluntary support and participation of farmers, ranchers and forest landowners. Crop and livestock producers are among the most dedicated and effective stewards of our natural resources

because agriculture depends on continued access to clean air, water, and fertile land for its viability.

Voluntary, incentive-based initiatives have been highly successful and offer continuing opportunities for major environmental quality protection. NASDA supports this approach because locally-led initiatives are more effective in addressing diverse state and regional differences both in what farmers produce and in the most pressing agricultural environmental challenges they face.

Farmers are ready to do their part in accomplishing current and future national environmental goals. However, meeting new and ongoing environmental demands is a "make or break" challenge for producers. The food and agricultural production system is not organized in a fashion that allows increased costs of production to be passed on to consumers. Many on-farm conservation practices have high capital or management input costs that do not generate additional revenues for producers. As such, on-farm expenditures for conservation compete directly servicing farm debt and other family financial needs. NASDA believes it is critical to provide a balanced mix of policy tools, financial incentives, education and technical assistance to enhance environmental performance by producers.

Working Lands and Environmental Objectives

A financially healthy and profitable agricultural sector is essential to the production of a safe, fresh, and affordable supply of food, fuel and fiber. NASDA believes that environmental and conservation policy needs to balance a variety of concerns ranging from meeting regulatory requirements to farm viability. The economic impacts on individual producers must be considered along with environmental quality. Economically viable farming and ranching enterprises will enable producers to increase their efforts to maintain a healthy environment, protect our natural resources, and build stronger rural communities. Agriculture provides not only the food and fiber of America, but is the largest offset provider against human activity. A healthy agricultural landscape provides clean air, water and open space. In addition, the nation’s climate change policy should include agricultural offsets.

State Agencies and Programs are Key

State departments of agriculture are at the front lines with producers and rural communities and must be considered full partners in the development and implementation of national environmental programs and policies. State agriculture departments often tackle environmental, water quality, food safety and pesticide management issues before they reach national attention. They have long been the lead state agencies for implementing federal pesticide laws, and about half of the state conservation agencies are housed within the state agriculture departments. In this capacity, state agriculture departments oversee and implement soil and water conservation programs, non-point source water quality programs, and a variety of other environmental resource programs. State-led initiatives have provided significant and continuing opportunities for major environmental quality protection. NASDA believes federal

agencies, particularly USDA and EPA, should provide states with the flexibility to account for regional differences in approach and should recognize "functionally equivalent" state programs that meet environmental goals.

There are numerous instances where states have effective environmental programs in place that are successfully addressing agriculture's environmental challenges. It makes little sense for federal programs to duplicate the states' effort in this instance. Federal agencies and programs should look to the state programs first, and defer to them whenever they are working and otherwise meeting the national goals and objectives. It is essential that all federal conservation programs and environmental laws and regulations recognize that state departments of agriculture must play the lead role for agricultural producers. Successful state initiatives, such as the Idaho OnePlan, New York State's Agricultural Environmental Management (AEM) program, and the Michigan Environmental Assurance Program (MAEAP), should be promoted as primary tools for agriculture in their efforts to achieve regulatory compliance.

Sound Science

The foundation of the agricultural sector in this country has long been the development and adoption of science-based practices derived from reliable data and research. NASDA believes that policy makers and regulatory agencies with responsibility for natural resource and environmental programs should ensure that all information used or relied upon in the decision-making process is based on sound science, technical analysis, and best available data. All major science policies and methodologies for assessing risks, costs and benefits, and other modeling systems should be subject to rigorous peer review.

Coordinate and Simplify Programs

NASDA believes more integration, coordination and implementation of programs at the federal level is necessary. Federal "stovepiping" and overlapping jurisdiction is a significant problem for many conservation and environmental resource programs. Unnecessary duplication of programs, services and requirements diminishes program productivity, wastes taxpayer dollars, and is confusing for producers/those who are regulated. Unnecessary duplication of programs, services and requirements not only wastes the valuable resources of agencies and the public they are serving, but also creates a tremendous lack of confidence in the programs and the people administering them. Better program coordination will help leverage resources and ensure more effective environmental/conservation benefits are realized. It is essential that entities within agencies coordinate their efforts to ensure consistency. Goals and objectives should be clear and comprehensible.

Private Property Rights

All conservation and environmental programs, laws and regulations must respect personal property rights. In recent decades, the intrusion of federal regulations into property owners' land use decisions has increased dramatically. The result has been an unprecedented surge in litigation directed toward the federal government. Much of this litigation has been predicated

on the theory that a particular federal land use regulation has violated rights guaranteed by the "just compensation clause" of the Fifth Amendment to the United States Constitution.

Unfortunately, the exact scope of the rights guaranteed by the "just compensation clause" has proved elusive. Landowners seeking to determine their rights under the Constitution face the prospect of protracted litigation, open-ended legal costs, and an uncertain outcome. At the same time, regulators are themselves uncertain over the extent of the responsibilities under the Constitution with respect to private property rights.

The constantly evolving national debate over the need to protect the environment and conserve the country's natural resources, while at the same time ensuring private property rights, presents one of the most difficult policy and legal issues now before Congress. There is a wide range of federal programs that either directly or indirectly affect the use of private property. The development and implementation of many of these programs should, to the maximum extent practicable, reflect the need to avoid unnecessary and unwarranted impacts on the sanctity of private property. In a rush to protect the environment and conserve natural resources, lawmakers must never lose sight of the critically important role that private property plays in our society.

If Congress mandates that federal agencies must consider the likely impact of their programs on private property, such a mandate will provide developing programs a blueprint to balance the need to protect and conserve natural resources with the concerns of private property owners. To avoid the conflict over private property rights, federal and state agencies should move away from the "central command and control" model and toward programs that provide incentives for landowners to conserve appropriately defined natural resources, with voluntary compliance being the ultimate goal.

Environmental Assurance

Aside from the desire to foster good stewardship, an important aspect of any voluntary program is the benefit gained by a participating agricultural producer in terms of reduced burden associated with regulation and liability. Where an agricultural producer participates in a voluntary resource management-planning program with demonstrated benefits, the producer should receive significant and meaningful credit for this work. Voluntary programs should offer some form of presumption of compliance with the objectives of regulatory programs (e.g., water quality standards, habitat protection, etc.), appropriate relief from water-related permitting requirements, and/or reduced liability associated with off-farm environmental degradation (e.g., from undefined sources). The so-called environmental assurance or "safe harbor" concept incorporates relief from regulation and enforcement for landowners where acceptable voluntary management practices are put in place.

Voluntary programs are the preferred and most effective means to working with farmers and ranchers to help them manage the resources on their operations wisely and to protect the quality of the environment. However, the potential exists for resource management problems

to develop on an operation that is not participating in one of the many effective programs. If these problems are significant, it is possible that the inaction of a few non-participants could lead the general public to believe that these problems are present on the majority of operations.

In this instance, a voluntary program will not be comprehensive enough to address the full range of resource needs and situations that may exist. As a result, NASDA recommends that there be provisions or processes to provide opportunity and resources to correct these problems not addressed by the voluntary programs. When a producer fails to take what is generally recognized to be appropriate and prudent steps to correct a significant resource problem, NASDA recognizes the need to pursue appropriate follow-up to assure that such problems or situations are resolved. Provide for graduated certification and implementation which would afford varying degrees of 'safe harbor' or 'no action assurance' for producers.

Federal programs are neither effective nor fair if they do otherwise. They become tools for abuse and are often expanded through court decisions beyond what may have been intended by Congress. This is particularly true where Congress has authorized agencies to regulate, or the courts have allowed citizen suits to direct federal policy. And such programs impose on certain unfortunate landowners the obligation to dedicate the value of their property to the public purpose of preserving natural resources, often without sufficient opportunity for those landowners to protect their interests. It is imperative that Congress understands the impact of regulatory programs on private property and prevents the involuntary "taking" of private property by the government.

Congress should eliminate government activities that infringe on private real property rights without compensation and move toward incentive-based programs for natural resource protection with the ultimate goal of private/public voluntary cooperation to protect and enhance those natural resources.

The federal government owns 32 percent of the land area in the U.S. and two percent of the world’s land area. Federal lands are 3.5 times larger than the original 13 colonies and 4.5 times larger than Texas. Additional federal land acquisition should be accomplished by exchange or sale of surplus federal property whenever possible. Where the federal government owns 25 percent or more of a state, there should be a no net loss of private property within that state. Further, Congress should retain its oversight function of all federal land acquisition.

Confidentiality of Data

The privacy and confidentiality of data and information in a farmer’s or rancher’s voluntary conservation plans must be preserved and protected if society is to obtain their full and effective cooperation and participation in natural resource conservation and environmental programs. The plans themselves must not be subject to the federal Freedom of Information Act (FOIA) and must not be allowed to be used against the farmer or rancher in a federal or state enforcement action. Rather, these plans should be a means to assure that, once implemented,

the farmer or rancher will meet other environmental laws and regulations, natural resource needs, and allow a producer to make a profit in the world marketplace.

7.3 PROGRAM TOOLS TO GET THE JOB DONE

Agricultural Stewardship Program

NASDA calls for a bold, new initiative to address agricultural conservation and natural resource and environmental priorities through state partnerships. A new Agricultural Stewardship Program would be a "block grant" type initiative that would give state and local governments greater flexibility, innovative tools, and resources to implement agricultural conservation priorities. The intent of the initiative is to fill in the gaps, which will only increase in the future due to changing public expectations and regulatory requirements. This new approach will provide a better "tool box" with new and appropriate tools to meet these needs. Current conservation programs have limited capacity and funding to address these situations and needs. Under the Agricultural Stewardship Program, the Secretary of Agriculture would provide block grants to state departments of agriculture.

The grants would serve as a means to provide assistance and support, cost-share payments, incentive payments, technical assistance, and education to agricultural producers and landowners for environmental enhancements, best management practices, and air and water quality improvements addressing resource concerns. Under the block grant program, states would have maximum flexibility to:

- Address threats to soil, air, water, and related natural resources, including grazing land, wetlands, and wildlife habitat;
- Comply with state and federal environmental laws;
- Make beneficial, cost-effective changes to cropping systems, grazing management, manure, nutrient, pest, or irrigation management, land uses, or other measures needed to conserve and improve soil, water, and related natural resources.
- Target state-wide conservation efforts to address environmental threats.

Resource Management Systems and Conservation Plans

Resource Management Systems and Conservation Plans address environmental quality in a comprehensive manner, including soil, water and air. They are technically, environmentally and economically feasible, and also provide the most effective basis to meet the requirements of several environmental laws and regulations, including the Clean Water Act (CWA), the Safe Drinking Water Act (SDWA), the Coastal Zone Management Act (CZMA), the Endangered Species Act (ESA), and the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA.). Resource Management Systems and Conservation Plans provide farmers and ranchers with a voluntary opportunity to enhance their resource protection and meet the requirements of the laws and

regulations in a manner tailored to their operation. The purpose of Resource Management Systems and Conservation Plans are to provide technical, educational, and financial incentives to encourage the enhancement of environmental stewardship. They are designed as an integrated approach that is voluntary and site-specific in application. To be successful, these voluntary plans must be farmer and rancher owned, controlled, developed and implemented.

Components of Resource Management Systems and Conservation Plans should include, but are not limited to, as determined by the producer: residue management; soil erosion management; nutrient management; integrated pest management; manure management; cover crop management; water quality and utilization management; grazing and range management; irrigation water management, wetlands management; and species management. The planning process provides increased outreach to farmers and ranchers by providing information, technical assistance, and financial opportunities to producers for implementation of the plans.

Technical Assistance

Conservation Technical Assistance (CTA) is vital in helping farmers, ranchers and landowners to plan, design, and apply conservation practices on the land. By utilizing CTA, greater adoption of conservation practices is accomplished by landowners seeking to be good stewards of their natural resources. There remains a strong demand for technical assistance and NASDA has long believed CTA has been under-funded. NASDA supports increased funding for CTA.

Many in agriculture do not have adequate access to technical assistance unless they participate in federal conservation programs. NASDA believes it is essential for NRCS to expand the technical assistance delivery system for all farmers and ranchers who are seeking to adopt better, more environmentally sound production and management practices.

Increasing CTA is critical to allowing staff time for pro-active conservation planning. State block grants to conduct risk-based assessments with farms is critical for targeting Farm Bill program financial assistance.

Monitoring

An effective and cost-efficient response to water quality problems requires accurate and reliable information on the source, extent and impact of nonpoint source (NPS) pollution, as well as the effectiveness, utility and economic feasibility of conservation measures and best management practices. CWA reauthorization should include a strong financial commitment to further research, monitoring and assessment projects of sufficient duration to effectively inform the policy process. Monitoring should be performed in a manner consistent with NASDA's sound science principles. Monitoring should be conducted for biological indicators in addition to chemistry and other environmental issues. When implementing a research or monitoring project, state and federal protocols should be selected based on sound science, the watershed objectives, the budget of the project, all with state and local input. Prudent use of scarce fiscal resources would provide monetary assistance to states for monitoring activities. Many state departments of agriculture are being called upon to carry out significant monitoring programs in

support of federal and state objectives. These state agriculture agencies should receive a considerable portion of the federal monies made available to states for this purpose.

7.4 FARMLAND PRESERVATION

A growing number of states across the nation are recognizing the importance of actively protecting farmland and supporting their agricultural industries and infrastructure. Many states are positioning themselves to lead the future bioeconomy by protecting working lands used for agriculture and forestry to provide biomass needed for fuel, electricity, chemicals, and other products. Protecting farmland assists states to develop a diverse agricultural economy through value-added products. Working lands also provide ecological services that promote environmental quality, sustain economic growth, and improve the quality of life by providing flood control, protection of streambanks, groundwater recharge, scenic vistas, wildlife habitat, and carbon sequestration. Absent a viable agricultural industry, irreplaceable farmlands cannot and will not be preserved for future generations of farmers. (NASDA believes) the Farmland Protection Program Program (FPP) must not exclusively focus on soils preservation, but must incorporate farm viability into its overall mission.

NASDA supports the recent enhancements of the FPP and recommends that improvements to the program in the 2008 Farm Bill, which include increased flexibility in the program and some deference to local and state conservation entities, be maintained and enhanced in the development of regulatory rules and guidance. In particular, 1) if a state run conservation easement program exists and that program can be considered to be a qualifying entity under the provisions of the Farm Bill, funds should be allocated to those state agencies for distribution to other qualifying local government entities and conservanies within the state; 2) conservation easement language developed by qualifying state programs should be considered as being acceptable to the federal government so that conservation easements can be tailored to the particular characteristics of the state; 3) recognize farm viability as a priority in addition to soils preservation in the FPP; and 4) enhance the effectiveness of the FPP by allowing state run conservation easement programs to distribute funds and complete locally initiated conservation easements in a reasonable fashion, and 5)recognize unique farmland orchards and vineyards.

Easements

NASDA supports the elimination of capital gains taxes on income received from the sale of agricultural conservation easements. Taxing agricultural conservation easement income discourages farmer participation, and increases the cost to states, counties, and private organizations which are trying to preserve farmland by purchasing development rights. Current tax policy also causes inequities between farm owners depending on their income level and the length of time they have owned their farms. In particular, farmers who have modest income, and who have owned their land for many years, are disadvantaged by existing tax policy as it relates to the sale of an agricultural conservation easement.

Eliminating capital gains taxes on agricultural conservation easements will allow state and local dollars to preserve more acres of farmland; encourage wider farmer participation in farmland preservation programs, and eliminate the need for complicated and costly programs which are designed to overcome the capital gains tax disincentive to farmland preservation.

7.5 WATER RESOURCES

(Updated September 2009)

Clean Water Act Goals

Water resources are essential to the United States' health and economic well-being. To that end, NASDA supports:

- Efforts to ensure the maintenance of water quality at levels that protect human health, as well as physical and biological aquatic environments.

- Strategies to achieve water quality goals that are science-based, technically sound, practical, cost-effective and achievable, while also ensuring that agricultural production remains economically viable across the nation.

Clean Water Act Jurisdiction and State Roles:

- NASDA supports federal policies that ensure state laws regarding water rights and allocations are honored.

- NASDA supports provisions in the Clean Water Act that recognize that the primary responsibility for planning the development and use of water resources rests with the states.

- NASDA supports federal policies that ensure states are given maximum flexibility in the management of their water resources. The role of the federal government should be to establish national water quality goals that are achievable, support state efforts for implementing water programs, provide technical and financial assistance, support research and development, and providing appropriate oversight of state programs. The federal government should also recognize state certification and assurance programs.

- NASDA supports policies that ensure states maintain jurisdiction—consistent with applicable state laws—of intrastate waterways and other waterbodies that fall outside the definition of "navigable" waters as set forth in the CWA.

- NASDA believes the best way to achieve water resource goals and standards is through watershed-based approaches, which take into account regional differences in climate, landscape, and geography, as well as the implementation of Best Management Practices in recognition of agriculture as a water-dependent use.

- NASDA believes the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) is the appropriate Federal statute under which pesticide applications in, over and near water should be regulated.

Groundwater

- NASDA supports policies that ensure states, and their local units of government, maintain the primary responsibility, in partnership with the federal government, for managing ground water resources.

- Groundwater management and related water conservation issues should not be addressed by the Clean Water Act.

Nonpoint Source Pollution

Nonpoint source (NPS) water pollution is, without question, one of the major remaining water quality challenges in this country that must be addressed. NPS pollution stems from multiple types of human activities and natural sources occurring diffusely over broad areas of land. These human activities include many urban and suburban land and water uses, construction activities, septic systems, as well as agriculture and forestry activities. Agriculture, in particular, has received considerable attention in recent years, as federal and state agencies have sought to increase their water quality protection efforts.

Whatever the source of NPS pollution, the programs and policies adopted to address it must be significantly different than those adopted for point sources. This is because nonpoint source pollution is fundamentally different than point source pollution. Nonpoint source runoff can naturally occur over broad areas of land and is seldom observable to both regulators and the source itself, creating uncertainty as to whether poor water quality is due to nonpoint sources, undesirable states of nature, or other sources of pollutants. In addition, weather, particularly rainfall events, has a dramatic effect on the amount and timing of runoff that occurs. As such, any reasonable policy devised to meet a set standard for runoff can be defeated by an unusual weather event.

Unlike point sources of a particular pollutant, you cannot expect similar pollution reduction results across many different farms or ranches when applying the same technological solution for the same type of pollutant. This is because the same set of management practices used in different locations, even when applied to the same crop, will likely have substantially different consequences for the amount of runoff that will occur. This is due to the major influence that different soils, slope, weather, and timing of application have on runoff prevention in agriculture. As a result, dealing with agricultural nonpoint source pollution requires site-specific solutions involving detailed knowledge about a farm or field's situation and needs.

Many claim that agricultural nonpoint source runoff should be addressed through the Clean Water Act's mandatory measures. The intent of the CWA is clear – non-point sources of pollution are not subject to mandatory regulations under the CWA, but are to be addressed

through voluntary, outcome-based programs. Legislation has provided a clear and concise distinction between point and non-point source management, and it is imperative that the federal clean water program not require states to operate in any different manner. Similarly, it is inappropriate to provide the authority for citizen suits against individuals participating in NPS management programs.

Still, agricultural nonpoint source runoff, along with all the other sources of nonpoint source runoff, must be prevented or minimized if we are to reach the country's water quality goals. To do this, a commitment of the time and resources similar to the 20-year commitment our country has made to eliminate point source pollution is necessary. State revolving funds (SRF) dedicated to dealing with nonpoint source pollution must be established and funded.

The Clean Water Act (CWA) does not stand alone in protecting America's waters from NPS pollution. Other ongoing programs at the federal, state and local levels must be funded fully, and coordinated with, not superseded by, the CWA. In particular, the state-led programs, when coupled with various Farm Bill, Clean Water Act and Safe Drinking Water Act incentives and support, can provide significant and continuing opportunity for major environmental quality protection. Federal water policies must recognize that the value of the state programs, if enhanced through Federal efforts, could provide a firm foundation for a sound national NPS policy.

The central focus for NPS management solutions should be on reasonable, voluntary, and incentive-based solutions utilizing education and technical assistance as well as financial assistance. All of these efforts must be grounded in solid, scientific, research-based solutions. NPS pollution management programs should emphasize the protection of water resources and state-designated water uses, including state and federal designated agricultural uses, recognizing the importance and needs of individual agricultural producers and other landowners affected by the CWA. There is clear evidence that work in addressing nonpoint source pollution takes local focus and considerable on-site technical assistance. Financial assistance for conservation practices, carbon offsets, and block grants to do this work will assure success in addressing this considerable charge.

Maximum opportunities should be provided for farm/ranch self-assessments of potential nonpoint source contributions followed by incentive-based adoption of scientifically sound practical best management practices tailored to field and/or operational practices. A collective assessment should be carried out on a watershed basis with resources and priorities focused toward the principal sources and sensitive areas. The opportunities can be provided by state and federal adoption of the concepts embodied in NASDA's report on "Innovative Approaches to Natural Resource Protection - A Summary of Successful State Comprehensive Resource Management Planning Initiatives."

The use of nutrients in production agriculture, specifically the impact of those nutrients on surface and groundwater, will continue to be an issue in American agriculture. By incorporating urease inhibitors and nitrification inhibitors into ammonium containing fertilizers, farmers can

improve efficiency of ammonium fertilizers, reduce nitrate runoff into surface and groundwater and reduce the emission of ammonia and greenhouse gases. NASDA recommends farmers be encouraged to incorporate urease inhibitors and nitrification inhibitors into ammonium-containing fertilizers as a Best Management Practice where appropriate. NASDA also encourages NRCS to consider allocating resources to urease inhibitors and nitrification inhibitor projects where requested.

Section 319 of the Clean Water Act

The CWA contains valuable provisions for NPS management embodied in Section 319. The proper management of NPS pollution lies in state and local efforts. As such, states should continue to identify and resolve their priority NPS water problems through administration of Section 319 funds.

With state oversight and approval, local entities should continue to carry out these NPS programs, including state agriculture departments. State and local programs should provide for a mix of research, development, education and technical and financial assistance for both planning and implementing actions aimed at achieving state designated water uses. Agencies at the federal and state levels should harmonize objectives and coordinate funding for national and regional NPS management programs. Amendments to, and programs under, the CWA should continue to focus on the 319 program as the means for states to identify nonpoint sources in critical areas, and to develop management programs to control discharge.

Federal appropriations in the Section 319 program for on the ground work with producers and to help them adopt BMP practice implementation must be increased. Amendments to the CWA should provide increased authorization for funding and technical support for state management programs and local implementation. Reauthorization of the CWA should include amendments to allow states to allocate 319 funds to cost sharing BMP's not necessarily as part of a demonstration project. Management efforts funded by Section 319 should be directed to priority areas based on scientific assessments that identify water bodies with impaired or threatened uses. Priority, as determined by states, should be based on the magnitude of risk to human health, improving water quality for designated uses, attaining water quality standards, and likelihood of further significant and unreasonable water quality degradation if no action is taken.

Strategies should be developed on a hydrologic unit, watershed-wide basis using an approach that includes consideration of both surface and groundwater quality. Programs should focus on cost-effective, site-specific practices for individual operations with flexible implementation. EPA and the state water quality agencies should actively work with the state agricultural agencies and producers in identifying agriculture's needs and priorities for 319 funding relative to agricultural NPS issues.

Section 319 management programs on federal lands should be developed and implemented by the specific agency statutorily charged with management of the lands in question, rather than by regulatory authorities independent of that agency.

Groundwater management and the related water conservation issues should not be addressed by the Clean Water Act, including Section 319, except to the extent that the states decide that they want to use Section 319 for this purpose.

Implementation of the CWA Water Quality Standards Program

In general, it is critical that the Environmental Protection Agency's (EPA) implementation of the Clean Water Act continue to respect and follow the standard established in the Act that the states and Tribes are to have the lead role in determining how CWA's provisions are going to be applied in the unique circumstances and needs in each state or tribal area.

Designated Uses

Wherever possible, EPA's emphasis in its oversight of the use designation process should be on providing guidance to the states as to how an effective use designation program should be designed and operated. EPA must avoid over-specifying the use-designation process if it wants to ensure that states, in fact, come up with a flexible and adaptive process that can work in all locations across the country for very different waters. In this way, it will be possible to create a program that meets CWA goals for clean water while also respecting and reflecting the judgments and involvement of people at local and state level. In particular, EPA should not have the authority to change a state's designation for a water body unless EPA meets a reasonable standard of proof. Once a state has established a use and provided justification for that designation, EPA should not reject that designation and require that a new one be established without adequate proof that the state's original designation was incorrect.

EPA should recognize states' ability to identify every water in a state for some specific usage and their ability to manage these waters according to these uses. The concept of an "existing use" is not in the CWA as it is reflected in the current regulations. Requiring states to manage waters at quality levels that are the result of historical circumstance with no deliberate public process, rather than at a "designated use" decided upon by the state, is not consistent with the CWA and should not be EPA policy.

A state's water quality program, not individual water quality attainment plans, land use rules or resource management plans, should be subject to EPA approval. EPA must approve the program unless it finds that there is not a reasonable likelihood that the program will result in the attainment of water quality standards in impaired waters within fifteen years.

In the use-designation process, states must be free to make decisions affecting water quantity rights and allocations consistent with state law. As stated in the Clean Water Act, it should be EPA's policy to recognize, preserve, and protect the primary responsibilities and rights of states to plan the development and use of land and water resources.

Water Quality Criteria

As for the overall water quality standards program and the use-designation process, EPA's emphasis in its oversight of the development and implementation of water quality criteria should be on the use of guidance to help the states establish scientifically sound and effective water quality criteria. EPA must avoid over-specifying what these criteria are going to look like to ensure that states come up with a flexible and adaptive process that can work in all locations across the country for very different waters.

Many of the changes that EPA has considered recently in the water quality criteria program are well beyond the financial resources the states would need to implement the changes. As EPA makes changes to the federal water quality criteria policies, they must reasonably and prudently reflect the financial resources available to the states to do this work.

Also, EPA must ensure that the principles of sound science are followed as they revise and update criteria policy. In all of these cases, EPA must not exceed the science that is available. Only sound criteria should be used in the process of establishing permit requirements and effluent limitations. The aquatic systems that the CWA addresses can be incredibly complex. We have a far from complete understanding of the chemical, physical and biological processes that are at work in these systems. This is especially true as the science tries to integrate the chemical and physical factors to biological outcomes. Complicating this science are naturally occurring sources of pollutants and contaminants that are hard to delineate from other human-induced stressors, and multiple stressors from multiple sources.

There will be instances where the science is adequate to begin to use our incomplete understanding of chemical, physical and biological processes as "indicators" of water quality conditions. Use of indicators under these circumstances is appropriate for educational purposes and to assist informal assessments. Indicators under these circumstances should not be used to establish the thresholds for the impairment of a water body. Nor should such indicators be used to establish permit requirements.

In all of this, EPA must continue to implement a program that is grounded in the Clean Water Act's emphasis on the regulation of the discharge of "pollutants". The CWA does not regulate "pollution" and therefore it is inappropriate to establish criteria for the purpose of permit requirements that are based on pollution and not pollutants.

Antidegradation

NASDA believes that EPA has established through rulemaking an antidegradation program that reaches far beyond that authorized in the CWA and envisioned by the Congress. The CWA speaks of antidegradation in the context of water bodies with outstanding water quality that must not be allowed to degrade. For other waters, CWA directs the states to establish a water quality standards program consisting of designating uses for the waters of the U.S. and criteria to be used to judge whether these uses are being met. It is inappropriate to require the states to establish an antidegradation program that does not allow them to manage these waters to their

designated uses. This is particularly true since Congress established the Total Maximum Daily Loads (TMDL) process in Section 303 of the CWA to ensure waters are returned to their designated uses if their quality degrades below that needed to meet this use.

If EPA persists in pursuing their current antidegradation policies, it must recognize that the states cannot establish a credible antidegradation program without a significant increase in federal funding to support this activity. EPA's requirements for an antidegradation program must not exceed the financial resources available to the states to implement the provisions. In addition, antidegradation policies must recognize that nonpoint source pollution events are highly weather dependent. Natural events can lead to extreme variability in loadings even when best management practices or any other pollution control measures consistent with the CWA are being used as designed.

Total Maximum Daily Loads (TMDLs)

The intent of the CWA is clear – non-point sources of pollution are not subject to mandatory regulations under the CWA, but are to be addressed through voluntary, outcome-based programs. Legislation has provided a clear and concise distinction between point and non-point source management, and it is imperative that the TMDL program not require states to operate in any different manner. The Section 319 program was established as the means to be used to address waters impaired by nonpoint sources. It is therefore not appropriate that EPA continues to seek to list waters under the TMDL process that are impaired by nonpoint sources only. If EPA persists in its approach to listing nonpoint source impaired waters under the TMDL process, it is essential that EPA recognizes that voluntary approaches, like Resource Management Plans (RMPs) under Section 319 will meet the needed and/or required water quality standards. In all cases, TMDL or otherwise, EPA must support and allow local, voluntary, incentive-based approaches as a key means to address local water quality challenges.

In all cases, listing of waters as impaired under TMDL's must be based on sound and complete data – there has to be ample proof that a water is impaired before a state must be required to go through the lengthy and controversial process of developing a TMDL plan for that water. The use of "surrogate" indicators of pollutant loads as leading to impairment as the basis of listing a water under the TMDL program must occur only after careful consideration and with the best science possible to ensure a high level of confidence that the TMDL listing can withstand critical scrutiny. To do otherwise will not result in improvements to water quality, create controversy and the waste of resources, and otherwise harm our overall water quality protection efforts. Even if great care and good science is used to establish a surrogate indicator, it will be very difficult for state agencies to establish nonpoint source reduction goals under a TMDL process.

