



NGFA

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Johanns: Future CRP Enrollment, Early Outs Depend on Corn Stocks

In remarks at an April 11 policy conference in Washington, Secretary of Agriculture Mike Johanns reiterated that the corn stocks-to-use situation will drive his decision on whether to allow penalty-free early outs from the Conservation Reserve Program (CRP) or to offer a general CRP signup in 2008.

On four occasions in a brief response to a question at the conference, Johanns said that the corn stocks situation remained "very tight" despite the March 30 U.S. Department of Agriculture Prospective Plantings report that provided preliminary indications that producers intend to plant 90.45 million acres of corn in 2007. "We need everything that was in those planting intentions, and quite honestly a little bit more; if we can get a bumper crop, that would be helpful," Johanns said, noting that no corn has been planted yet and there are indications that spring weather conditions still could influence ultimate corn planting decisions.

"I prefer to have better information" before making a decision on the CRP for 2008, Johanns added. "So, I think this is one (issue) that you just review week by week, month by

month and year by year. It's still a very tight situation out there."

The same day that USDA issued the Prospective Plantings report, Johanns announced that penalty-free early release of CRP acres would not be offered in 2007. "Today's report on plantings intentions suggests that market forces are inspiring changes that will help meet the high demand for corn," Johanns said in a March 30 statement. Given the report that producers intend to plant 90.45 million acres of corn in 2007, Johanns said USDA did not anticipate changing its decision not to allow penalty-free early outs from the CRP in 2007.

At that time, he added that USDA did not plan to conduct any general CRP signups in 2007, but said he "remained open to the possibility" of doing so in 2008. "While I believe today's report on planting intentions will help to ease concern about our corn supply, I will continue to closely monitor the situation," Johanns concluded at that time. "I will not hesitate in the future to make adjustments to USDA programs if needed to achieve a balance in the agricultural sector."

Major Mexican Grain Importer Association Expresses Alarm to Syngenta Over Commercial Release of Agrisure RW™ Biotech Corn

The major Mexican grain trade association comprised of importers of U.S. agricultural commodities has become the latest organization to express major concerns to Syngenta about its release of its new Agrisure RW™ biotechnology-enhanced corn prior to obtaining full food and feed regulatory approval in U.S. export markets, including Mexico.

APPAMEX, which represents the multinational trading companies that import more than 90 percent of Mexico's grains, oilseeds and ingredients for food and feed, warned that Syngenta's commercialization of Agrisure RW corn would pose a huge risk to the entire supply chain in Mexico, likely exceeding the impact associated with any biotech-related trade disruption to date.

"If the commercialization process continues, this (MIR604 biotech protein) event will be present in imports coming from the current or following crop season..., and therefore will be introduced irreversibly in...domestic and foreign supply chains," APPAMEX wrote. If enforcement actions against the product are taken, APPAMEX continued, it would result in "unpredictable costs" involving shipment and product detentions and rejections.

As reported in the March 23 *NGFA E-Alert* and the March 29 *NGFA Newsletter*, the U.S. Department of Agriculture's Animal and Plant Health Inspection Service (APHIS) deregulated MIR604, effective March 16, after finding no adverse plant health or environmental concerns with the product.

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Syngenta at that time maintained that it was "taking every possible step to obtain all (Japanese) approvals" before the U.S. harvest begins.

But APPAMEX noted that Syngenta evidently has not submitted the necessary documentation to the Mexican government's Health Ministry to enable it to perform the food safety risk assessment required under Mexican law. APPAMEX noted that the Mexican government's approval process normally takes six months after all of a biotech company's documentation and information for the biotech event is found to be in order.

"We respectfully urge Syngenta to stop the commercialization of seeds for commercial crops of any genetically modified variety (in) the United States or any other originating country" unless they have been approved for import by the Mexican government, APPAMEX concluded.

Syngenta thus far has given no indication that it plans to reverse its decision to commercialize Agrisure RW corn,

asserting that maintaining its current stance "serves the interest of U.S. growers and the domestic and export grain markets" by helping meet the growing demand for U.S. corn to meet global food, feed and fuel needs. Instead, the company has expressed confidence that what it termed its "a comprehensive grower communication and commitment program" will ensure that grain produced from Agrisure RW hybrids will be directed successfully to domestic uses and away from export market channels. The company has admonished the grain industry and producers that "[w]hen appropriate action is taken at the grower and the grain trader level, both customer needs can be met."

