



Unveiling of Senate Climate-Change Bill Scheduled for Mid-April

...Majority Leader Reid Considers Merging with Bipartisan Energy Bill...

The three senators who have been meeting for several months to develop a new approach to climate-change legislation plan to unveil their bill during the third week of April.

Senate Majority Leader Harry Reid, D-Nev., met March 24 with the principal drafter of the bill – Sen. John Kerry, D-Mass. – and Sen. Jeff Bingaman, D-N.M., chairman of the Senate Energy and Natural Resources Committee, to discuss strategies on potentially merging the climate-change legislation into a bipartisan energy bill passed on June 19, 2009 by Bingaman's committee by a 15-8 vote. A spokesman for Reid said using the energy bill as a vehicle for advancing climate-change legislation was one of several possible strategies being considered. Bingaman said he wants the energy bill acted upon this year, either in combination with a climate-change bill or on its own.

Given that the Senate likely will turn its attention to financial regulatory reform legislation once reconvening in April, it

appears that the earliest that climate and/or energy legislation could be considered would be June or July. It also will take an estimated six weeks for the Environmental Protection Agency and Congressional Budget Office to review the bill to assess its environmental and economic impacts.

Kerry and the two other senators with whom he's been working – Lindsay Graham, R-S.C., and Joe Lieberman, I-Conn. – on March 17 provided a framework of the pending climate-change legislation. The eight-page outline includes the following elements:

- ◆ Establishing an economy-wide cap on carbon emissions that would begin in 2012, with a target of reducing carbon emissions by 17 percent by 2020 and 80 percent by 2050. There would be a single federal system for capping emissions, preempting separate state limits.

(Continued on page 2)

FDA to Sample Grain, Grain Products for Vomitoxin

The NGFA has learned that the U.S. Food and Drug Administration (FDA) is scheduled to finalize a plan as early as March 26 under which it will sample grain and grain products – starting as early as the week of March 29 – for the presence of the mycotoxin deoxynivalenol (vomitoxin).

The plan is designed to provide FDA with better information about the potential prevalence in suspected geographical areas of vomitoxin in raw wheat, corn, barley and oats, as well as milled co-products, intended for both human and animal feed. The agency's plan will call for collecting approximately 200 total samples, equally split between:

- ◆ human-grade milled wheat products (flour, germ and bran); and
- ◆ feed-grade products, which will include samples of raw corn, wheat, barley and oats, as well as corn and wheat co-products.

FDA anticipates that it will complete testing of the samples by July.

The sampling of grains and grain co-products is in response to weather conditions that occurred in several parts of the country during the 2009 crop-growing season, which were cooler and wetter than normal. Such conditions are conducive to the development of the *Fusarium* fungi that produce vomitoxin, as well as such other mycotoxins as zearalenone and T-2.

It is the NGFA's understanding that FDA's sampling plan, which will be distributed to the agency's district offices for execution once finalized, will be focused on the following 14 states in which such conditions were present in varying degrees: **Kansas, Kentucky, Illinois, Indiana, Maryland, Michigan, Minnesota, Missouri, New York, North Carolina, Ohio, Pennsylvania, Tennessee and Virginia.**

Under the regulatory framework adopted by FDA, the agency issued its most recent **advisory levels** for vomitoxin in September 1993. FDA advisory levels provide guidance to the industry concerning levels of a substance present in food or feed that are believed by the agency to provide an adequate margin of safety

(Continued on page 4)



("Climate-Change Bill" continued from page 1)

- ▶ Exempting from regulation any entity that emits 25,000 tons or less of carbon annually.
- ▶ Establishing separate caps on carbon emissions by electric utilities and manufacturing sectors, which would be required to purchase pollution permits from the federal government.
- ▶ Creating separate sections in the legislation devoted to oil refining, farming, coal, clean energy innovation, and increasing production of nuclear energy and natural gas drilling.
- ▶ Applying a "carbon tariff" to imports from other countries that do not regulate carbon emissions.
- ▶ Creating a combination of a "cap-and-trade" and "cap-and-dividend" approach for regulated industry sectors. The "cap-and-dividend" approach would return revenue from the sale of carbon permits directly to consumers. Kerry said on March 25 that he was inclined to move away from a cap-and-trade approach and toward more of an emissions "reduction and refund" approach.
- ▶ Setting a "hard collar" on the price of emission permits at no less than \$10 per ton of carbon emitted and no more than \$30 per ton. The federal government would maintain a "strategic reserve" of 4 billion credits that would be released onto the market if the carbon price exceeded \$30 per ton. The price would be indexed to inflation rates and would increase over time.
- ▶ Creating a straight fee or tax on transportation fuels, paid by consumers at the pump, linked to the carbon content of the fuel and the price of carbon in other markets.
- ▶ Providing direct rebates to consumers of half the revenue from the sale of pollution permits.
- ▶ Delaying until 2016 the start of a phase-in of carbon caps on manufacturers.