EPA must provide a clear and reasonable process for the TMDL delisting of waterbodies that have met their water quality standards. Similarly, EPA should provide a sound process for the delisting of waterbodies that have been listed as the result of erroneous data or where sound science indicates that the listing of the waterbody is inappropriate.

TMDLs on Public Lands

The requirement of establishing TMDLs under the CWA does not grant additional implementation authority to the federal land management agencies. Federal land management agencies, in cooperation with the states, should only address water quality issues under their own enabling legislation, and as an integral part of all resources under their management authority. If these federal agencies are required to establish TMDL's for waters under their jurisdiction, the TMDL process of the CWA must not be interpreted to require these agencies to go beyond the requirements of their own enabling legislation. In addition, when states are required to participate with federal agencies to conduct TMDL's for waters under federal jurisdiction, federal financial resources should be provided to the states to assist them with this responsibility.

Coastal Zone Management Act

Section 6217 of the Coastal Zone Act Reauthorization Amendments of 1990 (CZARA – also known as CZMA), requires that coastal states (Alabama, Alaska, American Samoa, California, Connecticut, Delaware, Florida, Guam, Hawaii, Louisiana, Maine, Maryland, Massachusetts, Michigan, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Northern Mariana Islands, Oregon, Pennsylvania, Puerto Rico, Rhode Island, South Carolina, Texas, Virgin Islands, Virginia, Washington, and Wisconsin) with federally approved coastal zone management programs develop Coastal Nonpoint Pollution Control Programs to be approved by the U.S. Environmental Protection Agency (EPA) and the National Oceanic and Atmospheric Administration (NOAA). These programs are designed to bring together authorities and capabilities within state coastal zone management and water quality agencies to jointly address the potential problem of coastal NPS pollution. The purpose of the program is to implement management measures for NPS pollution by more fully integrating federal, state and local authorities.

EPA and NOAA must coordinate section 6217 of the CZMA with Section 319 of the CWA. States should be allowed to show the federal agencies that their 319 program meets the requirements of section 6217 of the CZMA. Further, the agencies must recognize that the most effective way to implement protection of coastal resources is through voluntary, site-specific RMPs.

Pesticide Management Plans for Groundwater and Surface Water

Pesticides have been detected in groundwater in several states as a result of legal pesticide use. State lead agencies for pesticides and other stakeholders have worked with EPA to develop a strategy to address those situations where there is a significant risk to water resources. The pesticide management plan (PMP) strategy, involving local management of pesticides, can be effective in protecting the resource while allowing continued use of pesticides. The PMP approach includes identification of areas vulnerable to contamination, implementation of modified use practices and other responses to contamination where necessary, and monitoring of the resource.

EPA must assure the PMP rule provides an effective, affordable and workable mechanism for states to manage these pesticides as follows:

- Most State Lead Agencies (SLAs) don't have statutory authority to directly affect water quality issues and reply on a collaborative approach to implement voluntary or regulatory solutions. EPA's Office of Pesticide Programs (OPP) should collaborate with EPA's Office of Water to coordinate water monitoring activities. Such program goal coordination could facilitate sharing of resources and efficient utilization of limited funds.

- There needs to be a comprehensive approach to water monitoring and evaluation of results to adequately interpret data. Timely analysis and monitoring plans that are representative of pesticide activities are based on adequate funding by EPA.

- EPA should require registrants to provide some funding to states and registrants should provide stewardship activities when requested by a state.

- The PMP review and approval process conducted by EPA regions must be consistent across the nation. EPA must recognize the need for flexibility in addressing local issues and situations. An appeal process must be built into the rule for those situations where a state and EPA region are unable to resolve PMP issues.

- EPA must provide states with adequate assessment of health and environmental risks, appropriate reference points, and laboratory methods and standards for these pesticides and their degradates of concern.

PMPs are an appropriate mechanism, in lieu of cancellation, to address groundwater concerns for these currently registered pesticides. However, EPA must assure that future registration decisions are made that reduce the potential for contamination by new pesticides. Improved communication between states and EPA related to registration decisions is needed to protect groundwater resources and minimize the potential resulting impacts on states and pesticide users.

Watershed Site-Specific Process

Following a scientifically sound pesticide risk assessment, Community Water Systems (CWS) should be targeted, managed and or regulated based upon current monitoring data (not more than 5 years old). This approach leads to watershed mitigation measures instead of a by-county basis. A watershed specific approach is preferable to national rate reductions or cancellations of pesticides.

Goals of Site-Specific Process:

- Identify vulnerable watersheds and water systems where a pesticide is a potential concern.
- Develop and implement practical mitigation measures at a state and local level producing effective and sustainable results in compliance with drinking water standards.
- All programs should follow a "tiered management approach."
- Implement targeted, practical, and effective mitigation measures which are technically appropriate.
- Research to identify alternative cost-effective Best Management Practices (BMPs) to improve water quality on a site specific basis.
- Education.

New EPA programs will be integrated with ongoing state and local level initiatives. This includes the use of existing water quality committees & coalitions where appropriate.

States will make recommendations to EPA on mitigation measures matching states' cropping and field cultural practices. The detail and extent to which each mitigation program is developed by a state must be commensurate with the state's assessment of vulnerability to contamination and subsequent risk.

The timeframe for development and implementation of mitigation programs must be reasonable and based on the funding available. A phase-in approach for implementation is necessary. The effective date of the rule must be selected so as not to coincide with the pesticide use season to avoid unnecessary disruption.

The states will have direct input prior to any consideration for product use reductions or cancellations proposed by EPA. There shall be allowances for unusual acts of nature that cause a temporary water quality concern in any CWS in the monitoring program.

EPA must recognize the need for flexibility in addressing l local issues and situations. An appeal process must be built into the rule for those situations where a state and EPA region are unable to resolve regulatory or policy issues.

Assistance to Small Drinking Water Systems

Many of the contaminants regulated under the Safe Drinking Water Act such as arsenic and radionuclides are naturally-occurring in groundwater in many rural areas where this groundwater is often the sole source of drinking water. Additionally, these communities typically lack the necessary infrastructure and technical assistance for compliance, and because of their small size and geographic isolation, it is often not economically feasible for small community water systems serving populations of 10,000 or fewer to comply with these

standards. To assist small community water systems in complying with national primary drinking water standards, maximum flexibility through variance technologies and additional financial and technical assistance should be provided.

Wetlands

Many of the nation's wetlands are highly valuable resources that must be conserved and enhanced. At the same time, any federal program to protect wetlands must also preserve private property rights and allow for a balance between economical agricultural production and wetland conservation. It is neither practical nor possible to meet these goals if states are required to develop and implement water quality standards under the CWA for wetlands in a particular state. EPA should not require that such standards be established.

The debate over federal wetlands policy has proven to be one of the most contentious and difficult issues facing Congress. Clearly, the federal government has a role in stemming the rate of wetlands loss and encouraging restoration of areas that have been degraded by pollution and careless development activity. The policy process is complicated by the reality that 75 percent of the nation's wetlands in the lower 48 states is privately owned and that much of that resource is located near large population centers. Conserving and restoring the nation's wetlands will require an enormous commitment of privately owned l and, money and expertise. It cannot be accomplished without the involvement of the private sector, particularly the people who own wetlands, in conservation and restoration activities.

The need for wetlands regulatory reform must be addressed. The federal wetlands program in effect today under section 404 of the Clean Water Act (CWA) is not the product of carefully debated legislative policy. Current federal wetlands law is the result of 25 plus years of bureaucratic decisions and judicial rulings under very general statutory language — authority that does not mention the word "wetlands."

For regulatory purposes, wetlands should be defined as lands which have a predominance of hydric soils and which are inundated by surface water at a frequency and duration sufficient to support, and that under normal circumstances (determined on the basis of the factual circumstances in existence at the time the delineation is made) do support, a prevalence of vegetation typically adapted for life in saturated conditions. This definition generally includes swamps, marshes, bogs, and similar areas.

In implementing this definition, rules should be established to delineate such wetlands, which:

- Result in the delineation of lands as wetlands only if clear evidence of wetlands hydrology, hydrophytic vegetation, and hydric soils are present during the period in which such delineation is made;

- Result in the classification of vegetation as hydrophytic only if such vegetation is more typically adapted to wet soil conditions than to dry soil conditions or is equally adapted to wet or dry soil conditions;

- Result in the classification of lands as wetlands only if some obligate wetlands vegetation is found to be present during the period of delineation;

- Result in the conclusion that wetlands hydrology is present only if water is found to be present at the surface of such lands for at least 21 consecutive days during the growing season (defined as the period between the average date of the last frost in the spring and the average date of the first frost in the fall) in which such delineation is made and for 21 consecutive days in the growing season in a majority of the years for which records are available; and

- Does not result in the classification of lands as wetlands that are temporarily or incidentally created.

In order to preserve and protect truly valuable wetlands, a classification system should be developed for lands which meet the above definition. The system could restrict activity on high value wetlands, allow for permitted activities on moderate value wetlands, and exempt low value wetlands from regulations. The category of wetlands statutorily exempt from regulation should include:

- "Farmed wetlands" — defined as those lands which are frequently cropped (six out of 10 years);

- Prior converted wetlands — land that was both manipulated and cropped before December 23, 1985;

- Failed tile drainage system causing ponding of water and restoration of hydrophytic vegetation should not be considered a wetland;

- Wetlands that serve limited wetlands functions; and

- Insignificantly small wetlands.

These areas represent agricultural lands which do not provide functional wetlands benefits, and should therefore be exempt from regulation.

Current law exempts normal farming practices on wetlands from the section 404 permitting process. The "normal farming practice" exemption should be clarified to mean normal ongoing practices as defined by the Secretary of Agriculture, in consultation with the Cooperative Extension Service f or each state and the land grant university system and agriculture colleges of

the state. Existing practices and such other practices as may be identified in consultation with the affected industry or community should be taken into account.

Finally, wetlands regulations should be consistent between federal agencies. For example, mitigation requirements for the section 404 program should be the same as mitigation requirements under the swampbuster program.

7.6 ENVIRONMENTAL MANAGEMENT

Animal Feeding Operations (AFO's)

The Clean Water Act (CWA) and the National Pollution Discharge Elimination System of permits (NPDES) do not stand alone in protecting America's waters from NPS runoff from animal feeding operations. In particular, the state-led programs, when coupled with various Farm Bill, Clean Water Act and Safe Drinking Water Act incentives and support, can provide significant and continuing opportunity for major environmental quality protection. Federal water policies must recognize that the value of the state programs, if enhanced through federal efforts, could provide a firm foundation for a sound national NPS policy, including addressing the runoff associated with animal agriculture. States should have the flexibility and the authority to protect their natural resources from potential negative impacts resulting from livestock production by enacting statutes, regulations, and voluntary programs based upon sound science, economic feasibility, and the specific needs of the state. As an example, natural resource protection on medium-sized livestock farms will be best served by state programs which match requirements with available resources, because conservation does not occur without farm viability. States implementing effective zero discharge programs for confined animal feeding operations (CAFO's) should not be forced to require CAFO's to also have NPDES permits.

EPA does not have authority under the CWA to subject the land application of manure to some form of NPDES permit requirements, as it has recently sought to do. The intent of the CWA is clear – non-point sources of pollution are not subject to mandatory regulations under the CWA, but are to be addressed through voluntary, outcome-based programs. The legislative language makes a clear and concise distinction between point and non-point source management. The land application of manure has been a standard practice in agriculture since humans first introduced livestock into their agricultural activities. It has been an integral part of agriculture's fertility and land improvement ever since. As such, and as for any of the other agricultural activities taking place across the land, the land application of manure is a nonpoint source activity under the CWA. It is imperative that the federal clean water program not require states to operate in any different manner.

Congress must support USDA's incentives and NRCS technical assistance to help producers deal with their livestock manure management challenges, and EPA must continue to work with USDA in support of these efforts. Private sources of technical assistance on nutrient management matters will increase in importance as animal agriculture works to improve its manure management activities. Although the private technical assistance delivery system has been

growing dramatically in recent years, it is nowhere near the capacity needed to prepare the number and kind of plans that EPA and USDA have envisioned. The federal agencies must not rely on the private sector delivery system beyond its capacity to provide solid and technically sound assistance. To do so would result in poor nutrient management plans, little help to the environment, and great damage to the credibility and future usefulness of this fledgling service sector. Such an initiative must build off the existing federal-state public conservation delivery system. The private sector can provide little of the needed services without maintaining a viable NRCS field staff and county Soil and Water Conservation District capability.

Compliance with state and federal regulations by livestock operations should offer some form of presumption of compliance with the objectives of regulatory programs and provide reduced liability associated with off-farm environmental degradation or nuisance law suits. This so-called environmental assurance concept or "safe harbor", which incorporates relief from additional regulations and enforcement, is necessary to ensure active voluntary participation.

Concentrated Animal Feeding Operations (CAFOs)

(Updated September 2012)

The Environmental Protection Agency (EPA) has been regulating Concentrated Animal Feeding Operations (CAFOs) for more than 25 years. In many cases, the states preceded the federal government in both recognizing and regulating issues related to animal feeding operations. Throughout the 1970's, 1980's and 1990's, a number of states set higher or more restrictive standards for CAFOs, usually as a result of local issues or information. Some states developed permit programs and/or required design criteria for protection of both surface water and ground water. Other states implemented voluntary, incentive-based programs with strategies for nutrient management. These efforts have been led by state agriculture and conservation agencies working together with federal agencies, livestock and poultry industries, land grant universities, engineering consultants, scientists, and other local stakeholders.

Both state and federal CAFO rules have been reevaluated and updated over the past several years to keep up with industry changes, new technologies, and public perceptions. EPA finalized new regulations for CAFOs in 2003 which expanded the number of operations covered by the Clean Water Act (CWA) permit program to an estimated 15,500 operations. New permit requirements were added to include comprehensive nutrient management planning, and to extend coverage to include all poultry operations of a certain size. EPA is currently revising its 2003 CAFO rules to conform to a ruling of the 2nd Circuit U.S. Court of Appeals in 2005. EPA proposed a revised rule in 2006, but it has not yet been finalized.

NASDA supports EPA’s proposed 2006 revised rule. Now, the state agriculture departments and other agricultural stakeholders are anxiously awaiting the agency’s final rule. We have urged EPA to limit the final rule to the issues addressed by the court ruling and to provide more clarity on the regulatory obligations of livestock operations. States will need time to modify their CAFO programs to conform with the final rule. In late July, EPA announced that certain compliance

deadlines would be extended until February 2009. This is helpful and will allow the states and other stakeholders an opportunity to adjust to the new requirements.

Although states have additional time to implement the new CAFO program requirements, the changes will create a resource and administrative challenge for state agriculture and conservation agencies. EPA has estimated that the CAFO regulations could result in compliance costs of $850 million to $940 million per year.

States will need to increase our efforts to identify, permit and inspect CAFOs. A major challenge is the ability of producers and state agency personnel to prepare the thousands of new nutrient management plans that will be required under the new rule. Livestock operators will need to address multiple nutrients in their waste management plans. They will need additional technical assistance, education, and training to comply with their permits. This creates additional demands on the state agriculture and conservation agencies which provide technical and financial assistance.

The key to achieving the national goal of assuring that animal feeding operations are managed to protect water quality is to provide states with the flexibility and resources to meet legal and programmatic responsibilities. We strongly believe that programs for managing animal nutrients are most appropriately implemented at the state and local level.

NASDA opposes requiring CAFOs to obtain an NPDES permit by characterizing ventilation dust and feathers as point source pollution under the Clean Water Act.

Classification of Agricultural Byproducts in Environmental Regulations

Livestock manure, poultry litter, crop residue disposal and other agricultural byproducts contain or volatilize into naturally occurring organic compounds such as orthophosphate, ammonia and hydrogen sulfide. These naturally occurring organic compounds result from routine agricultural operations and therefore do not meet the definition of a "hazardous chemical" under the Community Right to Know Act (EPCRA), or a Superfund "release" under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), nor do these compounds contain a "hazardous substance" as defined under CERCLA. As such, these agricultural byproducts produced during routine agricultural operations should not be subject to the provisions of EPCRA and CERCLA.

Rangelands, Pasturelands & Grasslands

NASDA recognizes the importance of grasslands and rangelands. These land resources account for almost one-half of the total area in the United States and are found in all 50 states.

Our land resources are important to agricultural and livestock production but also provide many benefits to society: clean air and water, open space, recreation and wildlife habitat. These lands are the base of our protein food supply and the proper grazing of these lands is essential to maintaining a healthy landscape and environment.

NADSA strongly supports efforts to promote and enhance the stewardship of these lands. The conservation programs of the NRCS, Forest Service, BLM, and EPA are strongly supported by state departments of agriculture.

NASDA fully supports the ongoing research by USDA's Agriculture Research Service (ARS) National Program in Rangeland, Pasture and Forages. This research will produce valuable scientific information and new tools for assessing and managing rangelands and pasture lands. NASDA appreciates the contribution of the Universities and Extension programs in this nation. The ability of this nation's people to feed themselves with less than 10% of their income is in a significant degree due to their efforts.

Noxious Weeds

Funding for Noxious Weed Programs

Funding for weed management efforts should emphasize supporting cooperative and coordinated approaches among all types of landowners within a geographically defined area. Partial or incomplete cooperation undermines the ability of State departments of agriculture to successfully implement statewide noxious weed management plans. The groundwork for such cooperation with federal land management agencies has been established with the passage of federal legislation such as the Natural Resource Protection Cooperative Agreement Act (H.R. 658/S. 2739) as well as specific funding streams such as the USDA-US Forest Service, State and Private Forestry, Forest Health Protection Program. Allocating additional funding to federal agencies will enhance their ability to be full partners with state agencies and local communities. When federal agencies have infused new funds to jump start local efforts to manage noxious weeds, they has cost-effectively prevented the spread of noxious weeds onto uninfested public and private lands and established long-term partnerships to address local and regional weed management needs. Any policies dealing with noxious weeds should build on this type of success where the federal government can contribute funds to efforts that emphasize cooperation and coordination amongst the public and private landowners in a defined area.

Congress should fund legislation that supports coordinated management of noxious weeds. This funding should be channeled through block grants to the states in order to implement state strategic plans to stop the spread of noxious weeds. It is at the state level that most of the strategic planning for noxious weed management is carried out. State departments of agriculture have knowledge of the individual weed management areas and are the most qualified to administer funding to the wide variety of weed management areas within a state.

Congress should pass and fund legislation that creates a national Early Detection and Rapid Response (EDRR) Fund for use by States and local governments in the rapid elimination of new invasive plant species to the United States or its regions. Numerous recent studies, some notably conducted by the Government Accountability Office, have concluded that investing in EDRR efforts is one of the most cost-effective strategies the Federal government could employ to make a tangible difference in invasive species management. Administering a dedicated and

stable funding source that can help States and local governments respond quickly and aggressively to new invasions will greatly improve the State's and the Nation's ability to prevent the establishment and spread of additional noxious weeds.

Regulatory Environment

State and federal lands must be subject to the same regulations and expectations regarding the control of noxious weeds that private landowners are.

The Federal Noxious Weed Act has not kept up with the increase in global trade. Many invasive plants are not restricted under the Federal Noxious Weed Act, rendering the current permitting system inadequate to stop the introduction of detrimental species. Federal agencies responsible for routine inspections of imported goods at US ports-of-entry need regulatory tools and training to identify and quarantine suspected invasive plants without limitations or questioning of their authority. Therefore, NASDA supports the USDA Animal and Plant Health Inspection Service (APHIS) efforts to update and strengthen the regulations in 7 CFR 319.7, also known as Quarantine 37 (Q 37). These are principal quarantine regulations governing the import of plants for planting and will significantly help to prevent the inadvertent introduction of invasive plants.

A protective rule in Q 37 should utilize a pre-import "screening" mechanism. Plants that are non-invasive should be permitted entry while plants with uncertain risk must be subject to further testing and study prior to granting permission for import. USDA-APHIS is urged to fully staff the development and implementation of this important regulation.

The federal government should devise means to more closely monitor movement of invasive species through both traditional channels and through Internet sales. Closer regulation must be paired with an increased effort to educate wholesale and retail members of the nursery industry as well as the end-buyers.

Research Needs

As global trade increases, the number of species introductions will continue to rise. The federal government should fund research to evaluate the risk or invasiveness of newly introduced species. Furthermore, it should fund research that seeks to reduce the number of accidental introductions through packing materials, shipping ballast, etc.

Research should focus on finding economically feasible management strategies. Many of the technological advances in controlling weeds in cropland situations have been a direct result of federally funded agricultural research. However, funding for research focused on the biology, ecology, and sustainable management strategies of invasive noxious weeds has been limited. Funding for these programs has declined by as much as 50 percent during the past decade. The cost of many of the current management strategies for noxious weeds on rangelands rival the purchase price of land in some areas of the country.

Noxious weeds continue to spread across the United States causing significant economic and environmental damage. While there have been many new herbicides developed and registered for agronomic crops, there remains an inadequate selection for the long term control of invasive, noxious weeds. Strong federal support is needed to ensure the availability of environmentally sound tools. The U.S. EPA should expedite the regulatory approval of effective noxious weed control herbicides. As new, ecologically-sound herbicides are approved by EPA, federal land management agencies such as NPS, BLM, and USFS should temporarily increase personnel needed to speed the approval of such herbicides for use on federal lands and avoid unnecessary delays. Furthermore, there is a need for enhanced research of biological controls as long-term control options for established noxious weed populations. USDA APHIS and the Agricultural Research Service should invest additional resources in the discovery, selection, and introduction of new biological control agents for noxious weed control.

Noxious Weeds on Federal Land

Section 15 of the Federal Noxious Weed Act of 1974 (7 U.S.C. 2801 et seq.) should be adhered to by all managers of federal land. This act requires each federal agency to 1) designate an office or person to develop and coordinate an undesirable plants management program for control of undesirable plants on federal lands under the agency's jurisdiction; 2) establish and adequately fund an undesirable plants management program through the agency's budgetary process; 3) complete and implement cooperative agreements with state agencies regarding the management of undesirable species on federal lands under the agency's jurisdiction; and 4) establish integrated management systems to control or contain undesirable plant species targeted under cooperative agreements. The act stipulates that in the event an environmental assessment or environmental impact statement is required under NEPA, the federal agencies shall complete such assessment or statements within one year after the requirement for such assessment or statement is ascertained. Unfortunately, one year is an inadequate and unrealistic timeframe to complete NEPA assessments or statements. It then goes on to detail the cooperative agreements with state agencies the federal agencies shall enter into.

One of the critical components of the Federal Noxious Weed Act is the requirement that the federal government should adequately fund noxious weed management. It is imperative that the federal government adequately fund noxious weed management at a level commensurate with the scope of the problem on federal lands. The amount budgeted for noxious weed management on federally owned lands is a drop in the bucket compared to the number of infested acres.

Accountability

Funding allocations should be divided with separate amounts designated for planning and actual land management activities. With the current fiscal procedures, federal land management areas that do not want to raise public ire by using herbicides for noxious weed treatments simply stall actual management decisions by dragging out the planning process. Furthermore, federal land management agencies should comply with statewide weed management plans. It is

counterproductive when an agency does not work towards state-mandated eradication of a certain noxious weed when adjacent private landowners and local governments must and do comply. Cooperation and coordinated action across the landscape is the only way to achieve statewide weed management goals.

The standard of accountability for weed management within the federal government needs to be increased. Inventories of noxious weeds should be completed and available to the states. Furthermore, inventories should reflect the numbers of acres treated, the efficacy of the treatments used, the number of acres replanted with desirable species, and the cost per treated acre.

State strategic noxious weed management plans are developed in consultation with federal agencies. When these plans are adopted, federal agencies should be full partners in implementing them. States have a legitimate role in developing these plans in order to achieve coordinated efforts across the landscape. Federal agencies should be held accountable for their partnership role. As in state budgets, line items within federal agency budgets should be established specifically for the control of noxious weeds. This will ensure that noxious weed management is a high priority and will reduce the potential for funds to be spent on unrelated projects such as wildfire mitigation, wild horse management, or pine beetle control efforts.

7.7 WATER QUANTITY

Congress made it clear in the Clean Water Act (CWA) that it is federal policy to recognize, preserve, and protect the primary responsibilities and rights of states to prevent, reduce, and eliminate pollution, to plan the development and use (including restoration, preservation, and enhancement) of land and water resources, and to consult with the Administrator of the EPA in the exercise of federal authority under this chapter. It is essential that in the implementation of CWA and other federal statutes that the federal government recognize, preserve, and protect these responsibilities and rights of states and not take steps to directly or indirectly create any federal water law or program that supersedes, abrogates or impairs state water allocation systems and water rights.

7.8 AIR QUALITY

Air quality is an increasingly important issue for agriculture. Agriculture has always had some impact on air quality, whether through wind erosion and fugitive dust emissions, odors or smoke. Conversely, the quality of the atmosphere can affect plant and animal production. Federal, state and local regulatory agencies have been examining, and in some cases, regulating certain emissions from agricultural operations. Some of these are among EPA’s six "criteria pollutants" which are regulated under the National Ambient Air Quality Standards (NAAQS) of the Clean Air Act, and for which specific, measurable threshold values have been established. EPA is required to review scientific studies associated with "criteria pollutants" every 5 years. One of the criteria pollutants related to agriculture is particulate matter (PM) which includes

dust. Other criteria pollutants include ozone precursors (emissions that lead to formation of ozone, i.e. volatile organic compounds (VOCs), and oxides of nitrogen. There is significant debate over agriculture's contribution.

NASDA believes more study is needed. Very little science exists for agriculture related air quality issues. NASDA supports dust control measures, but does not believe agricultural dust should be regulated under the Clean Air Act. There is no scientific evidence.

NASDA believes more information and better technology is needed to fully address current and future agricultural air quality issues which are increasingly complex. USDA's NRCS is engaged in this process by developing information resources, providing technical assistance and training, and developing or implementing appropriate air quality technologies that will ultimately assist landowners and producers in making wise management decisions.

Practices to improve air quality include conservation tillage, residue management, wind breaks, road treatments, burn management, manure management, integrated pest management, chemical storage, etc. NASDA encourages these and other conservation activities. Addressing air quality concerns is an area of increasing emphasis in USDA's conservation programs, including EQIP, CSP which provide incentive payments for actions that benefit air quality, including improving viability, reducing ozone levels, reducing transport of fine and course particulate matter, reducing potential for airborne agricultural chemicals, etc.

NASDA believes EPA and USDA should develop partnerships with state agriculture departments to address these issues in a voluntary, incentive-based way because this will have better success.

Burning woody biomass for energy in highly efficient combustion systems such as boilers is preferable to emissions from wildfire and open burning of woody debris piles. It also supports utilization of waste wood, is a renewable form of energy, and helps local economies by keeping energy dollars local.

Climate Change

United States agriculture has a very momentous and meaningful challenge in regards to climate change. Greenhouse gases are crucial for plant, water, and atmospheric ecosystems, which all greatly affect our lives. Each region of the world will have different reactions to change in climates, and decisions regarding laws and enforcement of said laws need to be carried out by state and local governments.

NASDA recognizes that a cap on greenhouse gas (GHG) emissions could increase fuel, fertilizer, and utility costs in the agricultural sector, and it could possibly lead to regulated production methods and practices. At the same time, agriculture could also benefit from opportunities for producers to voluntarily moderate their GHG emissions through carbon sequestration in soils as well as in methane and fertilizer management. In any national policy on climate change, agricultural offsets should be eligible.

NASDA opposes mandatory restrictions on agriculture including mandatory methane restrictions under the Clean Air Act and restrictions on farming practices and farm machinery. NASDA also opposes a carbon tax. We support additional funding for USDA for carbon program implementation and agricultural sequestration research. NASDA believes the federal government needs to increase its effort to improve the scientific understanding of global climate change and how states can adapt to changing climatic conditions. The research should include potential impacts of climate change, including impacts on federal, state, and local infrastructure as well as impacts to natural systems at the local and regional scale, while keeping an economic balance.

American agriculture can continue to contribute to GHG emissions reductions through biofuels production, thus offering a clean supply of domestically produced energy. Climate discussions can lead to the development of a practical, voluntary carbon-trading system that includes access to the carbon market for agriculture and carbon sequestration for forestry.

Furthermore, NASDA supports Congressional actions to halt the Environmental Protection Agency's (EPA) efforts to regulate greenhouse gas (GHG) emissions through the Clean Air Act (CAA). NASDA prefers that Congress address this issue so as to ensure that agricultural concerns will be considered. Absent Congressional action, any regulatory activities related to GHG emissions must be done via a deliberative and transparent process that includes all agricultural stakeholders including state departments of agriculture and USDA.

Carbon Emissions Cap and Trade System

NASDA supports a national carbon emission cap and trade system to offset non-farm greenhouse gas emissions and which allows the agriculture sector to receive credits for greenhouse gas reductions. Such a system should include provisions for standardized, cost-effective protocols for estimating greenhouse gas emission reductions from agriculture. NASDA also urges continuation and expansion of the Chicago Climate Exchange or other similar markets to provide financial compensation to farmers and ranchers for environmentally sound practices.

Promotion of conservation practices which accrue carbon in the soil as well as protect water quality should occur.

7.9 ENERGY (SEE RURAL DEVELOPMENT POLICY STATEMENT)

7.10 THREATENED AND ENDANGERED SPECIES

(Updated September 2010)

Any federal program to protect threatened and endangered species must also preserve private property rights and allow for a balance between agricultural production and species conservation.