Japan Food Safety Agency to Meet April 16: In a related development, Japan's Food Safety Agency is scheduled to meet April 16 as a step in the process that could lead to approval for food containing Syngenta's Agrisure RW biotech corn trait. There may be an indication after this meeting of the Japanese agency on the Agrisure trait on how long the approval process may take.

U.S.-Korea Free Trade Agreement Faces Uncertain Future in Congress

The bilateral free trade agreement reached April 2 between the United States and South Korea faces an uncertain future in Congress.

For starters, the Bush administration has said the trade accord will not be submitted to Congress for ratification until South Korea reopens its market to U.S. beef in conformance with World Animal Health Organization (OIE) guidelines for trade. South Korean Agriculture Minister Park Hong-soo was quoted in the Korean media as saying that the country planned to renegotiate the terms of import guidelines for U.S. beef in June, once OIE approves the reclassification of the United States as a "controlled-risk" region for bovine spongiform encephalopathy. While U.S. trade officials made the U.S. position on reopening science-based beef trade clear during the free trade negotiations, the matter was never intended to be encompassed under the trade accord itself.

South Korean trade negotiators subsequently indicated that once the OIE reclassification of the U.S. BSE risk occurs, it would anticipate resuming imports of U.S. beef except for specified risk materials, portions of the small intestine and tonsils, and products from cattle 30 months or older.

The other major disappointment to U.S. agriculture was South Korea's insistence that rice imports be excluded

from the accord. The USA Rice Federation responded that the exclusion of a major commodity represented a "bad precedent for all future free trade agreements" and would "encourage other potential free trade partners to expect similar treatment." The U.S. auto industry also raised concerns that the pact had not achieved their objectives to establish two-way trade.

But other agriculture commodities fared much better. Secretary of Agriculture Mike Johanns announced that nearly two-thirds of U.S. agricultural exports to South Korea – valued at an average \$1.91 billion annually – will become duty-free immediately, including wheat, corn, soybean meal, soybeans for crushing, and cotton. Immediate duty-free access within tariff-rate quotas would be provided for U.S. soybeans intended for food use. South Korea's tariffs on refined soybean oil would be eliminated over five years, while tariffs on crude soybean oil would be phased out over 10 years.

The U.S. Trade Representative's Office said most remaining tariffs and quotas would be phased out over the first 10 years after the accord is implemented. Market access for U.S. beef and pork would be subject to duty-free phase outs, which ultimately would result in unlimited duty-free access by 2014 for "most" significant U.S. pork products and within 15 years for beef. South Korea's tariff on U.S. beef currently stands at 40 percent.



Freight Rail Infrastructure Tax Credit Bill Introduced in Senate

Legislation is expected to be introduced in the Senate today (April 12) that would provide a 25 percent tax credit for qualified freight rail capacity expansion and locomotive property spending.

The bill, cosponsored by Sens. Trent Lott, R-Miss., and Kent Conrad, D-N.D., would allow taxpayers to receive a tax credit equal to 25 percent of the cost of qualified property and locomotives placed into service during the taxable year. To qualify, projects would be required to add new capacity, and not replace existing rail infrastructure. However, the bill would allow for the “replacement or expansion of bridges or tunnels to allow for additional clearance, track or other capacity enhancement.”

Under the bill, new infrastructure that would qualify for the credit would include: 1) railroad grading or tunnel boring; 2) tunnels or subways; 3) track and track material; 4) bridges, trestles, culverts and other elevated or submerged structure; 4) terminal, yards, roadway buildings, fuel stations, rail wharves and docks, “including fixtures thereto, and equipment used

exclusively therein”; 5) railroad signals and other communication systems; and 6) intermodal transfer or transload facilities, “including fixtures attached thereto, and equipment used exclusively therein.”

Eligibility for the tax credit would **not** extend to land, rolling stock or property to be used primarily outside of the United States. For the purchase or lease of locomotives to be eligible, the “total horsepower of all locomotives owned by, or leased to, the taxpayer” would be required to exceed “the total horsepower of all locomotives owned by, or leased to, the taxpayer” during the preceding taxable year.

Those projects, other than locomotives, which qualify for the tax credit also would qualify for an expensing treatment that would allow the total cost of the property to be deducted for the tax year it is placed in service.

Under the bill, the credit and expensing provisions would qualify if the new infrastructure was placed into service after Dec. 31, 2007 and before Dec. 31, 2012.



FDA Extends Comment Period on Draft Risk Assessment on Animal Cloning

The Food and Drug Administration (FDA) announced that it is extending – to May 3 – the comment deadline on its draft risk assessment, proposed risk-management plan and draft industry guidance on animal cloning.