Senate Banking Committee Approves Sweeping Regulatory Reform Bill

...Senate Ag Committee to Release 'Discussion Draft' in April...

The Senate Banking Committee on March 22 approved on a party-line vote legislation authored by committee Chairman Sen. Christopher Dodd, D-Conn., that would make major changes to the structure of the U.S. financial regulatory system.

The bill, originally conceived by Dodd as a bipartisan effort involving negotiations with key committee Republicans, garnered support only from the 13 committee Democrats. The Senate Republican leadership made a strategic decision not to attempt to amend the bill in committee; rather, the Republicans will propose substantive changes when the bill is considered by the full Senate, which could begin in mid-April.

Meanwhile, staff members of the Senate Agriculture Committee have been working on a "discussion draft" of financial regulatory reform legislation addressing issues under that committee's jurisdiction. Chief among issues expected to be addressed in the Senate Agriculture Committee draft are regulatory treatment of swap transactions, including agricultural swaps. While details are not public yet, the discussion draft also likely will address an insider-trading proposal from the Commodity Futures Trading Commission (CFTC) of concern to the NGFA (see March 11 edition of the [NGFA Newsletter](#)).

The CFTC-proposed legislative language would amend the Commodity Exchange Act to prohibit insider trading in futures markets based upon misappropriated government information. The proposal would prohibit U.S. Depart-

ment of Agriculture employees from trading on information obtained as a result of their position – for example, crop report information – and would ban other individuals who receive such information from trading on it before it is made public. While in agreement with its basic intent, the NGFA has expressed concerns about vague and overly broad language in the CFTC proposal that would make it unlawful... *"for any person knowingly to acquire, by any means whatsoever, governmental information which may affect or tend to affect the price of any commodity in interstate commerce, or for future delivery, and which information has not been made public, and to use such information, or to impart such information with intent to assist another person, directly or indirectly, to use such information to enter into, or offer to enter into, a contract of sale of a commodity for future delivery (or option on such a contract), or an option (other than an option executed or traded on a national securities exchange registered pursuant to section 6(a) of the Securities Exchange Act of 1934)."*

The NGFA met with CFTC staff members on March 19 to discuss the proposal and to express concerns about potential unintended consequences of the CFTC-proposed language. CFTC staff members have expressed a willingness to work with the industry on revisions to the proposal to clarify its intent and application. A six-person working group drawn from the NGFA Risk Management Committee will be evaluating the proposal and suggesting alternatives.

(Continued on page 3)



Meanwhile, Senate Agriculture Committee staff members have told the NGFA that their discussion draft bill will be released for review and comment in April. Committee action will be scheduled thereafter, with the Agriculture and Banking Committee’s bills later melded at the Senate leadership level.

Senate Majority Leader Reid has set an ambitious goal of passing the financial regulatory reform legislation before Congress adjourns for its Memorial Day recess. Dodd and House Financial Services Committee Chairman Rep. Barney Frank, D-Mass., said they plan to meet prior to that to begin working out differences between the Senate bill and the version (H.R. 4173) passed by the House in December. Dodd and Frank met with President Obama on March 24 to devise a plan for completing the measure within the next few months.

Key provisions of the legislation adopted by the Senate Banking Committee include the following:

- ▶ **Create a New Consumer Financial Protection Bureau within Federal Reserve:** Though housed at the Fed, the new entity would have independent leadership and a dedicated budget to provide some autonomy to write rules for consumer protection governing all entities offering consumer financial services or products. But this is one of the fundamental differences from the House-passed bill, which would establish an independent agency to oversee consumer financial product; Frank has rejected the Federal Reserve as a home for such an agency.
- ▶ **Create a new Financial Stability Oversight Council:** This body would focus on identifying, monitoring and addressing systemic risks posed by large, complex financial firms, products and activities. The nine-member council would be comprised of representatives of federal financial regulators and chaired by the Secretary of the Treasury.
- ▶ **Setting Limits to Prevent “Too-Big-to-Fail” Institutions:**

The bill would impose various new oversight requirements, reporting and fees, and contains provisions for orderly shutdown and liquidation of failing financial firms that may pose systemic risks.