NASDA members and other state agencies are regulators with responsibilities for conservation, environmental protection, and wildlife management and also serve as co-regulators with federal agencies on numerous federal environmental statutes, including the Endangered Species Act. As regulatory partners, federal agencies should afford state agencies the same kind of involvement, access and consultation that other federal agencies are afforded in situations of overlapping responsibilities. Moreover, deference must be paid to states in situations where states have regulatory primacy.

Amendments to the ESA must reaffirm the goal of conserving endangered and threatened species while assuring that the decisions taken to attain this goal truly balance species conservation requirements with the economic and social needs of the human community. Reauthorization of the ESA must acknowledge the following:

- The definition of the term "species" must clarify the intent of Congress concerning "subspecies" and "population segment" as well as the levels of protection to be afforded to candidate species. Proof of a species being endangered shall be the responsibility of the petitioner or the Department of the Interior and not the general public.

- The socio-economic impacts of species listing, with reasonable scientific criteria to prevent indiscriminate species listing, must be considered.

- An open process for delisting must be utilized which will specifically provide an opportunity for the public to petition FWS for delisting within one year of listing of an endangered or threatened species. If FWS does not delist, the Act should give the petitioner the right to a formal hearing before an Administrative Law Judge on all matters pertinent to the issue.

- Extensive public input into the listing process, recovery plan process and delisting process must be allowed.

- Consideration should be given to the probable impact to private property rights and society's obligations to pay for the recovery of a species and to compensate individuals whose private property is "taken" or devalued.

- The role of voluntary incentive-based agreements with landowners for captive propagation, species population support programs, and alternatives to listings must be included.

- The listing, designation of critical habitat, and implementation of recovery plans should only be affected subsequent to review and concurrence by an independent scientific review team.

- The definition of "taking" must be more specific, including a listing of those activities which would "harm" or "harass." Any activity not listed should not be subject to criminal penalty and should only be specified as subject to reduced civil penalty.

- The term "critical habitat" should be limited to the historical area that is essential to recovery and such critical habitat should be identified at the time of listing.

- Landowners must be afforded opportunities for input and reasonable recourse when their property becomes a "critical habitat."

- The petition process for exemptions should be enhanced and improved so that it is easily understood and readily accessible to the public.

- Mandatory controls of predators to enhance recovery of species when necessary should be implemented.

- A greater role for states in implementing and enforcing the Act. Specifically, there must be a true partnership between the states and the FWS. In this partnership role, states and FWS should concur in identifying species for listing, preparation of recovery plans, identification of recovery areas, and subsequent delisting.

- The targeting of limited human and financial resources on the protection of species for which there is the greatest probability for successful recovery and to accept a recovery system that is successful even though the gene pool may not be perfect.

- The definition of successful recovery which recognizes scientifically sound population dynamic measurements.

- A certainty to landowners that their cooperation in endangered species protection will not result in increasing demands and regulatory prohibitions on their farming or ranching operation. Such certainty is possible by clearly delineating the roles and responsibilities of all parties to an ESA recovery plan. When plans are reviewed and needed changes are required to successfully recover the species, landowners need certainty that financial assistance will be forthcoming that will cover additional operating costs to conform to recovery plan alterations.

- The need to foster cooperation among landowners by offering voluntary, incentive-based opportunities for species conservation which minimizes prescriptive regulation. The implementation of voluntary agricultural resource management plans (RMPs) should provide compliance with and certainty under the ESA for farmers and ranchers.

Endangered Species Act Consultation Process for Pesticide Registration and Use

EPA and the Services must establish a collaborative and transparent consultation process for pesticide registration, including:

- Consideration of third party mediation to move the consultation process forward,

- Agreement on criteria defining “best available science” and

- Agreement on methods and procedures to evaluate the effects of pesticides on listed species.

EPA and the Services must allow increased access to the decision making process for states and other stakeholders to:

- Provide relevant data for consideration (e.g., State Initiated Plans) and
- Ensure adequate public comment on the development of Reasonable and Prudent Alternatives (RPAs) designed to protect listed species.

The Services must include in all biological opinions:

- Quantifiable "targets" to define what constitutes risk or endangerment to allow effective evaluation of proposed RPAs to provide clarity about when mitigation is needed.
- The most recent data on registration status and environmental exposure
- Use of current environmental monitoring data to assess if endangerment targets are met in order to ensure that decisions are not solely based on conservative modeling.
- Assessment of the economic feasibility of the RPAs and Reasonable and Prudent Measures (RPMs) on agriculture so that the full cost of proposed mitigation is understood.

Clear, reasonable timelines for implementation to allow applicators time to evaluate and transition to alternative pest controls.

7.11 FERTILIZER REGULATION AND USE

(Added September 2009)

The regulation of fertilizers must be based on sound scientific and agronomic principles. Just as soil, water and air are essential for growing food, so too are nutrients provided by fertilizers.

Nutrient Management Planning

Balanced nutrition, soil testing, nutrient use efficiency measures, and other tools are essential considerations for appropriate fertilizer use. Therefore, NASDA supports:

- The comprehensive use of Nutrient Management Planning (NMP) when using fertilizer products.

- The utilization of the 4R stewardship system will help choose the right nutrient source, at the right time, rate, and place. This system of Best Management Practices (BMPs) matches fertilizer type to crop needs, and fertilizer amounts to crop needs, making nutrients available when crops need them, and keeping nutrients where crops can use them. BMPs are designed to provide adequate nutrition for crops, while minimizing nutrient losses to the environment.

- Policies that assure regional and farm-specific conditions are considered as farmers develop and implement Best Management Practices. This flexibility is critical in order for farmers to maximize the economic and environmental benefits of adopting BMPs.

Fertilizer Regulation

Appropriate fertilizer application can improve the quality of the environment. However, the regulation of fertilizers must be consistent with—and based upon—sound scientific principles. Because of the scientific expertise required, NASDA supports the following policies:

- Fertilizers should not be regulated by political subdivisions below the level of the State.

- States should develop legislation that prohibits the regulation of fertilizers below the level of the State in order to insure that these materials are regulated based on sound scientific principles needed to protect the environment.

8 Federal Land Management

8.1 INTRODUCTION

Throughout the country's history, and up to the present day, the use and corresponding management of lands belonging to the federal government has received widespread attention. The grazing of domestic livestock on federal rangelands has become the center of controversy resulting in proposals advanced in both the regulatory and legislative arenas. The issue has commanded the attention of the administration, the Bureau of Land Management (BLM) and the U.S. Forest Service, Congress, the livestock and related industries, the general public, and a myriad of special interest groups.

8.2 GRAZING ON PUBLIC LAND

Rangeland Reform '94 was the latest administrative effort to revise the management process for livestock grazing on federal rangelands, and culminated in the current regulations which govern livestock grazing on both the public lands and the national forests. Central to any proposal for the management of livestock grazing on the federal rangelands is the concept that management objectives must be based on the philosophy of multiple use and sustained yield.

Any administrative or legislative endeavors to amend or revise the administration of grazing domestic livestock on the federal rangelands must consider the following comments:

- The grazing fee and fee formula must provide for a reasonable return to the federal government while insuring that federal land grazing permittee and lessees are afforded the ability to retain viable and productive livestock operations. The fee must also be non-punitive in nature to encourage the continued private investment of time and monies into the improvement of the condition of the federal rangelands.

- Allow for the development of allotment management plans using the principles of careful and considered consultation, cooperation, and coordination to insure that appropriate grazing management practices are implemented which are necessary to meet specific multiple-use management objectives, and maintain the economic viability of the livestock operation. In addition to achieving multiple-use management objectives, utilize monitoring methodologies that will determine the appropriateness of the management practice (s) implemented.

- Standards and guidelines for rangeland health that are identified as appropriate and necessary for the effective management of the nation's rangelands shall be developed on a state or regional level in cooperation with the state department of agriculture, natural resource conservation service, and the land-grant university of each interested state. This will ensure that the standards and guidelines reflect the indigenous and existing resource conditions and management requirements specific to each state.

- Any resource advisory process which provides the federal land management agencies with advice or recommendations concerning the federal lands livestock grazing management program shall be implemented in consultation with the governors of the affected states.

- The Secretaries of the Interior and Agriculture, upon the petition of a simple majority of the livestock permittees and lessees for each administrative unit for which the petition originates, shall establish and maintain at least one Grazing Advisory Council. The function of the Council shall be to provide the federal land management agencies with advice concerning the grazing of livestock on public lands to include the planning, development, and implementation of range improvement objectives, the expenditure of range improvement funds, grazing management programs, and range management decisions and actions at the term grazing permit or lease and allotment management plan level.

- Title to structural range improvements on federal lands necessary for the proper administration and management of the federal rangelands resource shall be in the name of the federal government and the permittee or permittee or lessee in proportion to the value of the original contributions toward the initial cost of construction. This will continue to encourage investment for improved management on federal rangelands as well as facilitate cooperative endeavors for implementing range improvements.

- The use and appropriation of water rights by any entity, including the federal government, shall be in accordance with state law. Any proposal, either administrative or legislative, shall not create an expressed or implied reservation or water rights in the name of the United States. Additionally, with regard to the management deemed necessary for the livestock grazing programs on the federal rangelands, the Secretaries of the Interior and Agriculture shall follow state law with regard to water ownership.

- Applicants, permittees, lessees, and lienholders shall have the opportunity to protest proposed decisions developed by the federal land management agencies relating to any and all provisions of the term grazing permit or lease. Applicants, permittees, lessees, and lienholders shall also have the opportunity to appeal a final decision of the land management agencies concerning any and all provisions of the term grazing permit or lease. An appeal of a final decision shall suspend the effect of the final decision pending final action on the appeal unless the decision is made based on the determination that imminent and irreversible damage to land resources would likely result from delay of implementation of the final decision. Applicants, permittees, lessees, and lienholders should have the opportunity to mediate any disputed decisions with federal land management agencies regarding any and all provisions of a term grazing permit or lease. Mediation services should be provided by state mediation programs certified under section 502 of the Agricultural Credit Act of 1987 and other appropriate federal legislation.

- The issuance of a term grazing permit or lease that is consistent with a land use plan developed by and compliant with the provisions of the National Environmental Policy Act (NEPA) shall not be considered to be a major federal action requiring the conduct of any additional study or assessment under NEPA. “In cases where impacts are identified to be occurring on federal lands requiring NEPA analysis of the grazing administration of a term grazing permit or lease, and a term grazing permit or lease expires prior to the completion of the NEPA analysis, the term grazing permit or lease shall be issued, reissued, or transferred using the same terms and conditions as contained in the expiring permit until such time as the terms and conditions may require modification under a NEPA compliant record of decision.

- Recognize that additional stability in the form of term permit or lease tenure length encourages private investment in the federal rangelands, promotes long term planning and management efforts, and provides an environment of continued cooperation and coordination between grazing permittee and lessees and the land management agencies; therefore, to ensure that these benefits continue, term grazing permits and leases shall be issued for a term longer than ten years.

- The Secretary of Interior should use local law enforcement authority when enforcing Federal laws and regulations. Per Section 303 of the Federal Land Policy and Management Act the Secretary has the authority to “offer a contract to appropriate local officials having law enforcement authority within their respective jurisdictions with the view of achieving maximum feasible reliance upon local law enforcement officials in enforcing such [Federal] laws and regulations.” Furthermore the Secretaries of the Interior and Agriculture should be cognizant of state law and due process related to their enforcement actions.

- Any administrative or legislative proposal addressing the management of grazing domestic livestock on federal lands must apply to the BLM as administered by the Secretary of the Interior and the Forest Service as administered by the Secretary of Agriculture.

8.3 FEDERAL LAND MANAGEMENT AND THE CLEAN WATER ACT

The issuance, reissuance, or transfer of a term grazing permit or lease that is consistent with a land use plan developed using the National Environmental Policy Act (NEPA) process should not be considered a federal action requiring state certification under section 401 of the Clean Water Act (CWA). The NEPA process ensures the affected environment, the environmental consequences, and a full range of reasonable alternatives have been developed and considered in the decision-making process for all major federal actions proposed by the federal land

management agencies. The NEPA scoping process involves the general public, state and local governments and Indian tribes, affected interest, and organizations, and includes the opportunity to submit comments on the planning provisions prior to the issuance of any management decisions. The NEPA process provides full and fair consideration of water quality issues contained in the CWA. As such, state certification is not necessary for the issuance, reissuance, or transfer of a federal term grazing permit.

8.4 ANTIQUITIES ACT

The Antiquities Act of 1906 grants authority to the President of the United States to set aside land of historic or scientific interest. Recently, over three million acres of federal land have been withdrawn from public use by authority of the Antiquities Act. In many instances, this action was taken without formal input from the state or local governments involved or the states' congressional delegation, and was strongly opposed by the local citizens.

The Antiquities Act should be repealed, and the authority to withdraw land from public use returned to Congress. Failing repeal, the Antiquities Act should be amended as follows:

- All withdrawals should be subject to the National Environmental Policy Act;
- Governors of the affected states should be formally consulted; and
- No more than 5,000 acres will be withdrawn by any single executive action.

8.5 FEDERAL WILDERNESS AREAS

Various problems impacting the management of livestock grazing and natural resources management occur on existing federal wilderness areas. Pending or new legislation will likely propose certain new areas for wilderness designation in western states.

Any wilderness legislation must include the following provisions:

- Continue livestock grazing practices and protect private investments in a manner existing prior to passage of the Wilderness Act of 1964.
- Protect the states' and private water rights and water administration systems from federal encroachment by requiring the federal government to seek any water necessary for wilderness purposes through a state's water process.
- Include language which will release those lands not designated wilderness to multiple use.

8.6 EQUAL ACCESS TO JUSTICE ACT

(Added February 8, 2010)

The Equal Access to Justice Act (EAJA) was passed to aid small business, public interest groups, and individuals forced to sue or defend against the government in order to secure some right, privilege, or interest. Under EAJA, these individuals or small businesses can obtain reimbursement of attorney fees if the individual or small business prevails in litigation.

- NASDA supports policies, including those of the Equal Access to Justice Act (EAJA), that facilitate the ability of agricultural producers and other permittees on public lands to fully participate in the court system in order to address unreasonable government action.

- NASDA supports policies that provide reasonable reimbursement of attorney fees to prevailing individuals, small businesses, and public interest organizations in litigation intended to address unreasonable government action.

In order to guard against abuse of the EAJA and to help protect agricultural producers from onerous and excessive litigation, NASDA supports policies that:

- Provide greater transparency into the amount of funding provided to prevailing parties under the EAJA. This transparency should also include an accounting of the recipients of these funds.

- Ensure a level playing field for recipients of EAJA reimbursements. Individuals and small businesses are subject to net-worth limits to qualify for reimbursement under the EAJA; appropriate limitations should be set to restrain the ability of non-profit activist organizations to abuse the system.

Enhance the ability of agricultural producers and other permittees on public lands to intervene in cases that could have direct financial consequences and other negative implications on these parties.

9 Pesticide Regulation

9.1 INTRODUCTION

Pesticides are an important component of agriculture/horticultural production systems. Pesticides are utilized in integrated pest management programs and result in the production of abundant and safe food, fiber and ornamental crops which sustain the quality of life we enjoy.

Pesticide laws, regulations and policies ensure that pesticides are used correctly and that adequate protection is provided to applicators, workers, consumers, and the environment. This body of regulations is constantly changing to enhance protection of human health and the environment, and reflect new technology and scientific discovery as well as to improve safety.

9.2 FOOD SAFETY

Efforts to maintain and enhance the safety of the nation's food supply are critical. Regulations must assure that pesticides are properly labeled, and the producers apply those pesticides in accordance with the label. The continued and improved monitoring of pesticide residues in food crops, both domestic and imports, to reflect actual rather than estimated residues is critical. Risk calculations, wherever possible, should be based on real world data and be based on end-use or processed product sample data in order to accurately reflect dietary pesticide residue consumption. Periodic reevaluation of consumption data to reflect current tastes and practices, especially for children, should be a priority. Moreover, it is essential that programs like the Pesticide Data Program (PDP) continue to provide accurate and current use and residue data for risk calculations. Adequate funding for such activities is essential.

9.3 SOUND SCIENCE & HARMONIZATION

Pesticide regulation must be based on sound science. The international harmonization of data requirements, the presentation of data and its interpretation, and risk assessment methodologies is a positive goal. The mutual recognition among states, regions, and nations of each other's standards of testing is important when the standards are equivalent. In working toward international harmonization, the increasing costs of conducting scientific studies that support pesticide registrations must be considered so that unnecessary and duplicative studies are reduced. Harmonization efforts should not jeopardize U.S. agricultural exports, nor should they permit agricultural imports from other countries that cannot meet U.S. health and safety standards. Harmonization must occur at the highest levels of government to maintain the safety, quality, and integrity of our food supply.

U.S./Canada Harmonization

The EPA should increase resources and efforts of the U.S./Canada Technical Working Group (TWG) to harmonize pesticide regulations in the two countries. Current efforts of the TWG have

focused on new pesticide chemistry. Current imports of Canadian commodities should be disallowed unless adequate progress is made by the TWG to obtain registrations in the U.S. of Canadian-registered pesticides. The EPA must also make a greater effort to accept registration data currently accepted by Canadian officials in support of Canadian registrations. EPA should work with the Canadian Pest Management Regulatory Agency (PMRA) to develop mutually-acceptable joint EPA/PMRA labeling procedures for identical or substantially similar pesticides registered in both countries. More effort needs to be focused on establishing harmonized tolerances for pesticides used in either country on exported commodities. Pesticides that are registered in one country and are found moving illegally across international borders for use should be registered in both countries.

9.4 STATE-FEDERAL PARTNERSHIPS & FUNDING

States play an important role in the regulation of pesticides. They work cooperatively with EPA to regulate pesticide licensing and certification programs, and protect water resources, endangered species and agricultural workers. States conduct inspections in producer establishments, on farms, at pesticide dealerships, and in the marketplace; respond to complaints from a variety of individuals related to alleged pesticide misuses and work closely with the Cooperative Extension Service in educating the public about the use of pesticides; assist in the disposal of canceled and suspended and unusable pesticides; facilitate "Clean Sweep" pesticide disposal and container recycling programs; and sample pesticides as well as commodities. EPA should expedite approval of state equivalency applications under the federal container/containment regulations, supporting the implementation with sufficient inspector training and additional funding to support implementation.

Where states are given new mandates under the FQPA, and other federal programs, efforts to maintain and increase funding are essential for implementation of these programs. Increased regulations delegated to states without adequate companion funding are unacceptable and unproductive. Steps should be taken by EPA to ease reporting burdens and reduce paperwork, wherever possible. Ongoing efforts made by EPA to be as inclusive as possible with their state partners in developing regulations and making decisions should be continued. EPA should set certain basic minimum standards in cooperation with their state partners and avoid costly and labor intensive reviews of state-delegated management plans, thereby allowing sufficient flexibility in pesticide program activities to accommodate the great variety of resources and needs which exist in individual states. To ensure the safety of the American food supply, however, when implementing Performance Partnership Grants, the agency must ensure that all pesticide enforcement and program monies continue to be provided to the state lead pesticide agency responsible for pesticide enforcement. These resources must not be used for other environmental purposes.

EPA should move quickly to implement a program recognizing electronic labels for a variety of uses to include label amendments to products in the channels of trade, allow for filtering

lengthy labels for crop specific use directions, enhance label accessibility, and provide version controls.

EPA should take action to assure that pesticide registration programs comply with the Office of Pesticide Programs' (OPP) Label Review Manual by providing sufficient training to EPA staff, addressing referrals from states on problematic labels and label language and implement recommendations made by the Label Accountability Workgroup.

EPA has not yet managed to review and approve the majority of state generic pesticide and surface water management plans and will soon be faced with reviews of numerous pesticide-specific management plans. EPA should develop a common effects assessments methodology to support identification of endpoints for FIFRA risk assessments as well as develop aquatic life criteria under the Clean Water Act.

NASDA supports a uniform federal pesticide container recycling system that relies on partnerships between state departments of agriculture, local communities, extension, industry associations, grower groups and other interested parties. These programs should be supported by pesticide registrants, remain voluntary for farmers and retailers and should continue to recognize triple rinsed pesticide containers as non hazardous waste that can be legally landfilled.

9.5 IMPLEMENTATION OF FQPA

Risk Determination & Methodology

The FQPA institutes changes in the types of information EPA is required to evaluate in their risk assessment process for establishing tolerances for pesticide residues in food and feed. It also gives EPA a mandate to account for the special needs and sensitivities of infants and children when assessing dietary risks, to look at aggregate exposure, and to evaluate compounds with the same mechanism of toxicity simultaneously. Benefit considerations have been dropped except in cases where the compound is a carcinogen and the tolerance is already in existence and certain conditions regarding use and risk are met.

Throughout the law the term "available information" is applied to data to be used by EPA in their decision making process. How EPA defines "available information," in terms of valid animal models and scientific methods, will be crucial for regulations required under FQPA. In situations where the data do not yet exist (e.g., consumption studies for infants and children), funding for and design and conduct of studies are necessary to make the information "available."

A key provision of FQPA was that decisions be made on the basis of reliable information and data. In the absence of "available information," EPA may use default assumptions. Realistic risk estimates based on sound science are essential to avoid misguided decisions. Otherwise, valuable pest control options could unnecessarily be canceled. In addition, EPA must establish some orderly process to allow for pesticides no longer supported by tolerances, to clear

channels of trade and use. Failure to do so will result in costly disposal problems for states and possibly major disruption in production agriculture should tolerances expire during the use season.

NASDA recommends that EPA publish a "transition report" regarding how they will identify endocrine disruptors and their role in human health. This report could be used to identify data gaps and deficiencies, allow for the development of newly needed data, and let the agricultural community know how tolerance decisions will affect and impact production. EPA should communicate with NASDA regarding detailed guidelines and regulations for implementation of the endocrine disruptor portion of the FQPA.

Data Needs

EPA should develop a comprehensive database to address cancelled, amended, or additional uses for pesticide products with tolerance establishment or cancellation information. With FQPA and the re-registration process, changes in product availability is nearly impossible to track. EPA is the most appropriate agency to provide this information in a centralized database for public access.

Coordination of current pesticide recordkeeping requirements such as those required under FIFRA, state laws, the 1990 Farm Bill, and the Worker Protection Standard (WPS) would result in a more efficient comprehensive recordkeeping system.

NASDA strongly supports efforts to build program capacity within the National Agricultural Statistics Service (NASS) and its cooperative partners to expand pesticide use data collection through statistically valid survey procedures for all pesticide uses supported through the pesticide registration and FQPA process. NASDA encourages continued dialogue with USDA, EPA, the pesticide industry and other interested parties to ensure the use of the best available information collected in the most efficient manner.

Minor Use

Continued efforts on the part of EPA to ease the burden of the registration process for pesticides on minor crops is necessary. Minor crops are important to American agriculture and consumers. "Minor crops" are anything but minor and in fact represent over $31 billion annually to U.S. agriculture or 42 percent of total U.S. crop sales.

Twenty-six states rely on minor crops for at least 50 percent of their total crop sales. In Florida, minor crops account for 98 percent of crop production. Congress, recognizing the need to ease the burden on minor crops, enacted specific legislation under the FQPA designed to make it easier and less costly to register pesticides on minor crops. Among these were the establishment of a revolving grant fund of $10 million to support the development of data necessary to register minor use pesticides as well as the establishment of minor use programs within EPA and USDA to foster coordination on minor use regulations and policy. Congress

should appropriate these funds. EPA should eliminate the annual fee for 24c's charged to the registrant to further support pesticide availability for minor crops.

USDA should also immediately move toward the organization of a minor use office to complement but not duplicate the activities of IR-4 and to administer the awarding of minor use data development grants. In tandem, EPA should also organize its minor use office with the objective of assisting in the coordination of minor use pesticide registrations. A survey of what grower needs are, with respect to the registration process, should be conducted as a part of the formation of this office. This information is supposed to have been implemented under USDA as crop specific strategic plans, but most crops remain undocumented.

The IR-4 program develops data in support of minor use pesticides. This program has proven to be effective and important to agriculture. The goals and objectives of the IR-4 program, to generate data to support minor uses, are critical to preserving valuable pest control options. Congress should appropriate adequate funding for this program.

Consumer Communication

FQPA amended Section 408(c) of the FFDCA to require EPA to move forward with a consumer right-to-know program. FQPA specifies a discussion of the risks and benefits of pesticides and recommendations to consumers for reducing dietary exposure to pesticides while maintaining a healthy diet. Additionally, FQPA requires EPA to produce a listing of the pesticides for which there are benefit-based tolerances and the foods which may have residues of these pesticides.

The concept of an informed public is generally a positive goal, however information about pesticide use in food production should not unnecessarily frighten consumers. Misleading or misunderstood information could create confusion about the safety of the food supply, especially fruits and vegetables, which it is widely recognized that Americans should consume in greater quantities. The medical community has long promoted a diet high in fiber which research has shown to have increased health benefits, among these a reduction in certain forms of cancer. USDA, along with the medical community and other health advocacy organizations, continue to actively encourage an increased consumption of fruits and vegetables as part of a healthy diet.

EPA, with input from the Pesticide Program Dialogue Committee as well as other interested and impacted organizations, should develop a brochure written for the general public of a size which can easily fit into a shirt pocket or purse. The brochure should include a brief discussion on the risks and benefits of pesticides with some practical information for consumers on how they can reduce their dietary risks from pesticides. It is suggested that this brochure be initially field tested with groups of average consumers and evaluated in a limited area before national distribution. State regulatory agencies and land grant universities should be included in the development and any preliminary release for their review and evaluation of the material. In addition, plans for periodic updates of this information should be considered. Listing of benefit-based tolerances and associated foods should be included on the EPA web site and/or made

available on request rather than in the consumer brochure. The consumer brochure would contain a reference statement directing consumers to the EPA web site and to State Lead Agencies for more information.

9.6 SECTION 18'S

Section 18 of FIFRA permits the application, with appropriate safeguards, of unregistered pesticides for certain emergency conditions, if authorized by EPA. Substantial crop losses nationwide are prevented every year by treatments authorized under the emergency exemption provisions. This provision of FIFRA is necessary and valuable to American agriculture and we support its continuation.

An example of recent section 18s with great value to agriculture are the exemptions which allowed the use of several fungicides to control Soybean rust on soybeans and possibly other related crops. The failure to control strains of such diseases as Soybean rust could result in the destruction of entire crops within the United States. Such emergencies demand a quick response.

There is a need for the development of criteria for wildlife monitoring in connection with section 18 exemptions to be included in guidance documents to the states, so that states can better anticipate when wildlife monitoring may be a requirement and the potential costs of monitoring which might accompany a section 18 approval. EPA needs to clearly communicate their data needs to address endangered species protection for Section 18s.

Allowing emergency exemptions for the purpose of resistance management or based on reduced risk is desirable. Resistance management is increasingly important to preserve existing pest control options. Many integrated pest management (IPM) programs require multiple strategies for effective pest control which may include the use of several pesticides at different stages of plant development and pest life cycles. The loss of registered pesticides jeopardizes successful IPM programs by limiting options. Emergency exemptions based on reduced risks would allow states to provide an alternative, to a registered use, when unusual conditions exist under which the registered use would pose unacceptable risks on a temporary basis. It is anticipated that reduced risk emergency exemptions would be rare and would result from conditions difficult, if not impossible, to anticipate in the usual registration review procedures and likely be temporary and localized in nature.

A common sense approach in determining whether to grant section 18 emergency exemptions and tolerances is desirable. In the absence of available information, it is recommended that the EPA not rush to establish default assumptions not required by FQPA. EPA should not deny valid section 18 applications for use of pesticides that have resulted in no detectable residues and pose no additional risk.

9.7 REDUCED RISK PESTICIDES

The substitution of reduced risk pesticides for conventional pesticide materials should be encouraged whenever the reduced risk pesticide offers a practical alternative in terms of cost and effectiveness. Emphasis should be placed on finding reduced risk solutions to pest control problems currently addressed with materials having a high potential to cause adverse effects to human health and the environment.

EPA should review their decision of allowing the exemption from registration under FIFRA 25(b). Allowing products to claim to control pests in any site without at least a simplified review of risk factors and appropriate label language has shifted the burden of enforcement to the SLAs. In addition, worker risk and other adverse effects of these products are not identified or mitigated.

Due to the large investment of resources required to develop new reduced risk pesticides, measures should be taken to sustain their efficacy over time. It will require a cooperative effort among government, industry, farmers, and academic institutions in order to establish viable resistance management programs.

9.8 CERTIFICATION AND TRAINING

Certification and training of private and commercial pesticide applicators is a function of both state pesticide lead agencies and the Cooperative Extension Service. This program is essential to the safe use of pesticides. While there have been significant changes in the requirements of both commercial and private applicator certification and training programs since their inception, there has been little corresponding increase in funding to the Cooperative Extension Service for this purpose.

EPA continues to add rules that impact the amount and type of information which must be conveyed through pesticide applicator training such as the WPS, the use of IPM, endangered species, water protection, container/containment, recycling, product specific training, etc. . EPA should move forward with recommendations of the Certification and Training Advisory Group.

NASDA emphasizes that FIFRA grant funding for certification and training programs should be consistent in federal/state match funding requirements with the 85/15 requirement of other programs such as enforcement and WPS.

Periodic reviews of state certification programs by EPA and state pesticide lead agencies with the intention of strengthening certification and training programs, such as adding new information necessary for the safe application of pesticides, is desirable. However, any major required changes in this program should be carefully considered as to cost and feasibility. Other than certain minimum requirements established by EPA in cooperation with their state partners, any additional requirements should be set by state pesticide lead agencies as they are likely to bear the increased costs. Adequate funding to implement any required changes to private applicator certification programs should accompany such requirements.