FDA’s draft risk assessment, which was released in January, found that meat and milk from clones of adult cattle, swine and goats, and their offspring, are as safe to eat as food from conventionally bred animals. Because of limited data on sheep clones, the draft guidance recommended that they not be used for human food. FDA said the draft risk assessment was peer-reviewed by independent scientific experts in cloning and animal health, who the agency said agreed with the methods FDA used to evaluate the data and the conclusions it reached. FDA said its conclusions also are consistent with those of a National Academies of Sciences report issued in 2002.

FDA has requested that companies involved in producing clones or their offspring continue to abide by a voluntary moratorium against introducing food products from such animals into commerce until the public comment period ends and FDA has an opportunity to evaluate whether to make any changes to its risk-assessment guidance.

In conjunction with the draft risk assessment, FDA also issued the following:

- ▶ A proposed risk-management plan to address potential risks to animal health and potential uncertainties associated with feed and food derived from animal clones and their offspring. This proposal outlines measures the agency might take to address risks that cloning poses to animals involved in the cloning process. One such concept would be for the agency to work with scientific and professional societies to develop a set of care standards for animals involved in the cloning process.
- ▶ Draft guidance for industry that addresses the use of food and feed products derived from clones and their offspring. This guidance is directed at clone producers, livestock breeders and farmers and ranchers producing clones. The guidance does not recommend any special measures relating to human food use of the offspring of clones of any species. Because of the cost of clones, industry experts believe they will be used primarily as breeding animals, so that virtually all of any food derived from cloned animals will be from sexually reproduced offspring and descendants from clones, not from the clones themselves.

Members receiving the *NGFA Newsletter* electronically may obtain each of these FDA draft documents by [clicking here](#).



Surface Transportation Board Conducts Hearing on Rail Capacity

The federal Surface Transportation Board (STB) on April 11 conducted a hearing on needed expansion in U.S. rail capacity and public policies that would encourage greater rail investments.

A major focus of the hearing was on Senate legislation introduced the same day that would authorize a 25 percent investment tax credit for investment in new capacity (additional raiing, rail transfer facilities, and high-capacity locomotives; see related article on page 3). In addition, the bill would permit one-year expensing of new capacity investments.

The common theme of the five Class I carriers testifying at the STB hearing was that a tax credit would spur more investment and cause it to be done more rapidly to relieve capacity constraints on the rail system. The carriers argued against any other rail-related legislation that might be termed “re-regulation.” Matt Rose, chief executive officer of the BNSF Railway, stated that the “litmus test” for any new legislation should be “will it add to rail capacity or not?”

The STB commissioners asked rail carrier representatives what should be the “regulatory model” to best support infrastructure capacity investment. The consistent response from carriers was that regulators should operate consistently and predictably, and that “certainty of

the regulatory model” was most important to continued strong investment by carriers. Rail executives cited several examples of states or local jurisdictions making it challenging for carriers to expand capacity in areas where bottlenecks regularly occur. Several carriers argued that any kind of government action that threatened pricing freedom, and thus revenue earning capacity, also was a threat to capacity expansion.

A number of shipper organizations testifying at the hearing joined the NGFA in offering conditional support for the concept of an investment tax credit if it truly added capacity more quickly and was applicable to rail customer investments that also added to capacity. [See report on NGFA’s testimony in the *Issues and Actions* publication accompanying this NGFA Newsletter.] But a number of groups also opposed any government involvement in infrastructure financing. The Western Coal Traffic League (WCTL) cited data indicating that railroads’ cash flow was more than adequate to make the necessary infrastructure investments. WCTL also reported an independent study that indicated that the rail industry was not reinvesting in its infrastructure as much as other capital-intensive industries, such as maritime, petroleum processing and even trucking. The study cited was released by New York University, and was based upon 2006 reported capital expenditures compared to total sales.

STB Seeks Comments on Rail Contracts, Common-Carrier Pricing

The federal Surface Transportation Board (STB) on March 28 issued a decision inviting public comments on a proposal to change how the agency interprets the distinction between a rail transportation contract and a common carrier pricing arrangements [*Ex Parte No. 669 (Interpretation of the Term “Contract” in 49 U.S.C. 10709)*].

The distinction is important under the law for a number of reasons. Common carrier pricing traditionally involves a unilateral holding out by the carrier to the public to provide specified transportation services for a given price that a shipper may accept by tendering traffic. Under these unilateral arrangements, where there is no mutuality of consideration between the parties, the carrier typically has the right to independently change the rates or terms prior to use of the rate upon 20 days’ notice.