- ▶ **Changes to Bank Regulation:** The bill seeks to clarify regulatory responsibility for various types and sizes of state and federal banks, as well as other financial firms.
- ▶ **Regulatory Treatment of Over-the-Counter Derivatives:** The bill would require exchange-clearing of derivatives that can be cleared, with the CFTC and the Securities and Exchange Commission (SEC) authorized to determine which derivatives should be cleared. The Senate bill also would require the CFTC and SEC to pre-approve contracts before clearing-houses could clear them. Uncleared derivatives trades would become subject to capital requirements and margining. The regulatory treatment of over-the-counter derivatives is another difference between the Senate and House bills, with the House opting to exempt from having to trade through a central clearinghouse corporate “end users” – those who use such transactions to hedge business risk, as opposed to “speculation for profit.”
- ▶ **Stricter Regulation of Hedge Funds:** Hedge funds managing more than \$100 million in assets would be required to register with the SEC as investment advisers and to disclose financial data to the SEC for the purpose of monitoring systemic risk and protecting investors.
- ▶ **Executive Compensation and Corporate Governance:** The bill seeks to give shareholders a greater voice by requiring the right to a non-binding vote on executive pay. In addition, the SEC would be given authority to grant shareholders proxy access to nominate directors and to require a majority vote for approval of directors in uncontested elections.

Senate Ag Committee Taps EQIP Funds to Pay for Child Nutrition Bill

The Senate Agriculture Committee on March 24 approved legislation revamping child nutrition programs, funding a \$4.5 billion increase over the next 10 years in part by cutting \$2.2 billion over that same time span from the popular Environmental Quality Incentives Program (EQIP).

In so doing, the committee narrowly rejected, by a 10-11 vote, an amendment sponsored by ranking member Saxby Chambliss, R-Ga., that would have paid for the increase in child nutrition programs by instead cutting funds from the Conservation Stewardship Program (CSP). Sen. Ben Nelson, D-Neb., joined all Senate Agriculture Committee Republicans in voting in favor of

the Chambliss amendment. Chambliss argued that the CSP generates far fewer applicants than EQIP. But the CSP’s congressional champion, former Senate Agriculture Committee Chairman Tom Harkin, D-Iowa, said cutting funding for that program would disrupt a carefully negotiated compromise that was included in the 2008 farm law. “This is not the appropriate time or place to do that,” Harkin contended. Chambliss said he would continue to press the issue when the bill comes to the Senate floor.

Under EQIP, the U.S. Department of Agriculture (USDA)
(Continued on page 4)



On Capitol Hill

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("Child Nutrition Bill" continued from page 3)

provides financial cost-share and technical assistance for implementation of conservation by livestock and agricultural producers, and has focused particularly on water quality protection. The 2008 farm law authorized EQIP spending of \$1.2 billion in fiscal year 2008, \$1.337 billion for fiscal 2009, \$1.45 billion for fiscal 2010, \$1.588 billion for fiscal 2011 and \$1.75 billion for fiscal 2012.

One of the concerns expressed during the Senate Agriculture Committee debate was that the funding cut would reduce the baseline amount for conservation programs in the next farm law. The 2008 farm law also added to EQIP's objectives forest management and energy conservation, as well as practices related to organic agricultural production and fuel management. The program's priorities also were refocused to water conservation and irrigation

efficiency applications that reduce water use or where producers agree not to use associated water savings to bring new land under irrigated production. The 2008 farm law also reduced the payment limit to \$300,000 per person or legal entity over a six-year period.

Under the CSP, USDA provides financial and technical assistance to eligible producers to conserve soil, water, air and related natural resources on working farmlands, including cropland, grassland, prairies, rangeland and private agricultural land, including nonindustrial forest land. Targeted lands are identified in consultation with states. Funding is provided for installing new conservation practices and for maintaining existing ones through five-year contracts, with a per-person or per-legal entity limit of \$40,000 in a single year and \$200,000 for five years.