9.9 WORKER PROTECTION

EPA finalized Worker Protection Standards (WPS) for Agricultural Pesticides in August 1992. The regulations govern the protection of employees on farms, forests, nurseries, and greenhouses from occupational exposure to agricultural pesticides. The standards cover both workers in areas treated with pesticides, and employees who handle (mix, load, apply, etc.) pesticides for use in these areas. As the national organization of the lead state pesticide regulatory agencies, NASDA supports the underlying goals of the WPS — the protection of farmworkers — and believes that the continuation of a strong education and information campaign is needed.

EPA made several changes to the WPS. The agency should continue to review the regulations to determine if additional changes are necessary to ensure proper implementation of the program. Such changes should increase worker protection while streamlining the regulations placed on agricultural producers and employers."

Any contemplated changes in risk assessment which might limit uses due to concerns over pesticide exposure to workers and handlers should be given an opportunity for debate in an open forum. Worker exposure risk assessments should not be added to the "risk cup" but should be handled via separate risk reduction measures already in place under FIFRA prior to FQPA. Extensive education and training programs are already underway throughout the United States to address worker exposure from pesticides.

9.10 STRUCTURAL PESTICIDE CONTROL ISSUES

Formosan termites (*Coptotermes formosanus Shiraki*) are an aggressive non-native termite species with diets consisting of wood fibers, plants and crops, which can penetrate plastic, plaster and asphalt in order to fulfill their harmful dietary needs. It is believed that Formosan termites were first brought into the United States on military ships carrying supplies from the Pacific Ocean following World War II.

The Formosan termite is potentially the most damaging structural and agricultural insect which has caused tremendous damage to many homes, public and private buildings, trees, significant historic properties and too much infrastructure. The Formosan termite differs from the native subterranean termite in that its colonies are many times the size of the native termite colonies, it flies during the day, is attracted to and not repelled by light, does not have to return to the ground for its life-sustaining moisture and infests live trees, dead wood, and building materials. A single Formosan termite colony can produce 2000 eggs per day and may contain over 10 million termites. It is estimated that Formosan termites cost consumers more than $1 billion dollars a year including the cost of repairs and control measures.

Formosan termites repeatedly test chemical barriers and find ways to penetrate soil in the states in which they are found which includes Alabama, California, Florida, Georgia, Hawaii, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee and Texas. Supported by the belief that the United States government shares in responsibility for the importation of

Formosan termites, NASDA encourages the USDA to work with the states to develop a program for the suppression of the Formosan termites. NASDA also urges USDA and other federal agencies to fund this program of Formosan termite suppression and control

9.11 METHYL BROMIDE

The harmonization of the Clean Air Act with the Montreal Protocol requires that both the production and use of methyl bromide for non-critical or non-exempted uses be gradually phased out in the United States by 2005. The current regimen will require a 50 percent reduction in non-critical/non-exempt methyl bromide use by the end of calendar year 2000 with a complete phase-out by 2005. Developing countries such as Mexico and China will have until 2015 to complete phase-out. The Montreal Protocol also provides for a process for exemption from phase-out for agricultural quarantine and pre-shipment uses of methyl bromide.

Methyl bromide provides highly effective control for a broad spectrum of economically important pests on a wide range of food and non-food commodities. It provides rapid and complete control of pests, mostly within twenty-four hours of exposure, for fumigation of large and small quantities of material. When applied properly, it does not leave residues of any toxicological significance. The compound is widely used in agriculture as a soil fumigant, for post-harvest applications (including quarantine and stored agricultural commodities and durable products, such as, cotton timber and artifacts) and structural fumigation. It is active against a diverse variety of organisms at low concentration, including rodents, insects, mites, nematodes, fungi, weeds, bacteria, and viruses. Methyl bromide is often the preplant treatment of choice given its easy application and wide variety of uses.

The greatest use of methyl bromide is for soil fumigation during intensive production of high value crops, such as strawberries, tomatoes, cucumbers, peppers, melons, and eggplant. Methyl bromide is particularly important in quarantine treatments. It is effective against a large variety of indigenous and non-indigenous pests. Methyl bromide can easily and economically be applied to both small and large shipments; U.S. regulations require that a wide array of imported food and non-food commodities be fumigated with methyl bromide as a condition of entry. A number of commodities exported by the United States must be fumigated with methyl bromide in order to comply with the quarantine requirements of recipient countries. In addition, methyl bromide plays a critical role in the United States as the only practical emergency treatment to move commodities out of areas quarantined for outbreaks of exotic pest insects, such as, the Mediterranean fruit f fly.

Structural fumigation of food production and storage facilities, non-food facilities, transport vehicles are very reliant on methyl bromide for control of a large number of pests. It is used either on an entire structure or a significant portion of a structure. Fumigation is utilized whenever the infestation is so widespread that localized treatments may result in re-infestation or when the infestation is within the walls or other inaccessible areas

Failure to find an alternative to methyl bromide will cost billions of dollars in lost exports and increased cost of production in the United States. We must ensure that American farmers can continue to raise and market their crops. Adequate funding is needed for a research program to find and develop alternatives for methyl bromide. In addition, Congress must ensure that the EPA gives expedited treatment to a methyl bromide alternative during the registration process.

NASDA urges the U.S. EPA to work closely with USDA and the U.S. Congress to allow the continued use of critical use exemptions for agriculture. Many economically important uses of methyl bromide, such as quarantine and pre-shipment uses of methyl bromide do not have viable alternatives for use. It is in the best interest of all states and segments of the agricultural industry to find safe and environmentally sound alternatives to methyl bromide, but until those alternatives are available for use, critical use exemptions must be continued. Domestic policy issues and international consensus on environmental protection must be resolved so as not to put U.S. agriculture and trade at a competitive disadvantage.

As alternative fumigants are registered and existing fumigants go through reregistration, label amendments associated with calculating buffer zones, monitoring access to buffer zones by unprotected persons and other use restrictions though important must be functional and enforceable. Proposals to require written management plans may not be the best alternative for documenting compliance. Also, required "certification" programs administered by the registrant and approved by EPA will cause a variety of enforcement problems for states and therefore should undergo state review for accountability and enforceability.

9.12 FIFRA AND ENDANGERED SPECIES ACT

NASDA believes that rulemaking should be conducted by the Environmental Protection Agency (EPA) to address the issue of the inter-relationship of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Endangered Species Act (ESA). The proposed rulemaking will ensure that implementation of FIFRA is in compliance with the requirements of section 7(a)2 of the Endangered Species Act (ESA). Those requirements pertain to evaluation of and possible consultation regarding the effects of agency actions on endangered or threatened species. Rules should be developed with the Secretaries of Agriculture, Commerce, and the Interior, all of whom have responsibilities that will be impacted by these regulations. NASDA recommends that these three Departments be involved in product registration review to facilitate the consultation process as necessary and to minimize the potential of legal actions after registration. Encourage the development of "Bulletins Live" and bulletins for pesticide users. Additional funding to states for education and enforcement is critical for the implementation of the ESA pesticides program.

The Endangered Species Act Amendments of 1988 directed EPA to develop a final FIFRA Endangered Species Protection Program. The program was also intended to ensure that growers could "continue production of agricultural food and fiber commodities." EPA published an interim program in 1989, but has never established a final program. This situation has left registrants of and agricultural producers who use pesticide products vulnerable to allegations

that they are in violation of the ESA, thus triggering its considerable civil and criminal penalty provisions. A number of lawsuits have been filed or noticed for filing, which implicate the entire FIFRA program and all domestic species listed as endangered or threatened under the ESA. No interest is served by the present situation. Endangered and threatened species may not enjoy the full protections promised by the ESA. Producers and applicators of pesticide products have no security that those products can continue to be purchased and used in any situation where endangered and threatened species are implicated. Rulemaking would provide certainty to registrants, applicators, producers, and the general public regarding the inter-relationship of the FIFRA and ESA programs.

Progress toward implementing the ESA remains slow and implementation through label amendments referencing state specific restrictions will require state involvement. EPA should involve states early in the process to see if mitigation practices provide practical relief to endangered species rather than use prohibitions. In addition, states will need time and resources to review use restrictions and endangered species habitat locations, and correlate with pesticide use patterns.

9.13 FIFRA AND OTHER ENVIRONMENTAL STATUTES

(Revised September 2010)

By way of background, the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) established a unique, effective, and comprehensive regulatory web to provide pesticide-related environmental and public health protection in which state lead agencies have primacy in the enforcement of pesticide matters. FIFRA created requirements for pesticide registration, labeling, and use that are the end result of an extensive pre-market approval process. This registration process requires products to meet strict safety guidelines and includes rigorous examination of environmental fate data and health exposure assessments.

NASDA supports the original intent of Congress that FIFRA be the primary federal statute under which pesticide registration and use is regulated.

Pesticide registration and use should not be regulated under other federal statutes (e.g. the Clean Water Act, the Endangered Species Act, the Toxic Substances Control Act, the Resource Conservation and Recovery Act, etc.). Pesticide uses that have been reviewed and registered under FIFRA should not be subject to additional requirements (including permit requirements) under other federal statutes.

In situations where requirements of other environmental statutes overlap with FIFRA, those requirements should be incorporated into the FIFRA registration process in a manner that is science-based, transparent, and allows stakeholders the opportunity to comment upon and fully analyze the ramifications of the proposed action. EPA must recognize that state lead agencies are not only important stakeholders, but are also co-regulators under FIFRA and must, therefore, be intimately involved in this process. *(See also: Sections 7.5 and 7.10)*

9.14 PESTICIDE SPRAY DRIFT

(Added September 2011)

Off-target pesticide spray drift is a complex and difficult to solve regulatory issue that has vexed federal and state regulators, applicators, and registrants for years. Minimizing off-target spray drift is an important policy goal. Currently a number of pesticide products feature label language for drift that is often unclear, difficult to enforce, or unrealistic. In some cases labels even feature "do not drift" instructions. Federal policy related to spray drift should:

- Provide flexibility for state regulators to enforce state laws and regulations
- Encourage state and federal regulators, registrants, and applicators to collaborate on label improvements to ensure pesticide labels include clear, consistent and enforceable instructions and expectations
- Preserve the integrity of FIFRA's risk-based "no unreasonable adverse effects" standard
- Encourage adoption of best management practices, effective training and certification, the development of new technologies, and other drift reduction strategies
- Recognize that a small amount of de minimis drift often occurs and that a "zero drift" standard is impractical, if not impossible
- Recognize that there may be situations when off-target drift occurs, but not a violation of federal law. In situations where there is economic harm to others (for example, drift onto organic crops where no tolerance violation has occurred and the crop can still enter the chain of commerce), tort law, negligence and other common law concepts can often be used to appropriately address the issue.

10 Agriculture Infrastructure

10.1 INTRODUCTION

(Updated September 2012)

Labor management problems, transportation inadequacies, and the increasing concentration among suppliers can have adverse effects on the agriculture industry. NASDA believes in maintaining fairness and equity within the agriculture community through the development of a strong agriculture infrastructure.

The twentieth century was "America's century," and the success of our agricultural sector was critical to the nation's preeminence. Infrastructure investments made in the nineteenth and twentieth century led our country into prosperity. Railroads, highways, electricity, communications and education — linking rural areas with urban, and the world, both physically and socially, were costly but necessary investments that enabled the people of the United States to become the best fed at the lowest price of any people in history. That infrastructure is crumbling however as we begin a new century. Nearly half of our agricultural production is exported and a large factor in our competitiveness in the world marketplace has been the efficiency of our transportation system. Without a substantial investment in our infrastructure, we cannot hold our preeminent position in food production.

NASDA supports the following five principles as the basis for discussion on proposals for E-verify and agricultural guest worker program reform in the U.S.

FEDERAL SOLUTIONS: Immigration is a federal policy issue between the U.S. government and other countries — not one state and other countries. We urge Congress, and others, to lead efforts to strengthen federal laws and protect our national borders. We urge state leaders to adopt reasonable policies addressing immigrants in their states.

FAMILIES: Strong families are the foundation of successful communities. We oppose policies that unnecessarily separate families. We champion policies that support families and improve the health, education and well-being of all children.

ECONOMY: The U.S. is best served by a free-market philosophy that maximizes individual freedom and opportunity. We acknowledge the economic role immigrants play as workers and taxpayers. The nation's immigration policies must reaffirm our global reputation as a welcoming and business-friendly country.

A FREE SOCIETY: Immigrants are integrated into communities across the United States. We must adopt a humane approach to this reality, reflecting our unique culture, history and spirit of inclusion. The way we treat immigrants will say more about us as a free society and less about our immigrant neighbors. The U.S. should always be a place that welcomes people of goodwill.

LEGAL IMMIGRATION: Ending illegal immigration is an overarching and common goal among all sides of the immigration reform debate. This is done by implementing a dual front strategy of enforcement and reform of processes for businesses to access documented workers.

NASDA should work to ensure the following priorities are incorporated into any guest worker reform package. NASDA should also activate a bi-partisan, Border Security and Immigration Reform Task Force of NASDA members to work closely on this issue in the coming weeks.

- Enforce border regulations. The United States government must work with state and local officials to secure the U.S border to ensure the sovereignty of the United States, protect its citizens and their property, and the success of any agricultural guest worker program. Equally as critical to the success of guest worker reform is the overarching and common goal among the states to end illegal immigration. This can be accomplished by implementation of a dual strategy of enforcement and reform of programs that allow employers to access a documented workforce.

- New name. Any newly established guest worker program must be renamed to remove negative connotations associated with existing or former dysfunctional guest worker programs.

- The H-2A and H-2B guest worker programs are broken. The U.S. Department of Labor's implementation of the H-2A and H-2B programs has made those programs increasingly less workable. To the extent that it was ever anyone's vision that these programs would be a reliable, consistent, cost-effective way to supply a legal workforce for the food, fiber, and forestry industries, that vision now seems out of reach.

- Guest worker program reform must precede or occur alongside any federal E-verify mandate. Either prior or simultaneously to the adoption of any sort of mandatory use of the federal E-verify system for agricultural workers, Congress must provide a mechanism by which farmers have legal access to the workers needed in their operations. Put differently, NASDA is opposed to mandating that agricultural employers use the E-verify system unless and until Congress provides a workable alternative avenue for those employers to secure the workers they need.

- Reform efforts must include a guest worker program that takes into account a process by which undocumented workers may enter the workforce legally. NASDA recognizes that to be politically viable, any guest worker reform legislation must deal with undocumented workers who are already working in the industry. NASDA supports a process by which undocumented workers may enter the workforce legally (i.e., they should be allowed to participate in any new guest worker program).

- USDA should administer the agricultural guest worker program. The United States Department of Agriculture should oversee any new federal agricultural guest worker program.

- No cap. The reformed agricultural guest worker program should not include a cap on the number of workers available to the agricultural sector.

- Guest workers are needed year round. The reformed agricultural guest worker program should provide for year round visas, as the need for agricultural guest workers in many sectors, such as dairy and other livestock sectors, including processors, is not seasonal, but constant. For employers willing to commit to multi-year contracts, there should be no requirement that the certification process be annual.

Domestic agriculture producers and related businesses must have a reliable, trained workforce in order to produce a safe and secure domestic food supply upon which our customers depend. As such, American agriculture would clearly benefit from immigration reform consistent with the policies stated herein and should be an active advocate for it. Proper security and enforcement coupled with a legal documented workforce are critical to meeting the needs of producers and American businesses and to protecting our economy and our country.

NASDA seeks tangible resolution of these matters with the following mutually dependent policy principles implemented simultaneously to help guide the association and policymakers in their efforts to reform the United States immigration system:

- Reform should respect the rule of law while respecting human dignity.

- Immigration reform should not vilify current undocumented workers. These workers are members of our communities, many have families, and they should be treated with respect.

- Labor and employment laws should be enforced. Both employer and employees that knowingly violate labor laws and requirements and fail to perform required verification and reasonable due diligence should be prosecuted.

- Reform should not come at the expense of immigrants migrating legally under our current system.

- Persons without authorization to live and work should first obtain a conditional status with the following requirements:

- Come forward, fully report and pay a just fine;

- Demonstrate verifiable employment or be currently enrolled in a qualified post-secondary training program or higher education institution;

- Submit to a criminal background check

- Individuals who fail to timely adhere to the temporary and conditional status requirements to become fully authorized should be deported in an expedited manner.

This conditional status should not be a pathway to citizenship nor should it bar continued employment in the United States.

- Employers and businesses should have access to an improved E-Verify, or comparable identification system that is reliable, available for preclearance of new applicants, and reduces burdens on employers, and their role in enforcing immigration laws.

- Visas should be streamlined and deadlines strictly enforced. Policies should also recognize industries that need visa workers on an annual basis need a longer-term solution and that an annual emergency worker program is an unnecessary burden on businesses that can't find a workforce.

- Guest worker programs are another critical tool to meet workforce needs and should be reformed by simplifying all programs and recognizing the unique needs of agriculture and rural areas, along with the service and construction sectors, in order to provide access to a legal, available, and documented workforce.

- Existing guest worker allotments using documented foreign workers should be increased and based on market demands with a program that can act quickly to meet labor needs of agriculture and other sectors.

- Immigration reform should provide employers a viable, sustainable, portable and legal worker program that meets the future workforce needs.

- Individuals who, as minors, immigrated to the U.S. with their parents, should obtain conditional or legal status no later than one year upon turning 18 years of age or, if older than 18, by one year of the law's passage.

10.2 AGRICULTURAL LABOR

For decades, the most laborrâ?intensive sectors of American agriculture have been dependent on alien workers to meet basic workforce needs. In recent years, almost all sectors have dealt with labor shortages by employing alien workers. Regulatory efforts to protect this segment of the workforce from unfair treatment and exploitation while striving to avoid the displacement of U.S. workers by underpaid immigrant labor have exacerbated the ills they were designed to cure. By using their authority to make it extremely difficult for agricultural employers to utilize legal temporary worker programs, governments have enhanced the economic incentives that underpin a thriving traffic in illegal workers.

The present situation — characterized by a predominance of workers whose right to work in the United States is supported by documentation of dubious veracity or no documentation at all — is untenable in the long run. The shorttâ?term consequence of an immediate expulsion of this segment of the workforce would cause a production crisis in a wide range of field and orchard crops, and in the livestock industry. This would leave the United States no alternative but to

import many food products from poorer countries that have surplus farm labor. Any workable solution to the current, unstable situation must deal with the rights of both foreign and U.S. workers, with the status of alien workers now employed in the U.S. agricultural sector, and with the conditions under which foreign workers may be employed in the future.

Rights of Agricultural Workers

(Updated September 2010)

Alien workers should receive the same wages, benefits, and protections as U.S. citizens working in the same jobs. The wage standard for agricultural labor should be tied to the federal minimum wage rate as determined in accordance with the Fair Labor Standards Act. Alien workers should not be permitted to fill positions vacant as the result of a strike, lockout, or work stoppage as a result of a labor dispute. Laws and regulations should be crafted in such a way as to discourage litigation .and facilitate rapid dispute resolution. Alien workers should have the right to return to their homes and families during vacations and gaps in legal employment without jeopardizing their right to return to that employment.

Temporary Agricultural Workers

The history of the U.S. agricultural labor market, particularly in the last halffâ?century, suggests that there will probably never be a time that there is an adequate supply of nativeeâ?born workers willing to perform entryyâ?level work in laborrâ?intensive segments of the agricultural industry. Laws and regulations that pretend that this is not the case – or that imply that the industry can pay wages far higher than state and federal minimum wages and still compete with imports – will assure the persistence of a large underground agricultural labor force. A workable temporary or guest worker program is urgently needed. A reform of the current H2A visa program designed to simplify the application procedure, decrease paperwork, and expedite approvals, is a good starting point. The burden of proof that a labor shortage exists, as well as an adverse impact wage formula designed to augment rather than protect prevailing wage rates, are two reasons why the current program covers only a small percentage of the alien agricultural workforce currently employed.

Identification of Agricultural Workers

NASDA encourages the federal government to develop an identification system that will provide the United States reassurance that its national security is not being compromised while facilitating the availability of migrant farm workers to our agricultural producers.

Adjustment of Status

A workable means of regularizing the status of current agricultural workers is a critical element of any longgâ?term solution to the temporary worker problem, since it will take some time to get the kinks out of a reformed guest worker program. Policies should allow workers already employed in agriculture and willing to commit to future employment in the industry to have

their de facto position in the labor force recognized, and should remove sanctions that preclude their ever participating in the workforce on a legal basis. This will help the agricultural industry meet its immediate labor requirements without knowingly or unknowing violating current immigration laws, while placing current alien workers under the protections that all participants in the U.S. agricultural workforce are guaranteed.

Federal Agencies

The vast majority of all agricultural producers are in full compliance with all state and federal laws and regulations regarding the treatment of farmworkers. NASDA urges the U.S. Department of Agriculture, U.S. Department of Labor, and the U.S. Department of State to enforce existing immigration, labor, worker safety and border patrol laws. In addition, NASDA further urges these agencies to increase education and outreach efforts with producers to ensure they have the information necessary to comply with these laws. These agencies should assist NASDA in disseminating information that accurately depicts the current treatment of farmworkers by agricultural producers.

Fair Labor Standards Act

Although the Christmas tree industry has changed considerably over the years to its current agricultural state, it is sometimes still classified as non-agricultural. Most state departments of agriculture, the Internal Revenue Service, U.S. Department of Agriculture, and the U.S. Office of Management and Budget have defined agricultural commodities to include Christmas trees, however, the U.S. Department of Labor has interpreted the Fair Labor Standards Act of 1938 to exclude Christmas tree farming from its agricultural definition. This poses significant confusion and regulatory challenges for U.S. Christmas tree producers.

NASDA supports legislation that would amend § 203(f) of the Fair Labor Standards Act to include Christmas trees within the definition of agricultural or horticultural commodities.

10.3 AGRICULTURAL TRANSPORTATION

The U.S. agriculture industry relies heavily on a consistent and dependable transportation system including rivers, rail, and roadways. A collapse of any part of the current transportation system will be a detriment to the survival of the agriculture industry. Farmers and ranchers must have the ability to move products and equipment to sustain their normal farm and ranch enterprises on highways

River Transportation

Farmers and ranchers have an enormous dependence on the U.S. waterway system. According to USDA, barges transport about 50 percent of all U.S. grain exports including around 68 percent of soybeans, 58 percent of wheat, and 65 percent of corn. The dependency between agriculture

products and grain barges is reciprocal with waterborne transportation relying on field crops for 80 percent and agricultural inputs for 16 percent of its traffic.

Typical single unit tows on the Upper Mississippi River move about 22,500 tons, which is equivalent to about 225 rail cars or 870 tractor-trailer units. The topography of the Columbia-Snake system in the Pacific Northwest demands a greater need for dams and locks. Nonetheless, a single tow of three barges moves about 10,000 tons equivalent to 100 rail cars or nearly 400 trucks.

River transport of bulk and cargo containers of agricultural products is critical to many areas of the country. In addition to the crucial role that dams and locks play in the transportation of agricultural commodities, they are also critical in the nation’s energy mix as a source of clean energy. For example, in the Pacific Northwest, the Snake River and Columbia River dams generate 40 percent of the hydropower in the United States.

Many rural and urban communities rely on the river systems, ports, reservoirs, irrigation, and other structural components of dams. In recent years, significant investments have been made in these systems to accommodate fish passage and other wildlife issues. Indeed, most salmon recovery programs in the Northwest are financed by the Bonneville Power Administration, which spends $435 million a year on the effort. Ratepayers, including farmers and ranchers, are financing these efforts. On-going efforts will continue to address conservation and wildlife needs; but, the social fabric and economic reality of rural and urban areas rely on river way infrastructures

Much of the nation's imported and exported agricultural products are transported through port facilities linked to waterways and the nation's lakes and rivers. If we are unable to move agricultural products in an efficient manner, the U.S. will become less competitive in export markets and will lose domestic markets as well. Specifically, one of the United States’ biggest competitors, Argentina, recently invested more than $650 million in a dredging project. This project has lowered ocean freight rates paid by Argentine grain exporters. Furthermore, more dredging is planned. This, paired with government economic reforms encouraging grain production, will increase Argentina’s competitiveness in the world market and with U.S. product. China is also rapidly improving its waterway system.

Improvements in the U.S. waterway system are urgently needed. These aging structures can no longer accommodate the traffic volume or the physical size of today’s carriers. NASDA supports adequate funding and continued investment in these facilities for our nation's trade and food security interests. NASDA supports efforts to fund lock and dam maintenance and improvement programs necessary for the continued operation for safe and efficient commercial navigation on the U.S. rivers and lakes.

Under section 404(f) of the Clean Water Act, permits are not required for various activities, such as normal silviculture, as long as certain conditions are met. Section 404, which regulates the discharge of dredged and fill material into waters of the United States, is jointly administered by

the Corps of *Engineers* and the Environmental Protection Agency. The Corps has additional authority to regulate obstructions, structures and activities under section 10 of the Rivers and Harbors Act of 1899 that impede the course, condition and navigational capacity of navigable waters. However, ongoing forestry operations in wetlands that qualify as "normal silviculture" under section 404(f) of the Clean Water Act have not been subject to the permit requirement of section 10 of the Rivers and Harbors Act. NASDA urges that the discharge of dredged or fill material into waters of the United States from normal farming, silviculture, and ranching activities such as plowing, seeding, cultivating, minor drainage, harvesting for the production of food, fiber, and forest products and including the placement and use of temporary structures for soil and erosion control protection, or upland soil and water conservation practices remain subject to section 404(f) of the Clean Water Act (33 U.S.C. 1344(f)), but not be prohibited by or otherwise subject to regulation under section 10 of the Rivers and Harbors Act (33 U.S.C. 403).

Rail Transportation

Farmers and ranchers face unique challenges in the global market, and require a dependable and affordable means of transportation for their product. Weather, market conditions, and mergers have impacted the rail transportation industry causing grain car shortages, especially in the upper Midwestern States. Farmers and ranchers already operate on exceedingly low profit margins–this paired with dramatic fluctuations in world economies places them in a financially precarious environment that Congress has taken a special interest in addressing. Many farmers and ranchers are captive rail customers without logical or affordable alternative modes of transportation. Agricultural shippers in some parts of the U.S. are paying the highest rail freight rates for, arguably, the most sporadic and unreliable service. Agricultural producers need a clearly defined means for securing reliable service at a reasonable rate.

A review of the past 20 years of regulatory precedent demonstrates that rail regulators, faced with policy conflicts between competition and railroad industry revenue, invariably gave the rail industry's bottom line preference. If Congress truly intended for competition to be the regulator of choice among rail carriers as well as with other modes this policy needs to be clarified legislatively.

Dramatic increases in grain export demands, rail mergers, and Commodity Credit Corporation's (CCC) loan requirements are a few causes of grain car shortages. Most CCC loans are due at or near harvest time when the volume of new crops already overtax the system. CCC loans are also due when grain prices are typically at their lowest point during the year.

To address rail transportation inadequacies, NASDA encourages USDA to consider moving CCC grain into the market at various intervals and over a longer period of time to balance the shipping needs throughout the year. The Secretary of Agriculture should also be provided discretionary authority to extend CCC loans for up to six months for economic or other emergency reasons. We believe this increased flexibility in loan maturity could facilitate more orderly shipments of grain.

We also believe monthly rail shipper survey information should be published and that the Surface Transportation Board's National Grain Car Council should implement a mechanism that permits shippers to seek nonperformance arbitration.

Congress should require rail carriers, upon request, to quote a rate between any two points on the system where traffic originates, terminates or may reasonably be interchanged without regard to whether the rate is for only part of the total movement. Also, upon request, small, captive agricultural shippers should be provided with a simple benchmark test for rate and service cases.

NASDA urges all railroads to charge reasonable rates and offer fair, consistent and equitable rate spreads, service, and treatment to all shippers. NASDA also encourages railroads to offer co-loading of trains, and to have reasonable loading policies that hold both shippers and railroads responsible for moving equipment promptly. NASDA believes that Congress and the Federal government should substantially increase oversight of railroads, including rates and services, where competition is not present.

Container Availability

Container shipping has become a major part of international trade. In some instances, the lack of available containers limits the amount of commodities that can be traded. Often information regarding the location of containers is unavailable and opportunities are lost because of this infrastructure dilemma. The Agriculture Marketing Service's Transportation Branch should periodically conduct surveys of the location and availability of containers to assist in expanding international trade opportunities. The results of these surveys should be readily available to assist the agricultural industry increase international market opportunities.

10.4 WEIGHTS AND MEASURE - NATIONAL MEASUREMENT SYSTEM

NASDA recognizes the need for a nationally uniform and effective weights and measures system. A sound weights and measures system is critical to commerce in the national and international marketplace. Measurement standards are essential for fair competition, promoting good business practices and protecting consumers. The individual states, territories and local jurisdictions conduct weights and measures enforcement in the United States.

NASDA recognizes the value of the national measurement system and the various organizations involved in weights and measures. States, industry representatives and the National Institute of Standards and Technology (NIST) join together under the National Conference of Weights and Measures (NCWM) to promulgate regulations on a consensus basis in the form of national handbooks. The handbooks are commonly adopted by the individual states as regulations or are used as models to develop regulations with the intent of providing a nationally uniform measurement system. The National Institute of Standards and Technology (NIST), a branch of the Department of Commerce, provides expert guidance on technical matters, interpretations of

the national handbooks, training on measurement topics and accreditation of state metrology laboratories.