Feed Facts

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("Vomitoxin" continued from page 1)

to protect human and animal health. While FDA reserves the right to take regulatory enforcement action – including seizure of the product – on a case-by-case basis (particularly in egregious situations), enforcement is not the primary purpose of an advisory level.

Importantly, the NGFA is aware that the agency has begun a review of scientific studies on the health risk posed by vomitoxin to various animal species, particularly ruminants and poultry, to determine if somewhat higher levels may be fed safely. Based upon its review of such scientific data, the agency will determine whether it is appropriate to revise the current advisory levels. The NGFA is communicating closely with the agency during its review.

FDA's current advisory levels for vomitoxin are indicated in the following table.

FDA's Current Advisory Levels for Vomitoxin	
Product and Intended Use	Vomitoxin Level (parts per million)
Human food products	1 p.p.m.
For grain and grain byproducts destined for swine. (FDA advises that commodities containing this level of vomitoxin not exceed 20 percent of the ration.)	5 p.p.m.
For grain and grain byproducts destined for beef cattle and feedlot cattle older than four months, as well as for chickens. (FDA recommends that commodities containing this level of vomitoxin not exceed 50 percent of the ration for these species.)	10 p.p.m.
For grain and grain byproducts destined for all other animal species. (FDA recommends that commodities containing this level of vomitoxin not exceed 40 percent of the ration.)	5 p.p.m.





FDA to Request Comments on Modifications, Improvements to Veterinary Feed Directive

The U.S. Food and Drug Administration (FDA) on March 29 is scheduled to publish a notice in the *Federal Register* requesting public comments on potential modifications and improvements to its Veterinary Feed Directive (VFD), which currently is intended for animal drugs approved for restricted use by the agency solely under the professional supervision of a licensed veterinarian where a valid veterinarian-client-patient relationship exists.

The VFD concept for restricted feed-use drugs was authorized by Congress in 1996 when passing the Animal Drug Availability Act. Prior to that, the only two options that existed for dispensing animal drugs were over-the-counter and prescription. The VFD is a written statement issued by a licensed veterinarian in the course of the veterinarian's professional practice that orders the use of a VFD drug in or on an animal feed. The veterinarian's written statement authorizes the recipient client to obtain and use the VFD drug to treat the client's animals, but only in accordance with the directions for use approved or indexed by FDA. Two drugs have been approved by FDA under the VFD concept: 1) tilmicosin for use in controlling swine respiratory diseases; and 2) florfenicol for use in controlling swine respiratory disease, certain bacterial diseases in aquaculture and mortality in catfish attributable to columnaris disease.

VFD drugs are Class II animal drugs requiring that feed mills mixing them be licensed to manufacture Type B or C medicated feed from a VFD drug Type A medicated article. Currently, before mixing feeds containing such drugs, feed mills are required to receive from a licensed veterinarian a paper, fax or electronic (including by email and Internet) version of the VFD. But for fax and electronic copies, FDA requires that the feed mill receive the original signed VFD within five working days from the issuing veterinarian, unless such VFDs are electronically generated, transmitted and stored in accordance with the agency's onerous 21 CFR Part 11 regulations that govern official electronic communications. No telephonic VFD orders are permitted.

FDA's Request for Comments: In its advance notice of proposed rulemaking, a pre-publication copy of which was obtained by the NGFA on March 26, the agency said it is undertaking a review of current VFD regulations "to determine whether changes are warranted" after having received "a number of informal general comments that characterize the current VFD process as being

overly burdensome." In addition, FDA states, concerns have been raised that the VFD "process in its current form will become particularly problematic to administer in the future as the number of approved VFD animal drugs increases."

There also has been some discussion within certain sectors of the animal agriculture industry and FDA about whether, and to what extent, the VFD process or a variation thereof could be adapted to apply to a broader array of antimicrobial animal drug products currently authorized for use at subtherapeutic levels – this in response to FDA's desire to enhance veterinary oversight of such products in food-producing animals based upon concerns over the development of resistance to such antibiotics also used to treat human diseases.