Decreased funding by states, increased costs and the resulting variations in state program operations have led to a lack of uniformity in weights and measures laws, in regulations and methods of inspection and is causing an erosion of buyer and seller confidence in the market place. Lack of uniform enforcement exposes businesses and consumers to the potential of fraud. Nonnâ?uniformity subjects marketers to a patchwork of state and local requirements, which becomes a serious impediment to efficient and effective commercial distribution systems. Lack of uniform inspection and enforcement capabilities can result in buyer and seller being cheated, government tax payments avoided and a general distrust in market place measurements.

A federal grant program to restore and strengthen the weights and measures system should be approved by Congress. The grant, administered by NIST, would provide assistance to the states in restoring and upgrading their capabilities and capacity. The grant program would provide a method by which the states, federal government, and NCWM could work in partnership to establish programs to improve uniformity and strengthen weights and measures programs thereby restoring confidence in our national measurement system.

11 Domestic Marketing and Promotion

The Northeast Interstate Dairy Compact Commission was established and has the authority to raise the price paid to dairy farmers by milk processors to levels above the federal minimum level. Any producer selling milk into a pool which markets in the Compact region, is eligible for an increase in price for fluid milk resulting from actions taken by the Compact commission.

NASDA believes that states should have the flexibility to create multi-state marketing agreements in order to enhance farm prices within their borders. Such authority would not be intended to permit states to erect trade barriers nor distort market conditions in any other geographical area.

11.1 INTRODUCTION

Domestic marketing and promotion of agricultural products will become increasingly important for agricultural producers in the coming years as global trade increases. In order to be successful, farmers will need the necessary tools to market and promote their products and will need to learn to use them effectively. Regulation of marketing and promotional arrangements are only appropriate when they do not hinder commerce.

11.2 MARKETING INTEGRITY

Structural Change and Concentration

Transparency and price discovery are important elements of fair markets; yet so are confidential negotiations between parties. This is the balancing act that good farm policy must achieve, especially in the area of agribusiness concentration. Addressing the issue of market power and whether farmers are hurt or helped by certain structural trends in agriculture will continue to be a focus of policy.

NASDA believes the federal government has failed to enforce federal antitrust statutes such as the Sherman Act and the Clayton Act to prevent consolidation, and as a result, the vast majority of family farms and ranches are held captive to an agricultural sector in which consolidation is occurring at a rate never experienced before.

Current antitrust laws, including those applied to packers and stockyards, should be more stringently enforced including the use of more spot checking.

A General Accounting Office (GAO) report issued in 2001, details an investigation it performed on anti-trust matters focusing on agriculture. The report outlines the responsibilities for anti-trust matters, with the major responsibility falling to the Department of Justice's Antitrust Division (Division), which investigates and prosecutes civil and criminal violations of federal anti-trust laws. The report found significant deficiencies in the way DOJ handled anti-trust matters relating to agriculture.

The fact that the Department of Justice does not have a definition of “agriculture industry” underscores the fact that consolidation in agriculture has been severely neglected, as evidenced by the few companies controlling the agricultural sector. Consolidation among retail grocery stores further exacerbates the situation and for fruit and vegetable growers, this threat is becoming more evident as the market for their product dwindles to a small group of “super” stores.

The control of the animal and plant genetics pool is also consolidating. For example, the genetic base for 90 percent of commercially produced domestic turkeys comes from three breeding flocks. These birds are vulnerable to an avian disease and they lack resistance. On the plant genetics side, should this trend continue, niche producers of feed and grain may find themselves out of a market because they cannot grow organic grain, or grains that are not a genetically modified product.

Larger companies, especially, are seeking greater efficiencies by consolidating and integrating resulting in sellers ultimately having fewer markets for their perishable goods and increasingly being forced to yield to the demands of corporate buyers. This consolidation of industries within the United States is having a profound impact on the way Americans do business.

While NASDA understands that the economic goal of consolidation is to better serve the ultimate customer and strongly believes in a free market economy, where agricultural producers and food retailers share a common goal of providing the retail consumer with affordable, safe, and high quality food, we also believe that intervention is necessary to ensure that today’s rapidly changing marketplace is functioning in an appropriate and effective manner toward a mutually beneficial end. The USDA, the Department of Justice, and the Federal Trade Commission, directed by Congress, all have an obligation to understand the changing business dynamic in food delivery today — especially concerning fruits and vegetables — and ensure that marketplace trade practices remain fair. There is no argument that the benefits of consolidation and integration are significant, but if a market is controlled by too few players, the impact of any abuse, however small, can be devastating.

NASDA has grave concerns on the issue of consolidation and its effects on market access, and therefore supports strengthening anti-trust enforcement, including representation of agriculture at the Department of Justice. NASDA also believes a fair price discovery system is necessary for animals and plant products with restriction of packers ownership and control of marketed livestock. The Secretary of Agriculture should be given the authority to prevent reprisals or discrimination within the system and should be provided with necessary funding to adequately oversee and enforce the requirements of the new system. Such a system, with equal reporting responsibility by both parties to the transaction, may ease the distrust between segments of the livestock industry and provide a more level playing field for all parties involved. It also has potential for providing detailed, accurate market price information to producers, while protecting the confidentiality of individual market arrangements without increasing producers’ operating costs. To the greatest extent possible, all meat products should be clearly labeled as

to country of origin. Unfair livestock procurement practices should also be restricted by allowing the USDA to issue civil penalties as a sanction for violations.

As producer-owned meat packing cooperatives and businesses are emerging as viable marketing options for livestock producers, restrictions placed on captive supplies should be written to prevent unintended restrictions on producer-owned meat packing cooperatives and businesses which provide livestock marketing options.

NASDA supports the accurate reporting of all imports and exports of live animals as well as all meat and meat products. This information would allow producers to make better informed marketing decisions. In order to be helpful, the reports need to include prices paid, volume information, and destination (for exports), and need to have improved accuracy and timeliness.

Price Discovery

Markets for almost every commodity are facing increases in the use of marketing and production contracts — which threatens market transparency and results in a greater balance of power to buyers.

The use and regulation of contracts within agriculture should reflect the quantity and quality of inputs, such as labor and land, the degree of risk assumed by each party, wages, and other factors. Unfortunately, today's contract relationships are often under the cloud of an oligopoly or even a monopoly buyer, and the producer possesses little legal protection to obtain fair returns on his investments. The traditional open-market transparency in agriculture where farmers find prices through futures trading, terminal markets, or auctions is at risk because oftentimes contracts are executed privately or written with a confidentiality clause. Thus, producers are often legally restricted from sharing or comparing price information. It is important to note that not all contracts are negative, however, especially those in markets where prices are easily accessible and that are not dominated by a small number of buyers.

NASDA believes policy is necessary at the state and federal level to protect producers in contract negotiations against issues such as fraud, retribution, and unreasonable confidentiality clauses, as well as providing for plain language review, protecting the right to litigate, and granting a limited time to review a contract. Moreover, certified farmer cooperatives should have the protected right to negotiate contract terms on behalf of their members. Such protection for would grant cooperative members an increased ability to leverage a fair price for goods and services. As a minimum protection for all producers entering into contracts, Federal legislation is needed mandating basic contract standards addressing the abuses in the industry. However, any federal legislation should not invalidate any state law dealing with contracts

Slotting Fees

The food retail industry practice of "slotting fees," as it relates to the produce industry, needs further investigation and study by the federal government. Slotting fees are payments made by food producers and manufacturers to purchase shelf space in retail stores. Critics regard slotting

fees as unearned store discounts that give a competitive edge to larger manufacturers who can afford them, while depriving consumers of variety, new product innovations, and possibly more competitive retail pricing. Supporters of the fees contend that they enable stores to make room for the thousands of new products introduced annually protecting grocers from having to shoulder all the risk of stocking items that may not sell.

Slotting-fees are a controversial issue in the food sector and are simply not applicable to the fruit and vegetable industry. These fees are structured for food and grocery manufacturers that have a fixed list price for their products. The produce industry, however, is subject to a fluctuating daily market price based on supply and demand for a perishable product. Since produce sellers cannot store their product in a warehouse waiting for a price increase to recoup losses and discounts they do not have the capability of predicting long term prices to reliably cover slotting fees.

The Robinson-Patman Act requires sellers of any product to offer the same terms to all competitive customers. If a retailer demands a special pre-purchase request from a produce grower/supplier in order to secure business, another retailer — whose retail volumes, customer flow, or other economic factors might not warrant the grower/supplier paying similar slotting fees — may take action against that grower/supplier under these antitrust laws if not offered the same 'deal' as other retailers. The current system is not suited to the retail practice of slotting fees.

In order to protect growers, packers and shippers, suppliers, and retailers in their goal to serve the consumer, NASDA recommends that the necessary resources be dedicated to investigate and report on the status of the retail industry as it relates to the sale of fruits and vegetables. Specifically, NASDA requests Congress further pursue an investigation of slotting-fees and other "off-invoice" fees in light of an inconclusive September 2000 GAO report on the issue. The inability of GAO to collect sufficient data from retailers to respond to a congressional request indicates that this matter needs further federal attention.

E-Commerce

Internet technology and electronic retail business-to-customer or business-to-business (e-commerce) is still developing. As the technology and business models for commerce on the internet become more sophisticated, the internet is evolving into a viable marketing and sales opportunity for agricultural products, despite some early retrenchment.

While the long term outlook for the future of e-commerce in agriculture remains positive, there is still uncertainty about the ability of the internet to consistently boost farm profits. Also, there is some reluctance among farmers and farm businesses to forsake tested methods of doing business, and embrace new technology that has yet to withstand the test of time. Specific concerns are internet security (privacy and financial), sharing price information, and investment of time and resources into the technology and training of employees. If these obstacles can be overcome, there is a tremendous opportunity for e-commerce to help small- and medium-sized

agricultural businesses develop new products and markets, interact more quickly and efficiently with suppliers and customers, and improve productivity by increasing efficiency and reducing transaction costs and paperwork. These businesses can also take advantage of the technology by interacting with customers, suppliers, and the public, and for external support functions such as personnel services and employee training.

NASDA believes there needs to be structural and 'social' integrity for consumers and businesses to use the internet and wireless communication as a business tool. To this end, NASDA supports legislation that will protect the privacy of consumers who use the internet and wireless communication. The Federal Trade Commission should prescribe regulations to protect the privacy of personal information collected from and about individuals on the internet and to give individuals more control over their personal information.

NASDA suggests that Congress make it unlawful for a commercial website operator to collect personal information online from a website user unless the operator provides certain assurances, including notification of the information's use and opportunity to limit the use of the information for marketing purposes or disclosure to third parties. To assist businesses, NASDA also recommends that the National Institute of Standards and Technology (NIST) focus on assisting agriculture to successfully integrate and utilize electronic commerce technologies and business practices. Further, NIST should be authorized to identify and assess critical enterprise integration standards and implementation activities for these businesses.

11.3 FEDERAL MILK MARKETING ORDERS

Federal milk marketing orders provide stability to the dairy industry by administering terms of trade, accurate accounting, and giving milk producers reasonable assurance that they will receive proper payment for the milk they market. The order program also responds to changes in milk production patterns, marketing systems, and consumer preferences and permits the United States dairy industry to become one of the largest and most efficient in the world. The USDA has administered the federal orders, as required by the Agricultural Marketing Agreement Act, and has balanced the interests of dairy farmers with those of processors and consumers.

NASDA believes that while changes may be appropriate, they should be undertaken only after careful consideration of their long-term impact. Continuation and reform of the federal milk marketing order system should be considered with continued interest in the benefit of producers, processors, and consumers, as well as meeting the objective of maintaining an orderly supply of milk.

11.4 REGIONAL MARKETING AGREEMENTS

The Northeast Interstate Dairy Compact Commission was established and has the authority to raise the price paid to dairy farmers by milk processors to levels above the federal minimum

level. Any producer selling milk into a pool which markets in the Compact region, is eligible for an increase in price for fluid milk resulting from actions taken by the Compact commission.

NASDA believes that states should have the flexibility to create multi-state marketing agreements in order to enhance farm prices within their borders. Such authority would not be intended to permit states to erect trade barriers nor distort market conditions in any other geographical area.

11.5 PERISHABLE AGRICULTURAL COMMODITIES ACT

The Perishable Agricultural Commodities Act (PACA) promotes and enforces fair trading practices in the fresh and frozen fruit and vegetable industry. PACA is important to producers because it allows them to sell produce across the nation with confidence that the terms of their contracts will be met and that they will be promptly paid. Prompt payment is extremely important to producers of perishable fruits and vegetables, and without PACA, producers would have little bargaining power.

NASDA believes that PACA provides an important mechanism for resolving disputes. In dealing with perishable products such as fruits and vegetables, an arbitration system, rather than resorting to the courts, is a beneficial and reliable mechanism for producers.

11.6 TOBACCO

(Updated September 2009)

NASDA recognizes the vital work performed by FDA in the areas of food and drug safety, in particular in light of the many threats to the sanctity of our food production, distribution, and preparation systems. NASDA believes any expansion of the FDA's duties and jurisdiction into the area of tobacco product regulations would dilute the agency's effectiveness in carrying out its core functions and jeopardize its ability protect America's food system. In addition, NASDA is concerned that implementation of FDA regulations could significantly affect existing laws regarding the growing, cultivating or curing of raw tobacco at the farm level. NASDA believes that imported leaf and cigarettes should be held to the same standards as domestically grown leaf or manufactured cigarettes.

Regulation and Classification of Tobacco

Tobacco is vital to the economy and social fabric of all tobacco growing states by providing jobs and income for thousands of farm families and generating billions of dollars annually in federal, state, and local tax revenues. Federal tax revenues go directly to the general fund of the United States. Cigarettes, cigars, and smokeless tobacco products (chewing tobacco and snuff) remain legal products. There is unanimous agreement that children should not use tobacco products and every state in the Union already has laws that prohibit the sale of tobacco products to minors.

Crop Insurance

NASDA requests that USDA, Risk Management Agency (RMA) treat all states equally in setting price elections for tobacco at levels which offer adequate risk protection and take into consideration the true cost of production for each type of tobacco. We encourage RMA to set appropriate levels of insurance coverage to reflect the true market price of each type of tobacco sold at market. We also request that RMA treat tobacco fairly relative to all other fully covered and insured crops. Furthermore, we support stricter enforcement of rules necessary to prevent fraud and abuse of the Federal Crop Insurance Program.

Marketing

NASDA supports efforts of tobacco leaf dealers and manufacturers to continue offering full production contracts to tobacco producers that cover costs of production and adequately compensate tobacco producers with a fair profit. We recommend that no new laws or regulations be created that would hinder the current system of marketing tobacco.

Exports

NASDA recognizes the significant positive economic impact that domestically produced leaf tobacco exports have on farm economies. We request that U.S. government regulations do not hinder these efforts. We further request that USDA, Foreign Agricultural Service, not discriminate against tobacco, but treat tobacco as any other crop that receives export assistance.

Federal Excise Taxes

NASDA supports the intent of the State Children's Health Insurance Program (SCHIP). However, NASDA opposes the use of increased federal excise taxes on tobacco products to fund federal health insurance programs and believes more equitable funding options should be used. Such taxes will likely not meet the revenue targets they were designed to supply and will certainly have a negative impact on employment, farm preservation and agribusiness development in states whose economies are supported by tobacco production and manufacturing.

11.7 UNIFORMITY/CONSISTENCY BETWEEN OFFICIAL GRAIN INSPECTION LABS

All official state and private grain inspection laboratories authorized to grade and inspect grain under the U.S. Grain Standards Act (USGSA) are monitored by the USDA-Grain Inspection, Packers, and Stockyards Administration-Federal Grain Inspection Service (GIPSA/FGIS). A primary responsibility of GIPSA/FGIS is to ensure that the grading and inspection results of official laboratories are uniform, and consistent with standards adopted under the USGSA. However, there has been an historical and continuing problem of analytical inconsistency between official grain inspection laboratories, particularly between the analytical results of

inland origin grain inspection laboratories and coastal destination laboratories. This has hindered the efficient marketing of the nation's grain crops and caused undue financial hardship on grain exporters, the grain trade, and grain producers. Unfortunately, GIPSA/FGIS has not reacted in a flexible, adequate, and timely manner to address and remedy the analytical consistency problems, and thereby has failed to meet the grain marketing and inspection needs of the nation's grain producers and grain trade.

NASDA encourages the adoption of procedures to take advantage of the latest analytical and networking technology. Such procedures would ensure that grain grading and inspection results of all official grain inspection laboratory services are uniform, consistent, and provide the grain grading and inspection services required to efficiently market the nation's grain crops.

On occasion, USDA review teams have a tendency to treat cooperators differently than their own inspection office. The reviews by USDA compliance officers or review teams are not always consistent at all grain inspection offices. It is absolutely essential that USDA treat FGIS (official) and private (cooperator) grain inspection offices in exactly the same manner.

11.8 FEDERAL-STATE MARKETING PROGRAMS

Federal-state marketing programs should be continued and expanded where feasible. The Secretary should take a strong position in defining the concept and use of federal marketing orders based on the original concept of marketing orders as designated in the 1937 Act. The Secretary should enforce these uses and if they are being abused take aggressive action to correct any abuses. The Federal State Market Improvement Program (FSMIP) should be continued and market oriented demonstration projects prioritized. Further, the Secretary should review all state/federal marketing programs to determine their cost effectiveness in relation to the cost imposed on producers. Research should focus on the use of new technologies for sampling and testing, which should be used when proven cost effective. Programs should be reviewed to determine who, state or federal, does which part of the program best, and delegate that work to the appropriate party. Cooperative programs should be reviewed to determine the most effective and affordable delivery systems with programs structured, accordingly.

State/Federal Memorandums of Understandings

State/Federal Memorandums of Understanding's (MOU) for certifying fresh and processed products for "quality and condition" in both domestic and export markets should be incorporated into current MOU's with APHIS to inspect and issue federal phytosanitary certificates. Certification for quality and condition is the responsibility of the Agricultural Marketing Service (AMS). All domestic marketing initiatives should address the feasibility of moving into international markets.

Federal and State Inspection of Peanuts

As peanuts move from a quota system to a market-oriented program, there is a key regulatory area that could be greatly enhanced by state departments of agriculture--federal and state inspection. Growers need standardized third party inspection to assure fairness between areas and production practices, for example, irrigated versus non-irrigated. The current support level for peanuts is based on a standard grade and should be maintained in evaluating farmers stock. Without mandatory inspection, different buyers could establish different standards, which could vary between regions and practices. In addition, without independent mandatory inspection, quality standards cannot be assured.

NASDA believes the inspection of peanuts is a major service provided by Federal-State Inspection Services, and recommends all peanuts be officially inspected and graded by federal and state inspectors.

Federal State Shipping Point Inspection Program

NASDA recognizes the need for funding the standardization and development of programs that respond to produce industry needs within the Federal State Shipping Point Inspection Program. The Agricultural Marketing Service's (AMS) Fresh Products Branch provides the services of standardization and oversight of the cooperating states. The Fresh Products Branch and cooperating states are implementing automated systems to standardize the inspection program nationally and programs such as Good Handling Practices, Good Agricultural Practices and Identity Preservation are being developed to address national food security concerns. Many of the cooperating states have experienced significant reduction in agricultural revenues resulting in a reduction in revenues to the Fresh Product Branch to administer and develop programs that respond to changing industry requirements. Any additional assessments of overhead charges to the state cooperators will be passed on through fee increases to the produce industry because of to new shipping and handling requirements that address national food security concerns.

NASDA is committed to working with AMS's Fresh Products Branch to secure funding from Congress to support the services of standardization and program development and implementation.

11.9 CHECK OFF PROGRAMS FOR GENERIC ADVERTISING

Check-off programs for generic advertising promote farm products in an equitable manner. Rather than promoting a product brand, these programs assist America's farmers by helping to bring agricultural products to the consumer. NASDA supports this important and equitable tool for promoting American agriculture.

Dairy Promotion

Through the National Dairy and Tobacco Stabilization Act, dairy farmers in the 48 contiguous states invest $.15/hundred pounds of milk marketed, yielding in excess of $200 million per year, in a non-brand milk and milk product promotion. Five cents of the assessment must go to the

National Dairy Board, which is comprised of 36 dairy farmers appointed by the U.S. Secretary of Agriculture. The remaining ten cents may be designated to state and regional USDA qualified programs. Producers are allowed to designate in which markets these funds may be expended.

When producer promotional dollars are expended where target audiences are located, all producers nationwide stand to benefit economically.

NASDA supports the concept of producers' dairy promotion dollars being expended equitably on a per capita basis in support of a national plan to maximize consumer impact.

11.10 NEW USES OF AGRICULTURAL PRODUCTS

New uses of agricultural commodities hold the promise of "shifting the demand curve" for agriculture well beyond the current food and fiber sectors. In many ways, these new uses are not new at all; it's a trend back into the future. Early in the industrial revolution, many industrial inputs were based on plant and animal products. Vegetable oils were used to make paints, varnishes, soaps, and lubricants. Methanol was used as an industrial solvent, and later to produce the first generation of plastics. Petroleum-based products squeezed agricultural materials out of the industrial markets to a large extent by the 1920s and 1930s when agricultural-based materials accounted for about 35 percent of industrial inputs. During the decade of the 90s, that share dropped to about 15 percent — much of which was for producing paper.

At the dawn of a new century, environmental interests, rising energy costs, and national security concerns are spurring renewed interest in plant and animal feedstocks to industry. In 2000-01, fuel ethanol production from corn set new monthly production records for 23 of 24 straight months. The challenge is to find similar opportunities in pharmaceutical, industrial, and other energy sectors.

Moreover, a greater challenge to "think outside of the box" lies in the area of environmental enhancement. The desirable public benefits of green space, buffer strips, carbon sequestration and other positive contributions from well managed farms can be quantified, and can provide an entirely new market for farmers — the opportunity to market environmental benefits as "commodities." It also provides society with invaluable net gains in air and water quality.

Throughout history, agriculture's primary purpose has been to provide a source of food and fiber. Agricultural policies reflect that purpose by focusing more on increasing yields for traditional uses and on expanding international markets, rather than finding new uses for farm commodities. That focus has changed recently, as yields have expanded and supply of food and fiber commodities have begun to exceed demand. International trade competition has increased. At the same time, the use of non-renewable resources, such as fossil fuels and petrochemical plastics are causing environmental concern.

The high environmental costs of retrieving, transporting, using, and disposing of non-renewable resources has become increasingly apparent. There is an increasing industrial need and demand for agricultural-based products as an alternative to those produced from fossil fuels. Also, many other non-renewable resources have to be imported, increasing the nation's trade deficit.

In response, processors and manufacturers have looked to America's plentiful renewable agricultural resources to prevent and solve various social and environmental problems and to improve quality of life. Technological advances have made agriculturally-based goods more competitive in the marketplace. As more of these products become available, demand is likely to increase as well.

NASDA believes that industrial and pharmaceutical uses for agricultural products offer U.S. farmers an opportunity for market growth. In order for new uses of agricultural products to be realized to the greatest extent practicable, NASDA believes that additional crop research is needed to develop alternatives to traditional uses of agricultural products. Agriculture's expansion into non-traditional industries will boost rural economies, with a positive economic and environmental ripple effect throughout the nation.

The members of NASDA support the development of alternative fuels such as ethanol, biodiesel, and other biomass fuels. The members of NASDA also support extending the federal tax credit for ethanol recently extended until 2007. The members of NASDA also support the minimum oxygen standard of the 1990 Clean Air Act Amendments and the replacement of MTBE with ethanol to meet that standard.

Comprehensive Agricultural Energy Initiative

There is a tremendous opportunity to formulate and propose agriculture-based energy initiatives that could be used as a “new opportunity” to promote ethanol and its economic contribution to agriculture. Oxydiesel alternatives and others also provide an opportunity to share clean energy biomass electricity alternatives to a nation looking for more energy.

Potential biomass production by using advanced gasification technology (not burning), biomass from switch grass crop residues and solid waste could produce a significant amount of clean, sustainable power. The economic benefits for biomass electricity and biofuels would create jobs and provide an additional source of income for producers, rural communities, and businesses. Biomass energy will keep energy dollars in the U.S. and provide the positive environmental impacts that are called for.

NASDA supports the development of a “comprehensive agricultural energy initiative” by the Administration that considers the renewable resources of this nation’s agriculture industry.

Energy Costs

Historically changes in cost of production have been due primarily to changes in the cost of land. More recently farmers have been especially hard hit by sharp increases in fuel prices because of

their extensive use of oil and gas products in agricultural production. Agriculture already has a low return on investment and equity when compared to many sectors of the American economy, so volatile swings in energy and other input costs can drastically alter farmers' net revenue. USDA's projection for farmers' expenditures for fuels and oils, electricity, fertilizer, and pesticides in 2001 is $30.0 billion, up $700 million from 2000. That equals a decrease in net cash income of about 10 percent.

Increased energy prices, especially fuel prices, immediately impact farmers' costs of production. Even though farmers are more energy efficient than ever before, spikes in energy costs hit particularly hard their already tight profit margins. But when considering the impact of higher energy prices on agriculture, it is also important to remember that the amount of energy used in agriculture is significant beyond the traditional gas and diesel for vehicle and machinery use. They use heating oil, natural gas, propane, kerosene and/or electricity to heat or regulate temperature in their hog or chicken facilities and dry their crops. Even pesticide costs are directly related to petroleum. As a general rule, it takes the equivalent of one gallon of diesel fuel to make one pound of active ingredient of pesticides.

Farmers are limited in what they can do to mitigate the effects of higher energy prices. When and where possible, producers are limited to employing different production strategies, such as reducing field operations by switching from conventional tillage practices to reduced till, adjusting fertilizer application rates, changing the timing of fertilizer applications and using animal manure and green fertilizer. Unfortunately, however, for the foreseeable future the costs of energy will remain relatively high and it is in the nation's best interest to deal with how to adjust to the increased prices.

NASDA recommends that government support for alternative fuel sources to fossil fuels continue, focusing on the use of ethanol, biodiesel and biomass production. In the interim period, there should be a renewable fuels content standard in energy legislation, and preferential tax treatment for ethanol, such as in the small ethanol producer tax credit. Congress should also provide funds to continue the USDA Commodity Credit Corporation Bioenergy Program. Renewable fuels such as ethanol and biodiesel are the cornerstones in assisting American agriculture in terms of the use of its product and energy requirements.

Industrial Hemp

NASDA supports revisions to the federal rules and regulations authorizing commercial production of industrial hemp.

NASDA urges the U.S. Department of Agriculture (USDA), the Drug Enforcement Administration (DEA) and the Office of National Drug Control Policy (ONDCP) to collaboratively develop and adopt an official definition of industrial hemp that comports with definitions currently used by countries producing hemp. NASDA also urges Congress to statutorily distinguish between industrial hemp and marijuana and to direct the DEA to revise its policies to allow USDA to

establish a regulatory program that allows the development of domestic industrial hemp production by American farmers and manufacturers.

11.11 FEDERAL SEED ACT ENFORCEMENT

The Federal Seed Act (FSA) (7 U.S.C. 1551 1611) is a truth-in-labeling law that regulates the labeling of seed in interstate commerce. The label must contain information on origin, purity, germination, chemical treatment and noxious weeds as well as the lot identity number, the date of test, and the labeler's name and address or AMS number.

Interstate seed shippers are required to keep receiving and shipping records that include documentation for each seed lot they ship in interstate commerce (7 CFR 201.7). Currently, the records are not being routinely examined for origin verification, allowing violations to go undetected. Origin violations are usually uncovered only during a record examination pertaining to other labeling violations such as purity, germination and noxious weed seed content. Inaccurate origin labeling can result in seed dealers and farmers purchasing seed that is not adapted for the area of intended use, or purchasing seed that is of inferior quality than represented on the label.

NASDA encourages the increased investigation of origin labeling of seed shipped in interstate commerce. Investigation needs to be supported by both state seed inspectors, state directors of agriculture, and federal Agricultural Marketing Service (AMS) officials. Vigorous enforcement of the origin labeling provisions of the Federal Seed Act will help to ensure that farmers have the ability to purchase seed that is adapted for the area of intended use and have the assurance that the seed they are purchasing is of represented quality.

11.12 ORGANIC AGRICULTURE

(Updated September 2009)

NASDA supports recommendations that enhance National Organic Standards (NOS) and the National Organic Program, (NOP) and efforts to increase growth of the organic industry. These efforts include increases in organic research and in the collection of organic production and market data. For purposes of trade, NASDA supports the establishment of bi-lateral agreements on the equivalency of organic standards provided those standards are truly equivalent.

National Organic Standards

National Organic Standards (NOS) are necessary to protect organic growers, consumers, and markets and to ensure a consistent and practical National Organic Program (NOP). A successful program, however, cannot be accomplished without adequate dependable funding and a transparent regulatory process. NASDA supports the following policies.

- Congress should provide funding at levels to support adequate NOP staffing and activities that will accomplish regulatory intent of the NOP Final Rule;

- Congress should direct funds to states to assist with implementation of the NOP, including consumer protection and local enforcement of standards;

- Congress should provide permanent funding for Organic Certification Cost Share Assistance;

- The Secretary of Agriculture should encourage and support cooperative relationships between the NOP and state departments of agriculture;

- USDA should fully and consistently implement and enforce the National Organic Program Final Rule and its organic production and handling standards;

- USDA should actively encourage cooperation between the NOP and experienced public and private certifying agencies when addressing the practical aspects of organic production and certification issues;

- USDA should bring the NOP into compliance with the International Standards Organization (ISO) standards for accreditation bodies. With ISO Guide 65 standards for certifying agents embedded in the NOS, each certifier's NOP accreditation could include ISO-65 accreditation. This action could significantly reduce the costs of accreditation for certifiers, the costs of certification for organic producers and handlers, and would improve the competitiveness of U.S. organic products in the world market.