Specifically, the agency is requesting comments on: 1) conditions that veterinarians are required to meet when issuing a VFD; 2) current requirements on what veterinarians must do with VFDs (e.g., disposition of the original VFD and copies thereof); 3) VFD records required to be maintained; 4) requirements for notifying distributors of animal feeds (e.g., commercial feed manufacturers) containing a VFD drug; 5) additional recordkeeping requirements that apply to distributors; 6) caution statements required for VFD drugs and animal feeds containing them; and 7) other areas of concern.

Comments on the proposed rule are due **June 28**. The NGFA's Feed Legislative and Regulatory Affairs Committee will be reviewing the FDA proposal and providing comments to the agency.



Calendar

- Sept. 7-9, 2010:** NGFA Board of Directors
Chicago Marriott Magnificent Mile, Chicago, Ill.
- Sept. 22, 2010:** NGFA Feed Legislative and Regulatory Affairs Committee; Feed Manufacturing and Technology Committee; Feed and Animal Agriculture Strategic Issues Committee
Chicago Marriott Magnificent Mile, Chicago, Ill.
- Sept. 22-24, 2010:** NGFA-PFI Feed/Pet Food Joint Industries Conference
Chicago Marriott Magnificent Mile, Chicago, Ill.
- Dec. 5-7, 2010:** NGFA Country Elevator Conference & Trade Show
Marriott Indianapolis, Indianapolis, Ind.





EPA Provides Sample Form for Use by Feed, Ingredient Manufacturers to Notify Agency About Use of Chromium, Manganese Compounds

The Environmental Protection Agency (EPA) recently made available a sample form that may be used by feed and feed ingredient manufacturers to comply with the initial notification requirement mandated by the agency's regulations governing emissions of chromium and manganese compounds.

As reported in the Jan. 14 edition of the *NGFA Plant Operations Bulletin*, EPA on Jan. 5 issued final regulations under the Clean Air Act pertaining to potential emissions of chromium and manganese compounds from feed and feed ingredient manufacturers (excluding pet food manufacturers and facilities manufacturing feed on-farm or at feedlots). The regulations apply to facilities classified with a North American Industry Classification System (NAICS) code of 311119 (facilities "primarily engaged in manufacturing animal feed"), provided: 1) such facilities use a material containing 0.1 percent or more of chromium or 1 percent or more of manganese by weight; and 2) production of animal feed represents more than 50 percent of total annual production at the facility.

EPA's final regulations require that covered facilities comply with specified standards, monitoring and inspection requirements to minimize the potential for chromium and manganese emissions. The final rule also contains the following notification and compliance dates:

- ▶ **May 5, 2010:** Facilities are required to provide **initial notification** to EPA that they use materials containing chromium and/or manganese at levels equal to or exceeding the threshold level, and hence are subject to the regulations.
- ▶ **January 5, 2012:** Facilities covered by the rule are to be in compliance with all applicable regulations by no later than this date.

▶ **May 4, 2012:** Existing facilities are required to submit a "notification of compliance status" to EPA on or before this date. Newly constructed facilities subject to the regulations are to submit such notification within 120 days of initial startup, or by May 4, 2012, whichever is later.

▶ **Annual Compliance Certification:** After providing the initial notification of compliance status, covered facilities are required every March 1 thereafter to submit to EPA annual compliance-certification reports for the previous calendar year.

Covered facilities may use the recently issued EPA sample form to comply with the initial notification that is to be provided to the agency by May 5. Regarding the sample form, EPA advises: "There is no specific template required for the initial notification. In the initial notification, the owner/operator simply needs to provide the information specified in the rule to their EPA Regional Office. States where the rule has been delegated (by EPA), the initial notification needs to go to the EPA Regional Office and the delegated state or delegated local permitting authority. You may submit the information required in another format. It is highly recommended that you talk with your permitting authority before using any of these examples as potential templates."

Members receiving the *NGFA Newsletter* electronically may access the EPA sample initial notification form by [clicking here](#). Members also may access a comprehensive report on this issue published in the Jan. 14 edition of *NGFA Plant Operations Bulletin* by [clicking here](#). Questions about the sample form or the requirements of EPA's final rule, may be directed to NGFA Director of Feed Services David Fairfield at 712-243-4035, or by email at dfairfield@ngfa.org.

NGFA Feed Quality Education Training On-Line!

The NGFA reminds members that its Feed Quality Assurance Distance Learning/Education Courses are available to assist companies in meeting their employee training and educational needs.

The courses are based upon the NGFA's first-of-its-kind Model Feed Quality Assurance Program, which since 1994 has served as a resource on how to develop, implement and enhance feed quality assurance practices at hundreds of feed mills nationwide.

The NGFA now offers the contents of this up-to-date, comprehensive program in a new web-based distance-learning format. The six-course program is designed for use by feed mill managers in training existing and new mill operators, as well as other personnel (such as administrative and sales

staff), on feed safety regulatory requirements and feed quality assurance practices.

The six program courses – each approximately 45 minutes long – address the following topics: 1) FDA's current good manufacturing practice (CGMP) regulations; 2) purchasing and receiving of grains and feed ingredients; 3) feed manufacturing (grinding, mixing and packaging); 4) feed pelleting operations; 5) finished feed control, product complaints, investigations and recalls; and 6) hazard analysis and critical control point (HACCP) plans.

Members receiving the *NGFA Newsletter* electronically may [click here](#) to access pricing and additional information about the courses. NGFA Director of Feed Services David Fairfield is pleased to respond to questions on the course content and how to enroll. Contact him at dfairfield@ngfa.org, or at 712-243-4035.



NGFA, OSHA to Meet on Safe Operation of Sweep Augers in Bins

The NGFA is scheduled to meet by mid-April with officials of the Occupational Safety and Health Administration (OSHA) to discuss further the agency's "letter of interpretation" that established a new policy for operating sweep augers inside grain bins.

During the meeting, the NGFA intends to seek clarification from OSHA on what constitutes "guarded" and "unguarded" sweep augers, as well as to discuss administrative procedures used by the industry to facilitate the safety of employees working inside bins. The meeting is likely to occur during the weeks of either April 5 or April 12.

The issue was precipitated by the letter of interpretation issued by OSHA on Dec. 24 in response to questions posed by an insurance company representative who had asked: 1) if a sweep auger can be operated in a bin with an employee present; and 2) if not, what method or procedure OSHA would find acceptable for removing grain from flat-bottom grain bins. Other than a provision in the OSHA grain handling safety standard (1910.272) that addresses whether an employee may enter a bin when machines are operating, OSHA does not have a formal policy addressing the operation of sweep augers.

In its letter of interpretation, the agency stated flatly that an **employee cannot work inside a bin while an unguarded sweep auger is in operation**. But the agency did not offer any other type of procedure to remove grain from a bin if an unguarded auger cannot be used. Nor did it define what is meant by guarded or unguarded.

On Feb. 22, the NGFA submitted a letter to OSHA urging the agency to **immediately withdraw and reconsider** its Dec. 24 "letter of interpretation." In the letter, the NGFA requested that OSHA meet to further discuss the issue. The statement, whose concepts were developed during a February meeting of the NGFA's Safety, Health and Environmental Quality Committee, particularly focused on the increased safety risks and the adverse economic and grain quality impacts that OSHA's new policy would have on the industry.

Please contact NGFA Director of Regulatory Affairs Jess McCluer at 202-289-0873, extension 23 or at jmclcluer@ngfa.org if you need further information or if federal or state occupational safety and health inspectors visit your facility and reference non-compliance with the letter of interpretation as a possible citation. The NGFA will provide a report on the outcomes of the planned April meeting with OSHA.

EPA Announces New Approach to Regulating Drinking Water

...Cites Four Contaminants, Including TCE, for Regulatory Action

The U.S. Environmental Protection Agency (EPA) this week outlined a new approach for addressing potential contaminants in drinking water and announced it will propose later this year new regulations to control four "carcinogenic" compounds, including trichloroethylene (TCE).

EPA Administrator Lisa Jackson made the announcements in a March 22 speech to the Association of Metropolitan Water Agencies.

EPA's new approach to regulating drinking water will address potential contaminants in groups, rather than individually, in an effort to expedite action on more compounds and ostensibly to improve the cost-effectiveness of such regulation by applying technical treatment technologies to classes of similar contaminants. The agency also said its new approach will focus on the following elements:

▶ Fostering development of new drinking water technologies to address health risks posed by a broad array of contaminants.

This effort will involve collaboration with universities, technology developers and the private sector to develop water- and energy-efficient treatment technologies, as well as field demonstration projects of large- and small water-treatment systems.