Organic Markets and Marketing

As with other types of agriculture, the U.S. organic farmers and businesses compete with international peers, many of whose governments encourage organic production by providing payments linked to environmental benefits they perceive from organic agriculture. NASDA supports efforts to increase the economic growth of the organic industry through the following:

- USDA should include "organic" as a defined commodity in USDA market promotion programs. This inclusion will enable U.S. organic farmers and food companies to be more effective in production, expansion, and marketing activities, and to increase their competitiveness in the global organic market.

- Through USDA grant initiatives and program delivery, USDA should target marketing assistance to small, medium sized, and beginning organic growers to help them capitalize on the value of their production.

- USDA should provide adequate funding for collection and distribution of domestic organic market price data by the Agricultural Marketing Service (AMS), or through non-governmental organizations funded by cooperative agreements with AMS.

- Congress should encourage cooperation among federal agencies and entities such as the Department of Commerce, Department of Homeland Security, and the U.S. International Trade Commission, in order to code and track organic import and export sales.

Organic Research and Education

NASDA supports increases in organic research and education.

- Congress and the USDA should fully fund competitive grants programs contained in the 2008 Farm Bill, including the Organic Agriculture Research and Extension Initiative (OREI), the Organic Transitions Research Program (which together comprise the Integrated Organic Program), the Organic Data Initiative and the Agriculture and Food Research Initiative.

- Congress should continue funding the national Sustainable Agriculture Research and Education (SARE) program.

- Congress should fund the National Agriculture Library to further develop the Organic Agriculture Clearing House and the Organic Roots Database.[*]

- USDA should create a permanent National Program Leader for Organic Agriculture within the National Institute of Food and Agriculture.[*]

- The USDA's Research, Education and Extension agencies should cooperatively develop a roadmap for investments to address the issues facing organic agriculture.[*]

- USDA should support relevant public agencies at all levels to increase professional development, service delivery, and outreach efforts to organic agriculture.

[+]*These recommendations were included in the report resulting from a meeting of the National Agricultural Research, Extension, Education, and Economics Advisory Board Work Group for Organic Agriculture held on the March 8, 2008.*

Organic Data Collection and Statistics

To provide reliable information about the industry that informs decision-making by farmers, agricultural advisors, marketers, and consumers, NASDA supports the following:

- USDA should expand collection and dissemination of organic price data for commodity crops, specialty crops, and retail organic sales.

- USDA should pursue efforts to meaningfully reform the premiums and price elections in federal crop insurance programs in order to render participation more equitable for certified organic producers.

- The National Agricultural Statistics Service and state agricultural surveys should include questions related to organic and transitional production, acreage, and producer characteristics.

11.13 SPECIALTY CROPS

The specialty crop industry annually accounts for more than $53 billion in cash receipts – close to 54% of the total cash receipts for crops – yet specialty crop producers experienced lower than average income in 2003 due to higher energy and labor costs. In addition to lower than average income, imports of specialty crops have outstripped the small gain in exports. When comparing U.S. specialty crop import and export values over the period 1997-2002: imports - increased 39% to a total of $14.7 billion in 2002; while, exports - increased 6.5% to a total of $11.7 billion in 2002.

The specialty crop industry is more likely to be impacted by pests, disease, low prices, labor shortages and lack of funding for research, promotion, and inspection than other commodities. In addition, increased consumption of specialty crops is an important component in the national efforts to reduce obesity, increase the nutritional value of the school lunch program, promote 5-A-Day, and strengthen Farmers' Market Nutrition Programs.

NASDA supports full funding of the specialty crops block grant program as authorized. While we recognize that federal funding is limited, we believe funding for the specialty crop block grant program should not negatively impact current funding for other commodity programs. The 2001 specialty crops block grant program that provided $159.4 million in grants to state departments of agriculture was very successful. States took advice from local constituency groups and ultimately made investments in more than 1,400 projects in significant issue areas including marketing, education, research, pest and disease programs, and food safety. The program also leveraged approximately $45.2 million in matching funds from states and individual grant recipients.

An additional $1 billion should be provided annually to accelerate development of cost of production insurance policies for fruit and vegetables, nursery, vineyard, seed, citrus, tree crops, livestock and milk. Additional premiums subsidies (above the 50% level) would be provided since no counter cyclical assistance program currently exists for these crops. Producers of specialty crops should be eligible to participate in the Agricultural Stewardship Program (conservation block grant) based on state-determined priorities.

NASDA recognizes that vast amounts of American Agricultural products are categorized as Specialty Crops, when in fact they are mainstream agricultural production in most areas of the nation. The Specialty Crop Competitiveness Act needs to reflect the regional differences in what constitutes a specialty crop. The base amounts of grants to states should be increased from $100,000 to at least $500,000 annually. State block grants should be directed toward state

departments of agriculture and used (1) to strengthen state-led efforts to promote the marketing and purchase of local agricultural products; and (2) to strengthen state-led efforts to promote innovation in agriculture.

12 Financial Security for Agriculture

12.1 INTRODUCTION

The 1996 farm bill made sweeping changes to U.S. farm policy. Many changes such as planting flexibility were good and have achieved their desired impact. However, broad economic trends from the Asian economic collapse to the dot-com stock market run-up and subsequent implosion, to the energy price spike of 2000 — all had effects on farm finances and commodity prices that were certainly outside the vision of the policy makers who crafted the 1996 farm bill. According to the Commission on 21st Century Production Agriculture, "midway through 2000" crop prices were "at or near historic lows."

The only relief came in the form of federal ad hoc emergency market loss payments. These payments helped sustain our nation's food and fiber and provided relief for an ailing agricultural economy. According to the USDA, direct government payments accounted for three-fourths of net cash income for major field crops in 1999 and two-thirds in 2000. However, as ad hoc distributions, they were more bandage than cure.

The economic realities and shortcomings of the 1996 farm bill led to major farm policy reforms in the 2002 farm bill. An economic safety net was designed, including marketing loans and a countercyclical program, to help offset losses due to low commodity prices. These price protection components performed as intended; providing economic assistance when most needed and saving taxpayer support in times of stronger commodity prices.

With respect to our nation's farms and ranches, NASDA's recommendations are based on the principles of fostering financial stability, maintaining planting flexibility, and providing a safety net that provides meaningful assistance to all producers.

Financial Stability: Producers need stable and predictable financial support including access to adequate credit, appropriate tax incentives, and risk management opportunities.

Planting Flexibility: Federal farm policy should maintain planting flexibility.

Safety Net: The business of agriculture is high risk. Thus, farm policy should provide producers of all commodities with reasonable protections against both financial and production losses beyond their control.

U.S. agriculture continues to experience structural changes at a breathtaking pace. Agri-business consolidation, globalization, renewable energy, and the growth of foreign trade opportunities and competition have fundamentally changed the nature of farming and farm economics.

In the 21st century, the traditional approach to farm policy will not be enough to ensure adequate opportunities for success. The extent of global competition for U.S. producers has expanded into capital, tax burdens, labor supplies, environmental and regulatory constraints,

food safety concerns, land costs, and the relative degree of access to foreign markets. In one sense, all of these factors can be viewed merely as different forms of risk to be managed.

12.2 AGRICULTURAL CREDIT

(Updated February 9, 2012)

The availability of competitively priced credit is critical to the success of the American agriculture and food industries. Consolidations, new financial products, and innovative credit delivery systems continue to reshape the financial services industry. Cooperation must exist among agricultural lenders to ensure the needs of agriculture are met in the 21st Century. Proposals that would distort competition in rural lending are not in the best interest of farm businesses, agricultural cooperatives, or rural communities.

Farm Credit System

As the leading lenders to the agriculture sector, the Farm Credit System and commercial banks compete aggressively to provide the capital necessary to fuel agriculture's production, processing, and marketing costs. This competition results in lower borrowing costs and better service for farmers, ranchers, cooperatives, and eligible agribusinesses. In addition, Farm Credit's presence in the market ensures the availability of credit through the inevitable good and bad cycles of agriculture.

NASDA supports the Congressionally-established mission of the Farm Credit System, recognizes the unique nature of agriculture sector financing, and supports a nationwide system. The Farm Credit System has a mission to serve the financial needs of agriculture and rural America by providing capital, expert advice and competitive financial services and products.

NASDA supports modernizing the Farm Credit charter to enable Farm Credit institutions to finance all of production agriculture including commercial fisheries and forestry and, to purchase entire farm loans from commercial banks on a voluntary basis. Leveraging Farm Credit to provide credit to all agricultural processing companies, rural businesses, rural homeowners, and others in rural America should also be considered.

NASDA opposes any efforts to restructure the Farm Credit System to the extent that farmers would be replaced on boards of directors with commercial bankers. As a cooperative owned and controlled by its customer-members, any governance structure changes to Farm Credit institutions should require stockholder approval. NASDA supports the continued cooperative ownership of the Farm Credit System and its status as a government sponsored enterprise; and supports maintaining the Farm Credit Administration as the System’s independent regulator and the agency’s focus on Farm Credit System safety and soundness and mission fulfillment.

Capital and Credit Needs

Both the Farm Credit System and commercial banks compete aggressively to provide capital to low risk borrowers. This practice, however, leaves behind many borrowers, who are highly leveraged, are recovering from economic or production losses, or are beginning farmers. Financial tools that assist beginning and financially distressed producers should be developed and enhanced through a combination of federal, state, and private resources.

Modern agriculture's capital needs continue to increase and beginning farmers and ranchers often lack the equity or cash reserves necessary to enter the competitive ag sector, even as the average age of our nation's farmers and ranchers continues to increase. NASDA supports efforts and policies that seek to retain these future generations of agricultural producers.

NASDA also supports policies that provide beginning/limited resource farmers and ranchers with access to low interest credit through state, federal and private sources. In particular, NASDA supports a definition of "substantial real estate" in the IRS Code that reflects a realistic modern farm size. NASDA also supports increasing and indexing the loan and bond limit on depreciable property in the IRS Code.

NASDA considers the capitalization of beginning farmers, and retention of entry-level, socially disadvantaged and small, existing farmers as priority capital and credit needs. Given the typical financial position of a beginning farmer, comprehensive capital must be available. Establishing a successful farm or ranch operation requires capital for land ownership or lease payments, equipment and breeding livestock, operating, marketing and risk management costs, retained ownership of grains and livestock, and living expenses.

Moreover, retention programs for socially disadvantaged, small existing and entry level farmers should be designed for producers that generate between $100,000 and $500,000 annual gross income. Retention programs should be based on some of the same foundations as beginning farmer programs; namely providing adequate financial resources at affordable rates with cross-collateralization capabilities. Farmer retention efforts should also include programs to help producers acquire marketing skills and avail themselves of value-added opportunities.

NASDA believes the FSA beginning farmer down payment program should be improved by extending the program's current loan amortization from 15 to 30 years and that all FSA loan programs be maintained with adequate funding.

USDA's Rural Development Agency should consider guaranteed loans for producers who have organized as Limited Liability Companies or other business entities for the purpose of value driven marketing programs. The Rural Development agency should not be limited, however, to "brick and mortar" assistance programs with market enhancement programs. NASDA urges the IRS tax code be changed to allow livestock feeding programs (including dairy and egg producers) to be considered as grain processing (biological processing) which would make some Rural Development programs available for value-added marketing alternatives.

Aggie Bonds

NASDA recommends removing "Aggie Bonds" from the individual state limits on bond volumes. This would greatly increase the opportunities for the use of Aggie Bonds for entry level and less established producers for purchases such as land, breeding, livestock, machinery, and equipment. Removing the volume cap would also help value added and agribusiness programs to acquire affordable credit. Recently Aggie Bonds have been authorized for use with environmental programs for expansion and compliance. Existing regulations do not allow Farm Service Agency (FSA) to guarantee Aggie Bonds, though the addition of Aggie Bonds to the IRS list of possible exceptions through FSA is appropriate. Indeed, there are exceptions to the code already on the books, such as the Federal Housing Administration, Veterans Administration, and Student Loan Administration.

The current $250,000 maximum bond base is insufficient, however, even in the event of other necessary reforms. Land or other purchases are often in excess of the $250,000 and lenders currently charge conventional interest rates on the balance. A larger maximum on the Aggie Bond base will provide an additional tool in agriculture financing. Changing the value limit to $250,000 to match the percentage change is a needed tool for "entry level" producers.

Changes adopted in the 2007 Farm Bill increased the maximum bond base to $450,000 and indexed to inflation with changes occurring on January 1 of each calendar year. However, interpretations from bond counsel attorneys indicate the adopted language applied only to bare land and did not include depreciable property. Corrective language should be put in place and would require legislation or could be accomplished during the next Farm Bill round to include depreciable property in the increased maximum and indexing

12.3 AGRICULTURAL MEDIATION PROGRAMS

The Secretary of Agriculture was authorized to assist states in the development of USDA Certified Agricultural Mediation Programs under Section 502 of the Agricultural Credit Act of 1987.

Recognizing the efficiency and effectiveness of the Certified Agricultural Mediation Programs, Congress enacted Section 292 of the Federal Crop Insurance Reform and the Department of Agriculture Reorganization Act of 1994 which authorized the expansion of these programs to include, in addition to agricultural credit, the following areas: wetlands, rural water loan programs, grazing on national forest system lands, pesticides, compliance with farm programs including conservation programs, and other issues the Secretary deems appropriate.

The 106th Congress reauthorized the Certified Agricultural Mediation Program through 2005 by enacting Section 306 of the Grain Standards and Warehouse Improvement Act of 2000. The legislation also clarified the use of federal mediation grants for financial advisory and counseling services for parties requesting mediation. The program is currently authorized through 2010 and is administered by the Farm Service Agency Outreach Program.

NASDA believes that funding of State Certified Agricultural Mediation Programs is as important as ever. As federal budget constraints continue to reduce funds for numerous agricultural programs, there will be fewer dollars available for farm families. These reductions will increase levels of frustration, anger, and fear experienced by these families whose resources are already stretched, creating additional demands for a positive alternative to resolving disputes with the USDA. In addition, federal mediation funding levels have been inadequate to meet the demands of the increasing number of state programs.

NASDA supports the expansion of state mediation programs and urges the Secretary to authorize all agricultural disputes approved by individual state mediation programs as eligible under the USDA grant program.

NASDA supports the expeditious issuance of regulations requiring USDA agencies to offer mediation in cases where adverse decisions are made, and to attend and participate in mediation if requested by producers or USDA customers. Regulations should also include a definition of mediation which provides maximum state program flexibility as intended by Congress. Confidentiality of the mediation process should be maintained. For audit/evaluation purposes, NASDA believes that auditors, including the Office of Inspector General, be limited to using confidential mediation information only for the purpose of verifying the appropriate expenditures of funds used for mediation and/or evaluating the effectiveness of the program. Confidential mediation information obtained through such audits/evaluations should not be used for any other purpose unless all mediation participants consent to it.

12.4 FARM SERVICE AGENCY

FSA Loan Eligibility

Statutory term limits restrict borrower eligibility for Farm Service Agency (FSA) direct or guaranteed loans regardless of borrowers' ability to obtain other credit. Limitations also restrict borrowers receiving debt write-down to direct or guaranteed annual operating loans. NASDA believes FSA borrowers should be assisted and encouraged to graduate to commercial credit as quickly as possible. However, eligibility should not be determined by arbitrary term limits. NASDA also believes that FSA borrowers who previously filed for bankruptcy should remain eligible for direct and guaranteed operating loans, provided they are current on their loans under their original or revised plan of operation.

FSA may offset government payments to any borrower who is 30 or more days delinquent on loan payments. FSA may offset regardless of payment assignments to other lenders, or whether the borrower has applied for FSA loan servicing. NASDA believes FSA should recognize prior assignments of government payments, and release the proceeds as agreed to in the plan of operation. Further, FSA should not have offset authority until FSA loan servicing actions have been concluded.

FSA Emergency Loans

Emergency loans are provided to help cover production and physical losses in counties declared as disaster areas by the President or the Secretary of Agriculture. Generally, producer eligibility is triggered by a qualifying physical loss, or a production loss of at least 30 percent in any essential farm or ranch enterprise. Producers are only eligible for an emergency loan if they cannot obtain commercial credit. The loan limit is 100 percent of actual loss with a maximum loan amount of $500,000. Unfortunately, the emergency loan program has been an effective tool for only a few farmers because substantial assistance is needed to truly recover losses.

NASDA urges the creation of a new emergency loan program, similar to assistance provided to small businesses, that provides measurable assistance to agricultural producers in disaster situations. The program should contain appropriate loan amount caps with broadened eligibility to assist producers not currently eligible under current emergency loan requirements. Further, NASDA recommends the program's review process for loan approval determinations be simplified.

FSA Direct and Guaranteed Loan Programs

The FSA guaranteed loan program has proven to be cost effective in reducing federal budget outlays. However, some rural areas have a shortage of commercial lending institutions that are interested in production agricultural lending. In such areas, the FSA Loan Guarantee program is of little value and leaves many producers dependent on FSA direct loans to finance their operations. NASDA urges continuation of and adequate funding for FSA direct loan programs. In keeping with the mission of FSA lending, NASDA also urges that FSA guaranteed loan limits remain capped at reasonable levels.

Under FSA Instruction 1951-S, required loan servicing actions are offered to producers who become delinquent on FSA direct loans. FSA guaranteed loans provide a substantial safety net for commercial lenders and even though 1951-S loan servicing is available to guaranteed lenders, they are not required to utilize the servicing options before loan liquidation. NASDA recommends an incentive, such as a higher percentage guarantee, be offered to commercial lenders who agree to service delinquent guaranteed loans according to 1951-S.

FSA Interest Assistance Program

Interest assistance is provided on guaranteed loans if cash flow projections indicate the necessity for a feasible repayment schedule. The program is a valuable tool. However, program funding is often inadequate. NASDA recommends that following the year end analysis of the farm/ranch operation, only the actual amount of assistance required for repayment be provided. Any interest assistance obligated but not distributed should be retained by the program and added to the next fiscal year's appropriation. NASDA also recommends a higher level of interest assistance be provided to beginning farmers demonstrating the need for additional assistance. Interest assistance is provided on guaranteed loans if cash flow projections indicate the necessity for a feasible repayment schedule. For producers needing interest assistance, the program is a valuable tool. However, funding for interest assistance is

often limited. NASDA urges that guaranteed loan interest assistance be re-evaluated following the year end analysis of the farm/ranch operation and that only the actual amount of needed assistance be provided.

Any interest assistance obligated but not distributed should be added to the next fiscal year's appropriation. It is also urged that a higher level of interest assistance be provided to beginning farmers demonstrating the need for assistance.

12.5 TAX PROVISIONS AFFECTING AGRICULTURE

The economic future of our nation's agriculture depends on the ability of new generations to enter farming and ranching. The barriers faced by the next generation are significant, and merit immediate attention by policy makers. NASDA supports tax incentives and capital gains exclusion for selling to first time farm/ranch buyers.

As a means to enable producers to survive periods of low profitability, farm savings accounts should be created to level out income flows. NASDA recommends Congress establish Farm Savings and Retirement Accounts as a necessary management tool for U.S. farmers and ranchers.

American farmers and ranchers incur significant costs in providing medical insurance coverage for themselves, their families, and employees. NASDA recommends that Congress provide a 100% income tax medical deduction for farmers and ranchers, including all health insurance premiums and medical surgery for self, immediate family, dependents and employees. Prescriptions, Medicare and medical supplies should also be tax deductible.

NASDA also supports elimination of the self-employment tax on income from rent of farmland, including CRP rents. Further, NASDA recommends that farmers who have gross income of $2,400 or less be able to report $1,600 as net earnings from farm self-employment.

NASDA supports the elimination of the estate tax for family farms, or any policy that minimizes the impact on those farms.

12.6 FARM INCOME AND PRODUCTION STABILITY

Agriculture is changing at an increasingly rapid pace. Consequently, the need for improved, comprehensive risk management programs is an ongoing work in progress. Risk management encompasses education, marketing, and primarily crop insurance programs. Risk management tools must be flexible, comprehensive, versatile, simplified, and readily available to producers. Crop/Livestock insurance and disaster programs must complement one another to ensure adequate coverage for producers, with risk management programs serving as the first line of defense. As farmers are exposed to unpredictable and unusual risks, it is essential that a crop

insurance/risk management plan cover, at a minimum, the input cost of production to a producer.

Disaster assistance should always be an option in the face of national crisis, but it must be provided in an ongoing, consistent, and predictable manner to be fully effective. Permanent disaster assistance should be provided for in farm policy rather than on an ad hoc basis. Disaster assistance should be relative to the cost of production with payment eligibility determined by participation in a federally sanctioned program, where available.

In addition, the federal government should provide a commodity safety net in a manner that minimizes production distortion. Major, sustained low market price losses cannot be compensated by an actuarially sound insurance program. Commodity price and income protection must be provided by separate farm policy.

12.7 PRODUCER SECURITY

Warehouse Regulation

States are very concerned about the final rules to the U.S. Warehouse Act of 2000 which were published in the Federal Register by USDA on August 5, 2002. These final rules were released without opportunity for comment on the language that was added in subsection(c), Part 735.1 which reads, "Compliance with state laws relating to the warehousing, grading, weighing, storing, merchandising or other similar activities is not required with respect to activities engaged in by a warehouse operator in a warehouse subject to a license issued in accordance with this part." The U.S. Warehouse Act should not preempt state authority to provide protection to producers doing business with federally licensed warehouses. The USWA should not preempt state warehouse laws governing grain merchandising and producer grain purchase obligations. NASDA believes that the USDA does not have exclusive authority to regulate merchandising related activities of grain warehouses licensed under USWA. Appropriate legislative action to amend the U.S. Warehouse Act should be pursued.

Mandatory state warehouse programs have been established in many states to both adequately serve agricultural commodities and to protect farmers from suffering financially if a warehouse experiences inventory shortages or financial insolvency. The voluntary federal warehouse program also serves agricultural commodities, but lacks many protections for farmers.

All warehouses that store agricultural commodities for the public are licensed either by the USDA via the United States Warehouse Act (USWA) or by the respective state in which the warehouse operates.

Further, 23 states also regulate the merchandising of grain through grain dealer laws. These state programs serve the agricultural community well in terms of cost efficiencies and regulatory oversight.

USDA has never regulated the merchandising of grain. The USDA has taken the position that the USWA covers the merchandising of agricultural commodities and that the industry is not required to follow state law. States are very concerned about the USDA's interpretation that the federal law supersedes state law in the area of merchandising. This interpretation could not only lead to zero protection for farmers who merchandise agricultural commodities at a warehouse licensed under the USWA, but also put in jeopardy state programs where commodity producers have chosen to pay into indemnity funds for their own protection.

NASDA believes that the USDA should cooperate with the state departments of agriculture in the regulation of agricultural commodities' warehouse activities to provide producers with the best protection possible while subjecting the industry to the minimum amount of regulatory oversight. A cooperative agreement between the state(s) and the USDA would benefit the producer, the industry, and the taxpayers.

NASDA urges the administration and the U.S. Congress to direct the USDA to collaborate with state agencies and to recognize the states authority to license and regulate grain dealer and merchandising activities of federally licensed grain warehouses and examine all agricultural warehouses within their states irrespective of their license status under the U.S. Warehouse Act.

12.8 FINANCING FOR AGRICULTURAL COOPERATIVES

Farmer-owned cooperatives are an important and integral part of American agriculture. For decades, cooperatives have provided many necessary services and products to farmers and have been a critical tool for farm profitability. In the current global economic environment, however, agricultural cooperatives face many new challenges. One major challenge is access to equity capital needed to modernize and expand as well as to capitalize on new market opportunities.

In an effort to better finance and capitalize their businesses, farmers and cooperatives are looking at various business models and structures that were not contemplated just a few years ago. Because of dated eligibility requirements established under federal law, cooperatives that adopt new business structures may no longer be able to borrow from CoBank, which has been the primary source of credit for farmer cooperatives for more than 70 years.

NASDA supports legislation that provides greater flexibility for farmer cooperatives to maintain their eligibility for CoBank financing. Such legislation should:

- Clarify that entities with both a producer and investor class of membership are eligible for CoBank financing, provided the producer class holds at least 50 percent of the voting control and operates on a cooperative basis.

- Permit agricultural cooperatives organized consistent with revised state laws to continue to be eligible for CoBank financing.

- Allow cooperative customers that are adopting new business structures to continue to be eligible for CoBank financing as long as the customer maintains at least 50 percent farmer ownership or control.

- Provide that cooperatives that are existing CoBank customers, but which restructure in a manner that would make them ineligible for CoBank financing (fails to meet 50 percent farmer ownership control criteria) can remain eligible for a five-year transition period while the cooperative establishes new lending relationships.

12.9 BROKER PRODUCER RELATIONSHIPS

(Updated February 9, 2012)

NASDA supports legislation to prohibit any investment of money in segregated accounts by the commodity exchange housing the segregated accounts.

NASDA supports legislation that would place money lost in segregated accounts at the front end of the bankruptcy priority list rather than toward the bottom of the list.

13 Rural Development

We support creating low carbon fuel policies relying on life cycle assessment of direct emissions from biofuels that expand markets for low carbon fuels, spur innovation among biofuel producers to decrease their greenhouse gas emissions and create new types of advanced fuels, which have the potential for more jobs and rural development. We support a policy that relies on current updated information for the industry. Individual biofuels plants should have the ability to demonstrate and receive credit for their actual greenhouse gas emissions. We support the use of certified third party auditors to protect the confidentiality of individual plants. We support the use of Renewable Information Numbers (RINs) to track the life cycle greenhouse gas emissions of individual producers. Biofuels must be on a level playing field, and therefore the oil industry should also submit individualized data of a refinery or blending facility. That has a batch of finished products. Inclusion of indirect land use change in life cycle assessment of biofuels should be considered only after there has been a more thorough debate in the scientific community about what the magnitude of this impact is. We are also concerned that indirect land use change costs not be unfairly imposed on biofuels without being imposed on other parts of the economy that may have similar impacts. Our preference is to deal with greenhouse emissions from land use change in a more balanced and scientific way, by dealing with only the direct impacts of various economic activities.

13.1 INTRODUCTION

NASDA recognizes the strong and growing linkages between agriculture and rural communities. Agricultural and rural policy must be designed to reflect and reinforce the dynamic interface occurring among farming, agriculture and rural America. NASDA also recognizes the need for policy to be flexible enough to support regional economic development strategies.

NASDA supports substantially increased investments in rural community economic development in ways that drives economic growth, entrepreneurship and innovation, and improves rural life. Retaining agricultural and rural youth in next generation businesses, attracting new capital and new business, and maintaining a profitable agriculture must be a focus and priority of rural development and agricultural policy. NASDA recognizes a significant amount of agriculture occurs, and a large number of rural communities exist, within commuting distances of metropolitan areas. In addition, NASDA acknowledges that a growing agriculture and rural economy requires both debt and equity capital.

The current definitions and standards of federal economic development programs currently restrict program participation by rural areas in proximity of metropolitan and micropolitan areas. NASDA recommends that Congress extend eligibility of federal economic development programs to agricultural and rural community projects in metropolitan and micropolitan counties across the United States.

13.2 RURAL DEVELOPMENT

Funding and development programs for rural America should be directed toward preventing the loss of businesses and human capital in rural areas. Rural area determinations should not exclude low-density agricultural areas that are located in proximity to population centers or metropolitan areas. Rural development programs should provide funding for agriculture-related business development and job creation projects including:

- Feasibility studies;
- Technical assistance;
- Research and technological development assistance;
- Cooperative organizational assistance; and
- Leadership development

NASDA recommends that the lending authorities of USDA Rural Development be broadened to help start and grow businesses in rural communities.

NASDA supports the development of opportunities in rural communities to meet educational, economic and technological objectives. NASDA supports adequate funding levels for USDA's Resource Conservation and Development Councils and state Rural Development Councils. These programs should offer grants to collaborating rural communities for initiatives to spur entrepreneurial development, including small business education, technical assistance, leadership programs, youth retention, and intergenerational business transfers.

13.3 RURAL LENDING

The Farm Credit System (FCS) has a long history of working with agricultural borrowers and one of its strengths is an understanding of agricultural enterprises. The FCS should be provided with the authority to finance value added enterprises that may be on-farm or off-farm investments. FCS should also be provided broader authority, with shareholder approval, to provide debt and equity capital to serve a wider range of agricultural and rural businesses, and agricultural and rural community needs.

Loan guarantees are only permitted once a facility is completely constructed or when specific stages are completed. This is counterproductive because in many instances loan guarantees are needed to obtain adequate financing at the beginning stages of a project. NASDA supports providing guarantees on commercially viable rural projects in the early stages of the project's development.

USDA Business and Industry Guaranteed Loan Program

In order to meet current needs of rural businesses, especially in the area of value-added agricultural processing, NASDA supports raising the loan limits for the Business and Industry Guaranteed Loan Program to $300 million and waiving the population limits associated with the program when the applicant can demonstrate they provide a direct value-added service to American agriculture.

13.4 THE NEEDS OF RURAL AMERICA

Broadband and Wireless Internet

Agriculture will benefit from inexpensive and easily accessible Internet connections by facilitating and strengthening use of extension research and technology programs, resident education, domestic and international marketing, and access to federal information and documents online. Information and communication technology, including telemedicine and distance learning, can help rural communities enjoy the same benefits as urban areas, such as higher standards of health care and virtually unlimited educational opportunities.

NASDA supports action by Congress to increase the availability and choices of broadband and wireless internet access such as narrowing the disparity in the level of broadband and wireless access to the internet through tax credits, government pilot projects, and increased funding for upgrading rural telecommunications. NASDA also supports the implementation of laws that protect the privacy of consumers who use the Internet and wireless communication. Specifically, there already exists a computing investment credit in the Internal Revenue Code of 1986, which could be expanded to include a broadband credit.

13.5 VALUE-ADDED PROCESSING AND COOPERATIVE ENTERPRISES

Producers traditionally look to expand their market share through exports, but they also realize there is an opportunity to increase their markets through value-added processing. Strategies to increase market share through value-added processing include cooperative and other business ventures focused on agricultural processing, farmer-owned cooperatives, and marketing the value of ‘high-end’ crops and livestock. The benefit of cooperatives and other business ventures is the potential for farmers to capture a greater share of the value of their product, while keeping more dollars in their local and regional economies, instead of exporting raw commodities from rural communities.

NASDA recommends that USDA’s Rural Business-Cooperative Service should give attention and focus to farmer-owned cooperatives to increase the value of farmers’ products in the marketplace. NASDA recommends the Rural Business-Cooperative Service include small farm operations and provide education (technical and business planning) and financial resources to enable these small producers an opportunity to add value to their products and market them to retailers and consumers.

NASDA recognizes the powerful economic contributions of agricultural and other cooperatives in the United States. NASDA also recognizes the significant role and growth opportunities for new cooperative enterprises across a wide variety of sectors, and for new producer ownership models in businesses beyond the farm gate, which can positively affect agricultural and rural communities.

NASDA supports the preservation of the Capper Volstead Act to ensure the continued ability of farmers and ranchers to form cooperatives and to negotiate for fair business practices. NASDA also strongly supports cooperatives development centers and technical assistance for new cooperative enterprises.

The National Commission on Small Farms and the Secretary's Advisory Committee on Small Farms both issued recommendations for USDA consideration. NASDA recognizes both of these reports and supports recommendations that will strengthen the viability of small farmers and ranchers. This includes the establishment of small farm business councils at the state level, which comprises the involvement of state departments of agriculture.

Economic Data; Information and Data Collection

Effective agricultural policy should be based on accurate and objective data that describe the structure and operation of agricultural enterprises and measure their economic health. Proper data are needed both to administer programs and measure their performance. Data requirements need to be developed in parallel with policy. There should be better cooperation among USDA agencies on survey information and collection.

NASDA supports National Agricultural Statistics Service (NASS) initiatives to develop electronic data reporting systems.

NASDA also supports strong federal-state partnerships between individual state departments of agriculture and the NASS. NASDA provides a nationwide staff of interviewers who are essential to collection of meaningful agricultural statistics. NASDA strongly endorses NASS efforts to support a highly trained, competitively paid corps of part-time enumerators who collect the data that form the foundation of the NASS census and survey programs.

NASDA strongly supports providing adequate resources for conducting censuses of agriculture and for additional research to improve response, ease data reporting, and enhance data quality. In particular, NASDA encourages expansion of cost of production data for specialty crops, which are collected as part of the annual NASS Agricultural Resources Management Survey (ARMS).

NASDA encourages Congress to appropriate the necessary funding to expand pesticide use data collection through statistically valid survey procedures for all pesticide uses supported through the pesticide registration and the FQPA process.

NASDA recommends that the U.S. Department of Homeland Security's Customs and Border Protection provide individual states with data on plant, animal and food entries into states to enhance states' ability to prevent introduction of harmful plant and animal pests and diseases.

13.6 RURAL EDUCATION

NASDA strongly supports K-12 agricultural education programs. State departments of agriculture should support various efforts to develop and implement agricultural education programs which are focused on public awareness and leadership.

13.7 BIOECONOMY AND ENERGY

(Updated September 2009)

Agriculture historically has provided food and fiber to America. Now, with the development of new biofuels such as ethanol and biodiesel, and with greater commercial interest in wind and solar energy, America's farms and ranches are increasingly seen as a promising source of clean, renewable, home-grown energy. This role is expected to take on increasing prominence in years to come, given mounting concerns over oil prices and availability, and the environmental and geo-political implications of America's continued reliance on foreign sources of fossil fuels.

Replacing the use of imported petroleum with domestically produced sources of energy made from biomass, would address many economic, environmental and national security issues. Development of a biomass industry will also ensure that U.S. agricultural producers have profitable new markets for their products, and that agricultural land is kept in productive use. Emphasis should be placed on the development of alternative fuels from agricultural commodities, livestock manures, forest products, agricultural crop residues, food processing byproducts, waste stream products, and other biomass products.

Beyond food, fiber and even energy, many people see agriculture as having potential as a new method of manufacturing pharmaceuticals and other products previously made through chemical or industrial processes. The emerging industrial biotechnology field is exploring how the building blocks in cellulose can be used to create a whole host of products, such as plastics, polymers, pharmaceuticals, solvents, paints, and other industrial chemicals.

The economic value of these potential markets for agricultural "feedstocks" might someday surpass the value of the food and fiber market. Rather than producing these products from finite fossil fuel resources, the U.S. can use its land base and natural resources to provide a continually renewable resource for industrial processing.

NASDA supports a national strategy that addresses the gaps in research and financing so that biomass feedstocks can be grown, harvested, and processed to maximum efficiency. This would result in an industry that produces goods that can compete with petroleum based products on price and availability.

NASDA supports increasing the Renewable Fuels Standard (RFS) to 7.5 billion gallons of renewable fuels by 2008 and increased to 30 billion gallons per year by 2025. Just as the current RFS provides for a portion of this amount to be met by cellulosic ethanol, any increases to the RFS should include a corresponding increase in the amount that must be derived from cellulosic feedstocks.

NASDA supports the implementation of the 25 X '25 initiative as proposed by the Ag Energy Working Group, which states that "Agriculture will provide 25 percent of the total energy consumed in the United States by 2025 while continuing to produce abundant, safe and affordable food and fiber."

NASDA supports the establishment of on-farm incentives to produce and utilize solar energy, wind energy, biodiesel fuel, methane, and any other biopowers, biofuels and bioproducts. NASDA also supports emphasis and funding for carbon sequestration research and the implementation of a trading system for carbon credits.

The members of NASDA also support the continuation of existing federal tax credits for the ethanol, biodiesel, and wind production. The members of NASDA also support the minimum oxygen standard of the 1990 Clean Air Act Amendments and the replacement of MTBE with ethanol to meet that standard.

NASDA supports allowing Conservation Reserve Program (CRP) acres to be used for energy and biobased crops, with commensurate payment reductions. In addition, a cellulosic/energy feedstock base should be established. Participants could enroll their land by entering into long-term contracts, at least 10 years, to grow certain perennials, such as, but not limited to, switchgrass and trees. Such land use should also benefit the environment, wildlife and recreation. NASDA also supports providing more financial resources for the federal multi-agency Biomass Research and Development program, with additional resources specifically designated for commercialization. This program requires the USDA Secretary to conduct an inventory of biomass resources on a county-by-county basis. Additionally, NASDA supports an Energy Council in the Office of the Secretary to coordinate energy policy at USDA.

Carbon Emission Cap and Trade System

NASDA supports a national carbon emission cap and trade system to offset non-farm greenhouse gas emissions and which allows the agriculture sector to receive credits for greenhouse gas reductions. Such a system should include provisions for standardized, cost-effective protocols for estimating greenhouse gas emission reductions from agriculture. NASDA also urges continuation and expansion of the Chicago Climate Exchange or other similar markets to provide financial compensation to farmers and ranchers for environmentally sound practices.

Comprehensive Agricultural Energy Initiative

NASDA supports the development of a "comprehensive agricultural energy initiative" by the Administration that considers the renewable resources of this nation's agriculture

industry. There is a tremendous opportunity to formulate and propose agriculture-based energy initiatives that could be used as a "new opportunity" to promote ethanol, biodiesel and other bioenergy sources and the economic contribution to agriculture. Oxydiesel alternatives and others also provide an opportunity to share clean energy biomass electricity alternatives to a nation looking for more energy.

NASDA supports loan guarantee authority for biorefineries, with half going to loans less than $100 million, and the other half for loans up to $250 million. Loan guaranteed may cover up to $2 billion in loans. NASDA supports Congress to require that construction contractors and subcontractors on federally assisted guarantee projects pay their employees not less than the prevailing wage.

Potential biomass production by using advanced gasification technology (not burning), biomass from switch grass crop residues and solid waste could produce a significant amount of clean, sustainable power. The economic benefits for biomass electricity and biofuels would create jobs. NASDA supports establishment of a Farm Energy Production Pilot Program to provide grants to farmers to demonstrate the feasibility of making farms energy neutral using existing technologies. Within the Rural Energy Self-Sufficiency Initiative, USDA is authorized to make cost-share grants for eligible rural communities in order for them to develop renewable energy systems and increase their energy self-sufficiency. NASDA supports increased funding for the Renewable Energy and Efficiency Improvements Program, to be renamed the Rural Energy for America Program. Biomass energy will keep energy dollars in the U.S. and provide for the positive environmental impacts needed.

Energy Costs

Historically changes in cost of production have been due primarily to changes in the cost of land. More recently farmers have been especially hard hit by sharp increases in fuel prices because of their extensive use of oil and gas products in agricultural production. Agriculture already has a low return on investment and equity when compared to many sectors of the American economy, so volatile swings in energy and other input costs can drastically alter farmers' net revenue. USDA's projection for farmers' expenditures for fuels and oils, electricity, fertilizer, and pesticides in 2007 is $41.0 billion, up $4.1 billion from 2006 or 11 percent, and up $6.9 billion or 23 percent from 2001. That equals a decrease in net cash income of about 10 percent.

Increased energy prices, especially fuel prices, immediately impact farmers' costs of production. Even though farmers are more energy efficient than ever before, spikes in energy costs hit particularly hard their already tight profit margins. But when considering the impact of higher energy prices on agriculture, it is also important to remember that the amount of energy used in agriculture is significant beyond the traditional gas and diesel for vehicle and machinery use. They use heating oil, natural gas, propane, kerosene and/or electricity to heat or regulate temperature in their hog or chicken facilities and dry their crops. Even pesticide costs are directly related to petroleum. As a general rule, it takes the equivalent of one gallon of diesel fuel to make one pound of active ingredient of pesticides.

Farmers are limited in what they can do to mitigate the effects of higher energy prices. When and where possible, producers are limited to employing different production strategies, such as reducing field operations by switching from conventional tillage practices to reduced till, adjusting fertilizer application rates, changing the timing of fertilizer applications and using animal manure and green fertilizer. Unfortunately, however, for the foreseeable future the costs of energy will remain relatively high and it is in the nation's best interest to deal with how to adjust to the increased prices.

NASDA recommends that government support for alternative fuel sources to fossil fuels continue, focusing on the use of ethanol, biodiesel and biomass production. Further, NASDA urges the government to keep a high priority for research related to bioenergy and biobased products. NASDA also urges USDA to complete the rulemaking on labeling regulation, to increase testing and labeling of biobased products and to expand awareness of the BioPreferred program. In addition, NASDA supports continuation of USDA's Biodiesel Fuel Education Program.

In the interim period, there should be a renewable fuels content standard in energy legislation, and preferential tax treatment for ethanol, such as in the small ethanol producer tax credit. Congress should also provide funds to continue the USDA Commodity Credit Corporation Bioenergy Program, which provides production incentives for increases in production of ethanol and biodiesel made from agriculture and forestry crops and associate waste materials, including animal manure and livestock/food processing waste. Specifically, the Biomass Energy Reserve Program establishes a program to encourage the production of feedstocks for cellulosic ethanol and other energy production and provides for five year contracts for producers to grow dedicated energy crops. It provides an incentive for producers to harvest, store and transport biomass to bioenergy facilities. It also helps farmers learn how to plant and cultivate these feedstocks in a cost-effective manner. NASDA supports the Forest Bioenergy Research Program that creates a program to address the specific issues facing the use of woody biomass for bioenergy production. Renewable fuels such as ethanol and biodiesel are the cornerstones in assisting American agriculture in terms of the use of its product and energy requirements.

NASDA supports the renewable biomass definition as passed in the Food, Conservation, and Energy Act of 2008 (Farm Bill). In order to ensure the future development and expansion of our nation's biomass industry, it is critical to allow for a comprehensive range of potential feedstocks.

As directed by the 2008 Farm Bill, the following products may be utilized as biomass:

- Materials that are byproducts of preventive treatments (e.g., trees, wood) that are removed to reduce hazardous fuels, to reduce or contain disease or insect infestation, or to restore ecosystem health; would not otherwise be used for higher value products; and are harvested from National Forest System land or public lands in accordance with public laws, land management plans, and requirements for olddâ€growth maintenance.

- Any organic matter that is available on a renewable or recurring basis from nonnâ€Federal land or land belonging to Indian tribes, including renewable plant materials (feed grains, other agricultural commodities, other plants and trees, algae), waste material (crop residue, other vegetative waste material including wood waste and wood residue), animal waste and byproducts (fats, oils, greases, and manure), construction waste, and food waste/yard waste.

14 Agriculture Research, Extension, and Education

14.1 INTRODUCTION

The Federal Agricultural Improvement and Reform (FAIR) Act (the 1996 Farm Bill) began the process of fundamental change in agriculture. The seven-year phase out of commodity programs which the legislation initiated, emphasizes the need for greater global competitiveness in agriculture. This increases the demand for sound, progressive agricultural research.

In the past, public investments in agriculture research have paid large dividends to society, and the global, high-tech, environmentally-sensitive era we have now entered requires support of public research. The nation's land grant universities must remain a strategic resource for agriculture and the general public. They must be used wisely and fully to support the needs of an ever expanding domestic and worldwide population.

14.2 PUBLICLY-FUNDED RESEARCH

The past several years have seen an erosion of public support for agricultural research. While private contributions to the research effort have been on the increase, federal support has been eroded by some 20 to 30 percent during the past five years. This is a trend that must be stopped. Food and fiber are essential to all people, and we must ensure our productive capacity is secure.

Publicly funded research is needed to ensure society's goals are achieved. While private and public research are complementary, private research is more narrow and short-term. Public research can be more speculative, broader and longer-term. Public funding ensures that needs voiced by concerned citizens are achieved. Items such as a safe and secure food and fiber system, a healthy and well-nourished population, harmony between agriculture and the environment, global competitiveness, and general economic development can be addressed better with public funding. All of these factors help provide the quality of life desired by each of our citizens.

Incentives need to be established to encourage regional cooperation around research and extension in order to best utilize limited funding.

14.3 THE LAND GRANT SYSTEM

Our forefathers provided the framework needed to achieve public agricultural research goals. The land grant system provides the basic needs of extension, teaching and research. Program direction and funding is provided by long standing programs such as the Hatch, Smith-Lever and other formula-based funding authorities. Now is the time to enhance these programs and help secure the future of our citizens and those of the world.

14.4 RESEARCH NEEDS

Agricultural research must be multi-faceted and give consideration to a number of concerns that affect the public's welfare. No single role can be given precedence over another. They must be addressed in total to ensure both the short- and long-term needs of our society are met. U.S. agriculture must be highly competitive, not just in the domestic market, but in the global economy. U.S. farmers and agribusiness must be profitable and they must continue to improve their productivity. New trade channels must be developed to provide the markets for domestic products, and products must be developed that suit the changing demands of consumers.

The American public is increasingly concerned about the safety and security of the food and fiber system. Consumers worry about environmental factors related to foodborne disease. In response, detection, surveillance and reporting of these diseases must be improved. The ultimate goal is the reduction and elimination of environmental risk factors that contribute to foodborne disease. It is essential that our food production, processing and distribution system remain secure.

Research that shows how agriculturalists can meet changing trends in food choice and still meet world nutrition goals should be maintained. In order to reach this goal, we must identify the nutritional needs of an ever changing population. We must understand factors that influence food choices and develop food products desired by consumers and still meet their nutritional needs.

Today, much of the focus is on the relationship of agriculture to the environment. Research is necessary to develop rational, balanced approaches for the use and management of natural resources. The productive capacity of our natural resources must be improved and protected. We cannot let immediate needs outweigh the long-term protection of these critical resources.

In order for improvement to take place in rural communities, emphasis must be placed on developing local economies. The development of leadership is imperative in order to enhance rural entrepreneurship and encourage small businesses that serve rural and agricultural areas.

A major underlying goal for agricultural research and education is the preparation of students to function in today's society. In addition, the levels of expectations for these students must equate to or exceed those of students in other endeavors. Strategies for education must be modernized and students must learn in a real-world environment. Faculties at land grant institutions must be prepared and equipped to teach students and prepare them for the future.

14.5 LEGISLATIVE NEEDS

The National Association of State Departments of Agriculture (NASDA) is committed to support efforts to enhance and encourage public sector research that benefits agriculture and its related industries. NASDA supports legislation at the federal level that serves to address and achieve the following goals and objectives:

- Establish agricultural research, extension and teaching as core components of the United States' long-term agricultural policy.
- Maintain and strengthen base program funding through the Hatch, Smith-Lever and other formula- based funding authorities.
- Increase federal funding of competitive agricultural research and education grant programs.
- Enhance stakeholder-driven priority setting processes stressing grassroots input at the local and state levels.
- Ensure coordination and collaboration between the Agricultural Research Service and the Land Grant Universities.
- Clarify the Cooperative Extension Service as the primary outreach and education agency within the U.S. Department of Agriculture.
- Increase the overall investment in agricultural research, extension and teaching.

14.6 NATIONAL COALITION OF FOOD AND AGRICULTURAL RESEARCH (NATIONAL C-FAR)

Additional resources are needed to adequately fund relevant high quality research and related outreach programs in food and fiber production systems, natural resources and conservation, expanding agricultural markets, rural economic development, human nutrition and food safety, and animal nutrition and feed safety. A National C-FAR will foster public confidence in food, agricultural, nutritional and natural resource research through public confidence in food, agricultural, nutritional and natural resource research through public participation in planning and evaluating the process and impact of research activities.

The goal of a National C-FAR is to form a broad-based nonpartisan national coalition of stakeholders in the food, agricultural and natural resource sectors to be named the *National Coalition of Food and Agricultural Research*. The two specific objectives are to:

- Increase and enhance federal investments in U.S. food and agricultural research and extension by doubling federal funding of food, nutrition, agricultural, natural resource, and fiber research, extension and education programs during the next five years.
- Expand the participation by stakeholders in priority setting and funding.

The net additional funding should be on a continuing basis that will complement, not compete with or displace the existing portfolio of federal programs of food, agricultural, nutrition, conservation and natural resources research and extension. Funding would support a balanced

portfolio of both extramural and intramural basic and applied research and education on a competitive grant and programmatic basis.

NASDA supports the formation of a National C-FAR that focuses on research goals, priorities and outcomes and not research administration, design or procedures. NASDA further supports research that addresses the interrelationship between food, health and medicine.

15 Food and Agriculture Security

15.1 INTRODUCTION

(Updated September 2012)

The food and agriculture industry in the United States is not only key to the public health and welfare of this nation but is an important force in the economic, social and political fabric, as well. Farming and ranching are the foundations of our $1 trillion food and fiber business with nearly $60 billion in annual exports. This vast industry is essential to the economic health of virtually every community. It generates almost 15 percent of the total economic activity in the nation, as well as providing almost 18 percent of the country's jobs.

Since the September 11, 2001 terrorist attacks, we are more keenly aware of the need to protect the integrity and safety of our agriculture and food infrastructure. Historically, our food safety, plant protection and animal health regulatory systems have assumed the accidental contamination of food or inadvertent introduction of animal disease or plant pest. The prospect of an intentional, or terrorist, attack on our food and agriculture industry raises grave concerns that present challenges for producers and policy makers alike.

The "farm to table" food supply chain is a complex system that includes millions of acres of cropland, millions of livestock, thousands of feedlots, processing plants, warehouses, research facilities, and packaging and distribution networks that bring food from around the nation and the world to neighborhood markets and restaurants across the nation.

Components of the farm to table continuum include:

- Farm inputs (seed, feed, fertilizer, pesticides, machinery, farm services)
- Domestic farm production (grain, oilseeds, fruits/vegetables, ornamental plants, meat/poultry, dairy, fish/seafood, eggs)
- Farm product assemblers (grain elevators, fruit/vegetable shippers, feedlots)
- Processing (milling, crushing, slaughtering, flavoring, canning, baking, pasteurizing)
- Wholesalers (general line wholesalers, specialty products)
- Retailers (supermarkets, restaurants, hotels, hospitals, military, prisons, vending, community feeding)
- Transportation
- Consumers

From a security standpoint, there are an array of sectors ranging from farms with relatively open croplands to highly secure food and dairy processing facilities. At the retail end, small neighborhood bodegas and cafes operate in markets with large supermarket chains and nationally franchised restaurants. Continuous changes in the way that food is produced, distributed, and consumed present new challenges for ensuring its safety and security.

The President's National Homeland Security Strategy recognizes the importance of securing the nation's food supply and designated agriculture as a "critical infrastructure." The threat of a terrorist attack on the food and agriculture industries is likely to involve the contamination of resources rather than the destruction of infrastructure. However, the diverse and widespread nature of the industry makes it extremely difficult to identify and secure every facility that might be a potential target. In the case of food, for example, introduction of minute levels of certain hazardous agents could cause widespread harm, including serious economic and social disruption. Local, state and federal partners as well as the industry itself have already taken important steps to help protect the food and agriculture industry from terrorist attack. Greater linkage at all levels of government and the private sector of resources, expertise, and initiatives is needed to achieve shared security and emergency preparedness objectives.

American agriculture and the rights of property owners to live and work on their land is a national security concern. When farmers and ranchers are threatened by transnational criminal organizations based in a foreign country that conduct repeated operations and trafficking across the private property and land that is cultivated to provide the food and fiber our industry and consumers depend upon, the federal government must act to protect and defend the people and its inhabitants.

NASDA seeks tangible resolution of these matters with the following policy principles to help guide the association and lawmakers in their efforts to secure the United States borders and rural lands across this country:

- The Department of Homeland Security should categorize cartel violence as a global terroristic threat that threatens our allies and citizens.
- Congress and the President should commit more resources to confront this terrorism.
- Tactics should be changed to allow forceful engagement and effective cross-border enforcement, when and where appropriate.
- Landowners should be equipped with tools to secure their property and to protect the domestic food supply, including security cameras, brush eradication program and report hotlines.

The federal government should ensure adequate infrastructure is in place along the border to facilitate the legal movement of people and goods at our international ports of entry.

15.2 STAKEHOLDER ROLES AND RESPONSIBILITIES

The Administration has emphasized that states play a key role in homeland security and provide the first line of defense in protecting critical infrastructure, health, and safety. Protecting the nation's food and agriculture industry demands the coordinated effort of public, private and university partners in the same way that all of these stakeholders have cooperated for decades on issues of food safety, animal health and plant protection. In the area of food safety, for example, the statistics are surprising: while this is the shared responsibility of all partners, an estimated 80% of all food safety inspections are conducted by state and local agencies.

While these existing programs should serve as a basis for efforts needed to enhance security, there are limitations and gaps. Notably, current systems were developed primarily to prevent the accidental introduction of pathogens, pests and diseases and the assistance of public security partners is not fully developed.

Accordingly, the roles and responsibilities of each stakeholder must be more carefully defined, understood, and supported. NASDA calls on each of these partners to collaborate to establish clear roles under the general policy that:

- Federal partners are best positioned to guide the risk assessment and policy-setting processes; address oversight and control of imported food and agricultural products; provide guidance and training to state and local partners; foster appropriate regionalization of security activities, and supply resources to ensure the uniform application of laws and regulations to counter the emerging security threats.

- States and localities can provide the field inspection forces needed to promote biosecurity of food and agriculture businesses; enhance prevention by enforcing uniform food and agriculture safety and security laws with industry; provide routine surveillance of food, plant and animal products; respond quickly in the event of an attack; and provide the means to restore confidence in the food and agriculture sector. States play the key role in prevention, detection and eradication of plant and animal pests and diseases.

- Private sector food and agriculture businesses must be a full and active partners in the process to develop a national integrated security and emergency management capability.

- Universities should be provided resources to support research, education and training to enhance preparedness and response.

An emerging area of concern is the increased complexity of federal responsibility for preventing, detecting and responding to emergencies. The new Department of Homeland Security has important new mandates and has been charged with overseeing the response to any event deemed to be the act of terrorism. In this context, the agency has taken over responsibility for

administering port and border security activities, and certain staff and responsibilities from USDA have been transferred to DHS.

NASDA remains concerned that the emphasis on homeland security in border protection not overshadow the need to remain vigilant in protecting the food and agriculture industry from the introduction of pests and disease at the border. NASDA strongly believes that prevention of animal and plant bioterrorism and provision of security for the nation's food supply must be considered a critical priority of the new agency. NASDA urges the DHS to reconsider the de-emphasis of agriculture inspections at medium and large ports of entry and the elimination of agriculture inspections at small ports of entry. NASDA requests that legacy agriculture inspectors, with the proven education, skills and experience in cargo and baggage agriculture inspection, be immediately reassigned as CBP Agriculture Specialists and that the CBP Officer positions be open to all legacy customs, immigration and agriculture inspectors.

15.3 COMMUNICATION AND COORDINATION

At the core of efforts to enhance our food and agriculture preparedness and response capabilities will be the establishment of a well coordinated and efficient communication strategy that links all stakeholders and allows for the rapid dissemination of: specific threat alerts from intelligence partners; incident notifications from field staff; industry or others; routine surveillance information from inspections, laboratory analyses and other local and state sources; and other information deemed critical to preventing illness, death or serious economic harm to the industry from a terrorist attack at any juncture from farm to fork.

At present, there are serious impediments to establishing such a system. These include:

- Federal restrictions on access to classified information and the loss of information through the unnecessary "classification" of documents;
- Federal resistance to accepting state and local laboratory and other investigation results, recalls and other actions as comparable to federal actions;
- The lack of comprehensive secure communications network to share threat alerts and other information linking local, state, federal and private partners, with appropriate security clearance;
- The lack of a comprehensive incident notification system for the food and agriculture industry.

Immediately, USDA, FDA and DHS should facilitate states in obtaining adequate security clearances for key state personnel to access and communicate critical information from the USDA Emergency Management Operations Center as well as critical plant and animal health and food security information. Federal agencies should review currently classified information and make determinations about whether it needs to remain classified for security purposes. The

results of state and local inspections and laboratory analyses found to be consistent with federal requirements should be recognized as equivalent to federal inspections and analyses. Development of rapid communications and incident notification systems should have top priority and include both public and private sector decision-makers.

As a part of the solution, the development of a national Agriculture Information Sharing and Analysis Center (AGISAC) has been recommended to provide a central mechanism of reporting and analysis of agriculturally related incidences. An AGISAC would not replace existing data management systems, but would integrate information related to reportable animal diseases, food safety, agricultural chemicals, animal feed and other vulnerable agriculture targets and reach virtually every local state and federal partner. A privately organized Food and Agricultural ISAC has been established, and NASDA urges that government agencies seek ways to partner in this effort.

15.4 DEVELOP NATIONAL FOOD AND AGRICULTURE INDUSTRY PROTECTION STRATEGY

NASDA supports the development of an integrated national food and agriculture protection strategy that draws on the strengths of all stakeholders. Efforts to establish an integrated food safety system were begun almost decade ago, and the threats of an intentional attack on food and agriculture are placing increasing demands on states to develop strategies for protecting the food and agriculture industry in the absence of a uniform national policy.

In general, the strategy should assume that an intentional attack is more likely to involve the contamination of food or the introduction of plant and animal diseases, rather than the physical destruction of agricultural assets. Moreover, it must be flexible enough to address the diversity of sectors. Finally, components must be cost effective and based on a scientific risk assessment of their value. In addition, the development of a National Food and Agriculture Protection System should:

- Focus on safeguarding both the safety and security of food and agriculture. Existing surveillance and response systems should be used to form the basis for new measures to protect agriculture security.

- Be based on scientific principles that include an assessment of the risks and vulnerabilities of the food and agriculture system. The federal government through USDA and FDA need to develop uniform standards that can be readily implemented by state and local regulatory partners.

- Integrate the efforts of federal, state and local partners into a seamless system. Federal partners must lead collaborative efforts that establish standards, build on existing capabilities, provide training, foster assessments as needed, and provide appropriate funding to ensure the uniformity of the nationwide system. Federal partners must also take responsibility for ensuring the safety of all food products imported into the country

through a uniform system based on establishing and monitoring the equivalency of foreign food safety programs. State and local partners must take primary responsibility for the inspection and sampling of local establishments.

- Coordinate appropriate security at all points in the production, processing and distribution, and retail sale of food to ensure the protection of food and food products.

NASDA strongly believes that the implementation of new policies and protocols by the food and agriculture industry under the new protection strategy must be accomplished in a way that is helpful to industry and will not create unnecessary financial or operational burdens. In addition to assuring that all measures are evaluated as to cost and effectiveness, and as circumstances warrant, new measures should be phased-in for adoption and federal funding made available to support the proposed measures.

Through a cooperative agreement with USDA APHIS, NASDA completed an assessment of the capabilities of the United States and state governments, foreign governments and the livestock industry to protect this nation's livestock and human health from animal disease. The report considered the growing threat of terrorism and made more than 150 recommendations to strengthen domestic detection and surveillance, exclusion of disease, international information and response. The Animal Health Safeguarding Review was completed in 2001, and recommendations remain timely, in particular the need for a National Surveillance System and National Response Plan, improved and expanded research, and increased funding. NASDA believes that the recommendations of the Review must be prioritized and efforts redoubled to implement key actions within the context of developing a security strategy.

Furthermore, the existing NASDA policies with respect to Animal Health Protection and Disease Control, Food Regulation and Nutrition, and Plant Health should also be carefully considered and serve as a basis for additional action in this area. Actions should be considered on a priority basis to enhance the nation's overall level of preparedness and response to food, plant protection and animal health threats.