▶ Using multiple laws to protect drinking water, including the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) and Toxic Substance Control Act (TSCA). EPA said it would "tighten" FIFRA pesticide registration requirements when occurrence data approaches or exceeds levels of concern, and would use the FIFRA registration process to develop risk assessments, generate "missing" data and develop analytical methods to support development of drinking water regulations.

▶ Partnering with states to share information, data exchange, and analytical tools to target public health issues, compliance assistance and enforcement. The agency said it also plans to

(Continued on page 8)



implement interactive communication tools to enable states, drinking water systems and consumers to “learn more about their drinking water and obtain timely information about the quality of drinking water and performance of drinking water systems.”

Regulating Four Additional Contaminants: At the same time, EPA announced plans to propose regulations later this year to further consider additional controls of TCEs and three other “carcinogenic” compounds: acrylamide, epichlorohydrin and tetrachloroethylene (PCE). TCEs and PCEs are used in industrial and/or textile processing operations, which the agency said can be introduced into drinking water from contaminated ground or surface water. Acrylamide and epichlorohydrin are impurities that can enter drinking water during the water-treatment process. EPA noted the planned actions were the result of its latest review, mandated under the Safe Drinking Water Act, that requires the agency to review each national primary drinking water regulation at least once every six years and revise them, if appropriate.

EPA said its latest review involved 71 such regulations, 67 of which were found still to be appropriate and not in need of

revision. Another 14 drinking water regulations applying to different contaminants also were reviewed – including DBPs, lead and copper and microbials – but EPA said they did not warrant a detailed reexamination because of recent or current regulatory action.

But the four compounds identified for potential action were cited as ones for which EPA believes new scientific advances exist to allow for stricter regulation. Based upon an advance copy of a *Federal Register* notice scheduled to be published next week, EPA will focus first on TCEs and PCEs, with revisions of the epichlorohydrin and acrylamide standards to be proposed later. EPA’s proposal for TCEs and PCEs focuses on whether to lower maximum contaminant levels in drinking water based primarily upon two factors: 1) analytical technologies that now are capable of detecting lower limits; and 2) water treatment plants that now utilize technologies that can achieve lower maximum contaminant levels. According to the notice, EPA has not determined yet if such a change would improve public health; but since these chemicals are classified as potential carcinogens, the agency believes lower limits have the potential to do so.

NGFA Reminds Industry About Safe Bin Entry Procedures

...Education, Training Materials Available!...

Given the condition in which the 2009 crop was harvested and stored, the need for employees to enter grain bins may be more frequent during 2010.

But the recent uptick in the number of fatalities and injuries sustained at both commercial and on-farm storage facilities attributable to engulfment incidents has reinforced the importance of adhering to safe operating procedures and providing required education and training to employees.

In addition, the Occupational Safety and Health Administration (OSHA) on Oct. 14 issued a national press release “reminding” employers of existing standards governing entry into confined spaces in the aftermath of employees who died in engulfment incidents, such as those involving loading, emptying and cleaning of grain storage bins. The agency noted at that time that suffocations and falls represent the leading cause of death at grain-handling facilities.

This article reminds employers about common entrapment hazards, applicable OSHA regulations, and NGFA education and training materials that managers and supervisors can use to help prevent such incidents.

Flowing grain and feed is a life-threatening hazard for commercial grain, feed and processing facilities that can occur in both confined and non-confined spaces. Statistics show that 92 percent of victims who are fully engulfed do not survive. Confined space entrapment hazards usually take three forms:

- ▶ **Unloading:** Individuals may be pulled into the flow of grain during unloading of grain storage structures.
- ▶ **Avalanche:** Occurs when a mass of grain held in position by crusting breaks free and seeks its lowest level.
- ▶ **Bridging:** Forms when grain or other product is drawn off from beneath a top layer of compacted or crusted grain.

Applicable OSHA Regulations: OSHA’s grain-handling standard includes provisions that took effect March 30, 1988 that pertain to entry into bins, silos and tanks.

The OSHA standard includes requirements for employers to:

- ▶ issue written permits before entry occurs, unless the employer or its representative is present during the entire operation;
- ▶ disconnect, lock-out and tag all mechanical, electrical, hydraulic and pneumatic equipment feeding or emptying the structure

(Continued on page 9)





that presents a danger to persons while inside bins, silos or tanks;

- ▶ test the atmosphere within a bin, silo or tank for the presence of combustible gases, vapors and toxic agents if the employer has reason to believe such hazards may be present. Testing for the presence of oxygen also is required unless there is continuous natural air movement or forced air ventilation before and during the time that persons are inside the structure. Respirators are to be provided if ventilation cannot eliminate toxicity or oxygen deficiencies;
- ▶ equip persons entering bins, silos or tanks from the top with body harnesses with lifelines, or a boatswain's chair meeting OSHA requirements; and
- ▶ station an observer "equipped to provide assistance" and trained in rescue procedures outside the structure during entry operations. Employers also are required to provide equipment for rescue operations.

Training Materials Available from NGFA: To provide education

and training on this important safety matter, Purdue University under a contract with the National Grain and Feed Foundation in May 1998 produced the "*Don't Go With the Flow*" engulfment-prevention training program.

The program reviews the hazards associated with flowing grain and the most common types of grain entrapments at commercial facilities. In addition the program provides information on effective procedures for rescuing partially and fully entrapped workers from various locations, including from the base of a silo, top of a silo and flat storage structures.

The training package is available at a cost of \$65 for members and \$95 for non-members, with reduced pricing for larger-quantity orders. It includes a 28-minute video on CD; written lesson plan; pre- and post-video test to administer to employees; warning poster; and engulfment fact sheet. To order, use the order form on the reverse side.

Questions? Contact NGFA Director of Regulatory Affairs Jess McCluer at jmcluer@ngfa.org, or at 202-289-0873, extension 23.

ORDER FORM

"Don't Go with the Flow" Safe Bin Entry Training

Name: _____

Title: _____

Company: _____

Street Address: _____

City: _____

State: _____ Zip: _____

Phone Number: _____ Fax Number: _____

Email Address: _____

Mail order form to:

National Grain and Feed Association
1250 Eye St., N.W., Suite 1003
Washington, D.C., 20005-3922

Fax order form to: (202) 289-5388

Any Questions? Call us at (202) 289-0873 or e-mail us at jmcluer@ngfa.org.

Order Information

NGFA Member Rate: \$65 each for one set
\$50 each for two to five sets
Contact NGFA for quantity discounts (six or more sets)

Nonmember Rate: \$95 each for one set
\$75 each for two to five sets
Contact NGFA for quantity discounts (six or more sets)

Quantity Desired: _____

Total Amount: \$ _____

(prices include shipping and handling)





The Onions are Coming!

...A Sweet "After-Tax" Incentive...

It has become tradition that springtime membership recruiters receive a sweet reward. And in 2010, that tradition will continue.

Thanks to the generosity of **Northwest Grain Growers Inc.**, Walla Walla, Wash., recruiters will receive a 20-pound box of Walla Walla sweet onions. To sweeten the pot, each new member also will receive a box of these delicious beauties – an enticing bonus for new-member prospects.

How to Qualify: Starting the day after tax day – April 16 – and running through May 31, each sponsor of a new NGFA member will be added to this coveted shipping list. The onion harvest is projected to occur around June 15-25, with shipment planned by July 4. Just think how tasty those Walla Wallas will be on the grill with some steaks or burgers – no better way to celebrate our nation's birthday than with Walla Walla sweet onions! Start warming up those prospects now!

Membership Recruiting 2009-10 – A Retrospective: A look back at the 2009-10 membership year (running from immediately after the March 2009 convention until the start of the 2010 convention in Maui) reveals a respectable showing:

- ▶ New Members: 70
- ▶ Non-renewals: 65

Following a historically large new-member tally during the 2008-09 membership campaign, the 2009-10 year got off to a slow start. But it rebounded nicely following the September NGFA Board of Directors meeting. Part of the slower pace likely can be attributed to a less-volatile marketplace, as the severe market gyrations of 2008 were a potent reminder of the importance of ensuring access to NGFA arbitration services to resolve contract disputes, including those with producers.

Highlights: After a lull in ethanol-sector recruiting, activity picked up again in 2009-10 as margins improved. For the year, a total of nine ethanol-sector new member companies joined the NGFA.

In addition, North Dakota was a highlight. Following several years of declining membership numbers, the state came back strongly with nine new member firms – and an overall second-place showing in the recruiting competition by **Steve Strege**, executive vice president of the North Dakota Grain Dealers Association.



National Grain and Feed Association
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TIME SENSITIVE