Finally, NASDA fully supports the development of a national critical infrastructure protection plan that includes the food and agriculture sector and urges DHS to utilize the expertise of NASDA members to ensure national strategies adequately address food and agricultural considerations. NASDA urges DHS to call on state and local agriculture and food officials to participate in the development of national strategies.

Threat and Vulnerability Assessments

The assessment of terrorist threats to food and agriculture and evaluation of the industry's vulnerabilities will form the basis for developing a preparedness and response strategy for the nation's food and agriculture industry. The challenge is to determine the likelihood of various forms of attack and identify on a priority basis the gaps in the existing systems. With this information, we can develop cost-effective measures to enhance our ability to prevent an attack, detect an attack at the earliest possible time, respond to protect both the public health

and industry and recover from an attack by restoring public confidence and the economic viability of affected sectors.

NASDA urges USDA, FDA, DHS, and other federal partners to complete assessments as rapidly as possible and share information relevant to the development of specific state preparedness strategies. Such information sharing is imperative as states develop and refine individual State Homeland Security Strategies (SHSS) and will be important for the seamless integration of state plans into the National Homeland Security Strategy.

Uniform Standards

To enhance state efforts to develop a well-coordinated integrated strategy for all stakeholders, uniform security standards should be developed. NASDA urges USDA, FDA and other federal partners to join with the state partners in developing standards:

- A voluntary Model Food Security Code based on the concept of the existing Model Food Code for food safety would help states close gaps identified through the risk assessments;

- Standards must afford the flexibility to recognize local, state and regional differences; for uniform agricultural and food protection with flexibility built in for regional, state, and local differences;

- National preparedness and security standards (e.g., response equipment, training, staff capabilities) are needed to guide decision-making and assess progress towards stated objectives;

- Development and implementation of standards should proceed only after careful assessment of cost and effectiveness;

- Support is needed for research to assess the standards, and NASDA urges its federal partners to coordinate development of the research agenda with local and state government, industry and university partners.

- Develop a national policy on the accessibility and availability of ammonium nitrate, urea and other products that can be converted from their intended use (fertilizer) to powerful explosives, in order to secure these products against easy transport across state lines and subsequent misuse by terrorists or other criminals. The Fertilizer Institute has demonstrated commitment to such protective measures, and those involved in agriculture will welcome actions to protect the country, while enabling them access to materials necessary for their success.

Exclude Foreign Animal and Plant Diseases and Contaminated Food Products

Increased trade in food and animal and plant stocks likewise adds challenges to ensure that imports do not include pests or diseases harmful to US agriculture. The increasing ease of global trade and travel raises concerns for the introduction—intentional or accidental—of pathogens, disease or pests.

Existing systems to exclude animal and plant diseases and contaminated food have been called into question in the wake of rising terrorist threats. Because it is virtually impossible to ensure the safety and security oversight at the port of entry for all imports arriving into the United States, NASDA urges USDA and FDA to consider a new model: certifying the equivalency of safety and security systems employed by our trading partners. While this is employed already by USDA in meat and poultry inspection, this concept needs to be greatly expanded to help reduce the risk of an intentional attack via imported food, plant or animal products.

Traceback

The need for an ability to track crops, livestock and food products from farm to table cannot be overstated in terms of protecting public health and preserving the economic viability of the food and agriculture industry. Consumer and market demands have already begun driving trends to greater accountability and traceability. Increasing threats from a food safety and animal health perspective alone would be sufficient argument in favor of developing comprehensive product identification and tracking systems. Last summer Canada was, and now the United States is, under a global microscope as we struggle to trace the source of a cow infected with BSE as well as other animals associated with that cow. The specter of terrorist attacks makes the development and implementation of such systems even more imperative. If we require more than a few hours to locate all products associated with a terrorist incident, we risk a massive loss of consumer confidence in the nation's food and agriculture system. That could have far costlier consequences than the immediate cost of the incident. NASDA strongly urges the immediate development and implementation of a uniform farm animal identification and tracking system. NASDA further urges the consideration of systems that make possible the identification and tracking of farm products from farm to table.

Risk Reduction Strategies

Industry should be encouraged in every possible way to adopt cost effective measures that address identified vulnerabilities and wherever possible reduce the risk of a broad range of possible hazards (i.e., "all hazards" prevention). NASDA urges the establishment of financial or other incentives to reduce the cost of capital or other investments by food and agriculture businesses. Particularly important are the immediate establishment of incentives to develop uniform identification and tracking systems to provide timely traceback of all livestock, consumer foods and food products.

Priority should be given to investments that will enhance prevention, such as good on-farm biosecurity, and to investments that address prevention or response to all hazards.

National Surveillance System

There also exists a very real possibility that we will face threats that will not be immediately apparent, and because of the lag in identifying and responding, will have more widespread and harmful impact on our food and agricultural industries. New systems that are capable of providing ongoing surveillance, early detection and effective response must be designed to maximize the limited resources available at all levels of government and to leverage private capacity that exists throughout the food and agriculture industry.

While the U.S. has historically enjoyed strong, well-functioning food safety, animal health and plant protection systems new threats have changed the nature of the surveillance and inspection that will be required in the future.

Existing systems should form the basis for actions now required to provide protection against intentional attacks against any of the sectors. However, resources are needed to enhance routine monitoring of the domestic food system at all points from farm to table, including the monitoring of plant and animal health. NASDA urges a comprehensive review of existing staffing levels of food, milk and horticulture inspectors and veterinarians and animal health technicians at the federal, state and local levels. Staffing increases should be prioritized based risk assessment. Systems for improved sharing of surveillance information must be developed and implemented.

Laboratory Capacity

The current capacity for rapidly and accurately diagnosing diseases used as weapons is limited and would certainly be overwhelmed by the volume of demand for testing services in the face of an outbreak. Just as the nationwide public health laboratory infrastructure was hard pressed to support investigations in the face of the recent Anthrax attacks, the intentional introduction of certain animal or plant diseases into the United States would result in massive needs for diagnostic testing, even in states without confirmed cases.

There are at the national level efforts to coordinate and enhance local efforts. One example of this kind of program is the proposed National Animal Health Laboratory Network (NAHLN). Similar efforts are being made to establish an integrated nationwide system of food laboratories through the formation of the Counter Terrorism Food Emergency Response Network (FERN) by the federal Food and Drug Administration. Adequate qualified laboratory testing capacity has proven time and again to be a critical component in dealing with disease outbreaks.

Despite progress in these areas, resources are needed immediately to support development of enhanced veterinary diagnostic laboratory capacity, food and milk safety testing, and plant inspection to support the development of an enhanced surveillance network.

Response Systems

The accidental introduction of disease or illness has historically resulted in incidents limited in scope, number of individuals affected and geographic area involved. The intentional

introduction of disease has the potential to extend impacts over a wide area and involve a much larger population—either directly or indirectly through fear and other social disruption.

Systems designed to respond to incidents today need to be flexible and scalable—able to adjust to rapidly changing circumstances and expanding scope. NASDA urges all partners to join in the development of systems that seamlessly augment prevention and surveillance resources. Response will also require the coordinated communications systems in place to enhance overall preparedness. Response efforts for all agricultural emergencies are now addressed through the Incident Command System (ICS). It is imperative that standardized training and exercises be provided for all state and local officials that would be expected to participate in response activities.

Once a response has been initiated, NASDA further urges all partners to develop mechanisms for ensuring that placement and release of control measures are targeted as specifically as possible.. The ongoing viability of the food and agriculture industry will depend on its ability to restore operations to near normalcy as soon as possible. The release of quarantined product or animals for example should take place as soon as possible to aid in the recovery phase.

Incident Recovery

Rapid recovery will be critical to ensuring the ongoing viability of food and agriculture businesses affected by an incident. Recovery can be facilitated by:

- A Public Communications Plan. The Plan must address not only the details of the incident but also the attendant fear and potential social disruption. Maintaining consumer confidence will be an important factor in preserving the resiliency of our agriculture and food infrastructure.

- Disaster recovery funds provided to fairly compensate for the loss of livestock, crops, and other costs of the incident. NASDA recommends a comprehensive review of current emergency assistance authority and development of plans to mitigate shortcomings.

- Technical assistance and other support for farms and businesses.

15.5 FEDERAL FUNDING AND SUPPORT

Managing the short- and long-term consequences of terrorism is among the responsibilities of state and local government supplemented by the resources of the federal government. Issues related to activities such as initial response, animal quarantines, security in communities following an event, and short- and long-term recovery are some of the many responsibilities faced by state and local officials.

To date, federal support for state departments of agriculture has been very limited. Modest USDA support was provided to enhance animal and plant laboratories and to begin work on projects including rapid notification and other systems. While billions of dollars in funding was

provided through CDC to state health departments for uses including food security, cost share mechanisms and other barriers have all but excluded agriculture departments from receiving funds.

NASDA urges that immediate support be provided to departments of agriculture to enhance bioterrorism preparedness and response capacity across the nation. Further, funding is needed immediately for research in all critical aspects, and funds must be targeted not just to traditional defense research laboratories, but to institutions with expertise in food and agriculture issues.

NASDA urges that all federal homeland security funding, including funds earmarked for local jurisdictions, be distributed through the states and territories in order to enhance regional response capabilities within the states and territories and to advance the comprehensive homeland security strategy of each state and territory. Federal funds and technical assistance should be provided for the completion of state and local risk and threat assessments.

The Food and Agriculture Protection Strategy

Based on identified risks and vulnerabilities Congress should guide funding decisions. Federal funds are specifically needed to enhance or improve:

- Inspection, testing and surveillance activities;
- Information sharing through web-based and other electronic systems;
- Oversight of imported foods;
- Food, veterinary diagnostic and plant laboratory capacity;
- Epidemiology, investigation and traceback efforts;
- Standard training and certification;
- Risk mitigation;
- Animal identification and product traceback mechanisms;
- Threat, vulnerability, and risk assessment
- Research

Funding to state and local agricultural and food agencies needs to be dedicated on a long term basis through a predictable, multi-year mechanism to maximize the ability of local and state governments to plan for necessary program enhancements. Developing enhanced agriculture and food protection capacities requires a long-term commitment from the federal government to state and local agencies.

15.6 INCENTIVE AND MARKET FORCES

The food and agriculture industry has made significant investment in security where there has been a demonstrated need to reduce product loss due to theft or to ensure the safety of crops, food or livestock. Universal tamper resistant and tamper evident packaging was introduced after the famous Tylenol incident, and current domestic and international market trends are having an increasing impact on product identification and traceback.

But market forces alone are not likely to provide sufficient incentive for the investment in new security equipment and systems. Consequently, NASDA recommends that government partners cooperatively work to explore options for supporting and encouraging further investment. Additional issues that need to be considered include:

- Insurance
- Third-party verification of security protocols
- Evaluation of indirect benefits, such as improved operating efficiency and facility management
- Continuity of operations plans to assist in recovery
- Training for industry in incident management
- Low cost financing for new security investments
- Tax credits or other incentives for investment

16 Guiding Principles for Agricultural Competitiveness and Working Partnerships

Agriculture is an important force in the economic, social, and political fabric of America. Policy decisions for and about agriculture, from the Homestead Act that helped settle the West, to the development of our Land Grant college system, were essential building blocks of our society. Now, as America faces the information age and the technology revolution of the 21st century, policy makers must not forget the agricultural foundation that supports our place in the world. Moreover, since the United States has experienced terrorist attacks and it continues to monitor and plan against terrorism in all its forms, there will be an unprecedented focus on the integrity and safety of our farm to table food supply chain. This will be a challenge for producers and policy makers alike.

Farming and ranching are the foundations of our $1 trillion food and fiber business and nearly $60 billion in annual exports. Agriculture is a major contributor in our country's trade balance. This vast industry is not only essential to the economic health of rural America, it generates almost 16 percent of the total economic activity in the nation, as well as providing almost 18 percent of the country's jobs. This economic mainstay is rooted in the land resources of the country. More than 900 million acres of agricultural land is in the care of farmers and ranchers and their families, accounting for 60 percent of land use in the lower 48 states. Not only is a sound agricultural sector critical to the health and prosperity of our nation, it is essential to the environmental health of the nation as well.

However, the business of producing food and fiber is undergoing unprecedented change. Economic, environmental, consumer, and technological forces beyond the control of individual farmers and ranchers drive this change. And as we have learned, so too does the necessary defense of our nation. Federal and state policy makers need to be aware of these forces to make prudent policy decisions that will help position American agriculture to benefit from the opportunities this change will bring about. To ensure the future viability of our nation's production agriculture industry, it is clear that state and federal policy makers must work together.

NASDA's Guiding Principles offer certain priorities for federal policy. Those priorities include important new roles for states, especially in the area of program and service delivery. These concepts are put forth as an attempt to best serve the needs of our agricultural producers in an increasingly competitive worldwide marketplace.

16.1 PURPOSE

The commissioners, secretaries, and directors of the state departments of agriculture are keenly aware of the changing dynamics in food and fiber production around the world. As the chief agricultural officers in their states, they understand the importance of the entire food and agricultural sector — not only to their states but to the national economy as well. From their

vantage point comes the National Association of State Departments of Agriculture's (NASDA) comprehensive set of strategic policy initiatives designed to enhance U.S. agricultural competitiveness and ensure the survivability and enhance the profitability of American producers. Our purpose is to contribute to a wide-ranging and constructive debate on agricultural policy in the new century.

16.2 GUIDING PRINCIPLES

NASDA's policy process is guided by six principles designed to be the guidelines for a comprehensive, coordinated, agricultural policy. We urge federal policy makers to adopt similar guidelines.

Profitability and Viability

A financially healthy and profitable agricultural sector is essential to the production of a safe, fresh, and affordable food supply. Moreover, economically viable farming and ranching enterprises will enable producers to increase their efforts to maintain a healthy environment, protect our natural resources, and build stronger rural communities.

Level Playing Field

A financially healthy and competitive agricultural economy can only result from a fair marketplace — domestic and global — where efficient, productive farmers and ranchers have economic marketing and bidding power commensurate to their assets and production capabilities.

Non-Trade Distorting

American producers are among the most efficient in the world. Open international — and domestic — markets would not only benefit U.S. producers, but are a foundation upon which U.S. agriculture relies. Thus, NASDA's recommended polices are intended to be market-based and non-trade distorting, which means that certain safeguards may be pursued, such as access to information and reasonable but certain anti-trust enforcement.

Flexibility in Regulation

One size does *not* fit all. Government policies and programs should be flexible, and to the maximum extent possible, based on voluntary participation through incentive-based approaches. While regulations should be appropriately based on national goals, they should also be controlled and implemented at the state level.

Sound Science

The foundation of the agricultural sector has long been the development and adoption of science-based practices derived from reliable data and information. As business people,

agricultural producers have looked to science for the best information possible to make decisions. Sound, peer-reviewed science policies and methodologies for assessing risk must be the standard for government regulations and international trading rules.

Maximum Delivery Through States

New and expanded programs should emphasize the role of states in terms of delivery. Particular emphasis should be placed on partnerships and pilot projects.

16.3 A BROADER POLICY HORIZON FOR AGRICULTURE

The focus of farm policy has varied throughout history. The Agricultural Adjustment Act of 1933 established the first major price support and acreage reduction program and set parity as a goal for farm prices. Much of the policy infrastructure of today remains a legacy of that seminal 1933 act.

As American agriculture enters the 21st century, however, the traditional approach will not be enough to ensure adequate opportunities for success. The extent of global competition for U.S. producers has expanded into capital, tax burdens, labor supplies, environmental and regulatory constraints, food safety concerns, land costs, and the relative degree of access to foreign markets. In one sense, all of these factors can be viewed merely as different "forms" of risk to be managed.

16.4 MANAGING RISK

NASDA's ideas are built on the principle that the most effective agricultural policy is one that allows today's producers to manage all the risks they face in order to maximize their opportunities for profitability. U.S. farm policy should not guarantee that every farmer makes a profit; it should, however, provide an adequate "safety net" and a range of tools to manage risk, in all its forms, to ensure that good producers are not put out of business due to arbitrary forces beyond their control.

Indeed, risk goes beyond commodity price fluctuations. Broader economic changes, such as energy and fertilizer costs, are perhaps some of the biggest economic challenges facing producers today. The range of environmental and food safety challenges faced by farmers and ranchers are complex, involve a higher level of scientific scrutiny and uncertainty, and are influenced by a diverse mix of stakeholders and interests. Moreover, in today's global market producers face food security risks from animal health issues and plant diseases, both here and abroad. The goal of government policy at both the federal and state level must be to ensure that opportunity accompanies each new risk that faces American agriculture. Those risks are economic and environmental; and they are local and global. They come from both the marketplace and governmental policies. This broader, more encompassing concept of risk, should be what we mean when we use the terms "risk" and "risk management." And this broader meaning of risk management must, in turn, be the foundation of comprehensive

agricultural policy that is designed to both protect producers' assets and provide new market opportunities.

16.5 CORE AREAS FOR POLICY

NASDA has identified six core areas of a broad, risk management/opportunity-based agricultural policy. Together they encompass the elements that a comprehensive agriculture policy for the 21st century must include.

Farm and Food Security

Federal farm policy should provide an adequate safety net which ensures good producers are not put out of business due to forces beyond their control. Providing this safety net will assure consumers of a safe, affordable supply of food.

Stewardship

Protection of our natural resources and the safety of our food supply is a necessary element to any comprehensive farm and food policy.

Market Integrity, Opportunity, and Expansion

Whether in global trade or a local farmers' market, the integrity of the marketplace in terms of transparency, price discovery, and competitiveness, is paramount. Farm policy should also focus on what tools are necessary to find new market opportunities, through trade, new uses, or even new technologies from e-commerce to biotechnology.

Investments in Critical Needs

These critical needs encompass the infrastructure — both physical and economic — which runs the range from locks and dams, to research, to price discovery. These are the cornerstones to a viable agriculture sector.

Agriculture Flexibility and Partnership

To target and streamline the delivery of services and administration of selected programs to producers, states may assume the responsibility for implementing certain federal programs. With agriculture flexibility (Ag-Flex), states are encouraged to create innovative solutions to local priorities, with performance based on benchmarks. The potential is for a system that benefits federal agencies by better using the inherent local strengths and accountability of the states.

Biosecurity

Protection of the security of our nation's food and agricultural resources from deliberate or accidental introductions of harmful biological, chemical, radiological, incendiary or explosive

agents is critical. Biosecurity needs to include plants, animals, foods produced and stored as well as the equipment and chemical products used in agricultural production.

16.6 ROLES OF THE STATES

NASDA's members, perhaps not surprisingly, view the role of the states as a critical element of any federal agricultural policy. Enough so, that the role of the states is worthy of special comment in this introduction.

Competing priorities and increasing demand for resources, combined with consumers' demands and the need for a level playing field for producers, mean that the old way of doing things has to be re-examined. Nowhere is this more true than in the area of regulatory implementation and program and service delivery. States can play a key role in making the delivery of services to producers and the protection of consumers more efficient and effective.

States already play an indispensable role in the regulation of pesticides, for example. It is largely up to the states to regulate pesticide licenses and certifications, to protect groundwater resources, endangered species and agricultural workers. States are relied upon to conduct inspections, and provide technical assistance. This system provides a valuable model for other policy areas – from new priorities such as food safety, to more traditional areas such as the delivery of program services. Indeed, state departments of agriculture are close to the producers and can provide a much needed front-line common sense practicality to implementing federal programs and applying federal regulations.

To be successful, however, such a program must be based on certain principles of partnership. First, it must be clear that federal-state partnerships do not become new unfunded federal mandates on the states. Because states can enhance the efficiency of certain federal programs, it does not follow that states can — nor should they — shoulder the fiscal responsibility of federal initiatives. Second, the partnership must be based on recognition that each party has certain capabilities, authorities, and responsibilities that are mutually beneficial. Third, partnerships must be built to accomplish certain goals and priorities. Using these principles as guideposts, NASDA members believe there is an expanded role for effective federal-state partnerships in agricultural policy.

Using these guiding principles, NASDA members have developed the following policy statements. These are NASDA's operational, working policies that guide our efforts to influence the development and implementation of sound policy and programs at all levels and branches of the federal government.

17 Key Principles of a Cooperative Relationship - "Partnership Agreements"

The NASDA State-Federal Program Review Task Force recommends that the principles contained in the following document be used by the state departments of agriculture as a guide when considering cooperative programs with USDA and other federal agencies. These principles were patterned after the partnership concept used by the U.S. Food and Drug Administration.

This document is intended to define what is meant when we use the term "partnership agreement" and is specifically intended to be used in the development of written negotiated "Partnership Agreements" with state and local agencies, as well as associations of officials of such agencies.

The fundamental goals and process concepts can also be applied to partnerships with other federal agencies, educational and research organizations, trade and industry associations as well as consumer groups, the media and other organizations where it is beneficial to develop cooperative efforts on either an ad hoc or continuing basis.

17.1 PARTNERSHIP CONCEPT

The current environment of government downsizing, competing priorities, increasing resource constraints, consumer demands, and industry's concern for a level playing field necessitates changes in the way we do business. What we have done in the past in the area of Federal/State cooperative programs has served the U.S. Department of Agriculture (USDA) and state governments well, but we must now use broad, innovative strategies to ensure agency mandates are achieved, and industry and consumer concerns are addressed.

The goal remains now, as before, to maximize the utilization of available resources in the most efficient and effective manner while achieving the highest level of service delivery. NASDA believes the USDA should be given the authority to enter into cooperative agreements with the states in implementing all policies and programs of the department when such agreements would benefit the state and federal governments and U.S. producers and consumers.

As used in this document, a partnership is defined as a "working relationship characterized by mutual participation and joint interest." The partners could include federal, state, and local agencies, industry, academia, and other organizations.

This is especially important in planning program activities and working to maintain and enhance the level of knowledge and expertise within the partnership. Each involved party has specific program authorities, responsibilities, and interests that are mutually beneficial.

17.2 PARTNERSHIP DEVELOPMENT

Background

The partnership concept presented in this document involving state agencies will be utilized as a model to establish the framework upon which partnership initiatives with other entities may be constructed. The ultimate goal is to utilize existing relationships, or establish new relationships, with federal/state/local agencies, industry, academia, and other organizations, to build cooperative partnerships to assist the USDA in meeting current and future challenges as it carries out its mission.

Partnership agreements will clearly define roles and responsibilities of the partners. The primary objective of such agreements is to increase the efficiency of service delivery in specific program areas. This can only be achieved through joint planning, improved communication, and each partner demonstrating equivalent commitment. This will lead to greater acceptance of one another's scientifically sound inspection and analytical work.

The activities conducted under partnerships (i.e. planned meetings/conferences, inspections, sample collection, joint development of shared databases, etc.) may be a part of a formal agreement or an informal (non-written) agreement.

The partnership relationships are defined as follows:

"Partnership Agreements" are formal, written documents which are intended to clearly define specific goals, activities, and responsibilities of each partner. Partnership Agreements are developed to produce measurable outcomes relatable to programmatic objectives and/or operational needs. Such agreements may be negotiated at the regional or national levels.

"Partnership Activities" are informal arrangements or other working relationships that are not reduced to a formal, written document. Partnership activities, separate and apart from formal agreements, are reportable within the guidance provided by this document.

"Memorandum of Understanding (MOU)" is also a formal, written document. Unlike Partnership Agreements, MOU's are general in scope and contain broad statements of cooperative relationships. MOU's are not intended and generally do not produce measurable outcomes.

Definition of "Partnership Agreement"

A "Partnership Agreement" is a written, negotiated agreement intended to accomplish a specific program goal between USDA and the partner organization(s).

It includes:

- Identification of goals and priorities
- Identification of resources to accomplish goals

- Detailed tasks and responsibilities
- Performance measures & evaluation mechanism
- Specific time-frames
- Recommendations for further actions

Performance Goals and Activities for "Partnership Agreements"

"Partnership Agreements" may be negotiated to achieve a wide variety of possible, mutually beneficial goals. Such agreements should be realistic and practical.

Each agreement should be focused to achieve specific program goal(s) (anticipated outcome) and related activities necessary to accomplish the goal(s) within available or planned resources and within a specific time frame (preferably the current fiscal year).

To measure the degree to which goals are met, each agreement must include a mechanism to monitor in-process activities (outputs) and contain a means of conducting a final evaluation (outcome). Resulting benefits (ultimate outcomes), or lack thereof, should be fully described along with relevant and appropriate recommendations.

Examples of goals and activities for "Partnership Agreements":

- Increase consumer protection
- Eliminate duplication
- Expand technology transfer
- Expand training opportunities
- Improve communications
- Develop joint training courses
- Establish shared databases
- Improve efficiency-cost savings
- Improve consistency of enforcement activities
- Enhance information sharing, exchange, and dissemination
- Increase levels of industry compliance
- Assure emergency response capabilities

- Increase staff proficiency (USDA/state)
- Empower cooperating organizations
- Increase in program productivity/coverage

17.3 HOW TO DEVELOP A "PARTNERSHIP AGREEMENT"

Following are specific process steps which should be taken to develop “Partnership Agreements” along with a recommended format for the written document which constitutes the particular agreement made. Annual renewal is recommended for longer term initiatives.

1. Establish policies of partnership.
2. Obtain field/regional management and staff understanding and commitment to the partnership concept.
3. Establish a mutually agreeable policy of cooperation with partner agencies.

- Indicate USDA support from field/regional management.
- Solicit cooperating agency agreement.
- Establish agreement with face to face meetings between top management of respective agencies (i.e., state/local, department or agency directors, commissioners, secretaries).

4. Identify program areas for partnership.
5. Local management teams of cooperating agencies meet to identify mutual program priorities for partnership consideration.
6. Mechanism is established for regular interaction between cooperating agencies.
7. Specific USDA and cooperating agency contacts (either groups or individuals) are identified for project coordination and management purposes.
8. Assurances are developed that statutory authorities are available to accomplish agreement goals.
9. Formalize each "Partnership Agreement."
10. Statement of agreement to establish partnership.
11. Agreement on purpose, goals and time frame.

12. Identify specific program area(s) for partnering along with appropriate priorities, contacts, and statutory authority.

13. List responsibilities. For each partner, list anticipated output activities.

USDA (be specific) such as:

- Supply Training.
- Supply Equipment.
- Supply and share Information.
- Conduct Inspections.
- Evaluate Inspections.
- Analyze Samples.
- Evaluate Work Results.

Cooperating party (be specific) such as:

- Supply Training.
- Supply Equipment.
- Supply and share Information.
- Conduct Inspections.
- Evaluate Inspections.
- Analyze Samples.
- Evaluate Work Results.

5. Identify resources needed to be used to accomplish goals such as:

- Personnel
- Money
- Time
- Equipment

- Training

6. Establish performance measurements. Each agreement will have two types of measurements:

a. Outputs (number of activities)

For Example:

Number of inspections vs. planned.

Number of samples analyzed vs. planned.

Number of people trained.

b. Outcomes (consequences of outputs)

For Example:

Increase Compliance level (% or other).

Decrease in violations identified.

Increase in Voluntary compliance.

Decrease in Average cost of activity.

Increase in Quality & Quantity of goods in commerce.

1. Evaluation of agreement results.

2. Interim (in-process) monitoring.

- Frequency/milestones at which progress is measured.
- Purpose of interim assessments.
- Who is responsible?
- Assessment of extent of progress on output and outcome measurements.
- Conduct a face to face discussion with partner agency coordinators.
- In-process adjustment identified (as needed) and implemented.

2. Final evaluation.

- Done at completion.

- Performed jointly by partners.
- Assess degree to which goals were met (outputs vs. outcomes).

EXAMPLE:

- Rate of inspection accomplishment.
- Number of volatile goods removed from commerce
- Resources saved by work activity.
- Was increased level of coverage of industry achieved?

3. Conclusions and Recommendations.

   Review of activities and accomplishments. Were goals met? Provides for a final report including discussion of results of partnering efforts along with recommendations for follow-up action if warranted. Follow-up recommendations--continue/modify/eliminate.

1. Signatures of Responsible Parties.

17.4 FORMAT OF "PARTNERSHIP AGREEMENT"

1. Statement of agreement to establish partnership.
2. Partnership purpose and goals.
3. Identify specific time frames-beginning-ending periods.
4. List anticipated outcomes.
5. Program area and activities.
6. Identification of program area and priority.
7. Cooperating agency contacts.
8. Affirmation that there is a statutory basis for partnership activity.
9. Responsibilities.

10. Anticipated output activities of partners.
11. Identify USDA responsibilities.
12. Identify cooperating agency responsibilities.
13. Resources planned to carry out partnership.
14. Performance Measures/Evaluation.
15. Based on anticipated output activities and anticipated outcomes.
16. Interim (time frames).
17. Final (time frames).
18. Conclusions and Recommendations.
19. Were goals met?
20. Follow-up recommendations.
21. Signatures of responsible parties.

17.5 "PARTNERSHIP" EVALUATION

1. TYPE:_____ Partnership Agreement _____Partnership Activity
2. [USDA] REGION/DISTRICT: _____
3. STATE/OTHER PARTNER: _____
4. PARTNERSHIP SUMMARY: _____
5. INCLUSIVE DATES: _____ TO _____
6. RESOURCES: _____
7. OUTPUTS:
8. OUTCOMES:
9. EVALUATION OF PARTNERSHIP AGREEMENT:_____ ANNUAL _____ FINAL
10. RENEW PARTNERSHIP: _____ YES _____ NO

11. NEW DATES: _____ TO _____

12. SIGNATURE: _____ DATE: _____
Please type name and sign