However, rail transportation contracts are bilateral agreements that mutually bind both the shipper and the carrier for a given period of time. The law generally

views these agreements as confidential, outside STB jurisdiction, and subject to the scrutiny of the antitrust laws and the courts. There is different treatment accorded grain contracts, where the carrier is required to file a contract summary with the STB containing such things as the commodity, origin, destination and shipper name (but not the specific rate) so that shippers who believe they may be affected adversely by the contract can seek similar treatment or file an objection.

Under its newly proposed interpretation of the term “contract,” the STB intends to encompass “hybrid pricing mechanisms” of the sort that surfaced in a recent case. According to the STB, these arrangements have all of the characteristics of a rail transportation contract, but avoid some important consequences of entering into such a contract simply by their choice of label. Specifically, the STB proposes to interpret the term “contract” as “*embracing any bilateral agreement between a carrier and a shipper for rail transportation in which the railroad*





Rails, Rivers and Roads

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agrees to a specific rate for a specific period of time in exchange for consideration from the shipper, such as a commitment to tender a specific amount of freight during a specific period or to make specific investments in rail facilities." The STB proposal does not define "bilateral" or address grain contracts specifically.

In its March 28 notice, the STB first explained how the law in this area has developed over the years. Until the late 1970s, the STB's predecessor – the Interstate Commerce Commission (ICC) – regarded contract rates between a railroad and a shipper to be *per se* unlawful. In 1978, the ICC changed course, acknowledging that contract rates may be beneficial in many circumstances, and decided that it would review the legality of contract rates on a case-by-case basis.

But Congress viewed the changed approach as insufficient because it resulted in the limited use of contracts. To ensure that shippers and railroads would be free to enter into contracts, Congress amended the law specifically to provide that railroads "may enter into a contract with one or more purchasers of rail services to provide specified services under specified rates and conditions." Congress also amended the law to remove all matters and disputes arising from rail transportation contracts from the ICC's (and now the STB's) jurisdiction. Therefore, if disputes arise regarding the alleged breach of such contracts, they are to be decided by the courts under applicable state contract law. Further, the antitrust laws would be the appropriate and available remedy for claims that a contract is anti-competitive, and parties would be free to pursue other claims in court.

In its March 28 notice, the STB expressed concern that there is "no clear distinction" in the law or cases between a contract and a common-carrier rate. The STB specifically referred to a recent case involving a "hybrid pricing mechanism" that the carrier designated as a common-carrier pricing arrangement, which the STB said had all the characteristics of a rail transportation contract. Both the railroad and shipper argued that the rates at issue were common-carrier rates subject to STB jurisdiction, and that whether a contract or common-carrier rate existed had been decided, according to precedent, on a case-by-case basis in light of the parties' intent. The railroad in that case argued that it could enter into any kind of bilateral agreement with a shipper, but maintain STB jurisdiction by labeling the agreement a common-carrier rate rather than a contract rate. Recognizing that the parties reasonably could have relied on prior agency precedent to conclude

that this kind of hybrid pricing mechanism was subject to its jurisdiction, the STB concluded that it would have been inappropriate to set aside or reexamine that precedent in that proceeding.

"Nevertheless," the STB stated in its March 28 decision, it has "serious concerns about the lack of any clear demarcation between contract and common-carrier rates because of the boundaries on our jurisdiction." According to the STB, bilateral agreements that mutually bind both the shipper and the carrier for a given period of time – such as the hybrid pricing structure in the earlier case – were intended by Congress to be confidential, outside STB jurisdiction, and subject to the scrutiny of the antitrust laws and the courts. (The STB, as noted previously, did not mention the limited disclosure requirements for agricultural commodities.) Contract-related disputes, of course, are arbitrable under the NGFA's Rail Arbitration System.

The STB also stated that, "under the railroad's interpretation, there would appear to be no type of agreement between a carrier and a shipper – no matter how long the term or how individually tailored or bilateral the responsibilities created – that a carrier could not unilaterally label common-carrier rate and service terms." According to the agency, under its proposed interpretation, notwithstanding any carrier representation that the rate specified in the agreement is a common-carrier rate, such a bilateral agreement would be regarded as a rail transportation contract under the law and therefore outside the STB's jurisdiction, that a common-carrier rate could be neither a bilateral agreement nor a "special common-carrier rate."

Submitting Comments: Comments on the STB proposal are due by June 4, and the agency is particularly asking for views on whether the changes it is considering will have unforeseen consequences for agricultural contracts and whether there are differences between agricultural and other types of rail transportation contracts. The NGFA's Rail Shipper/Receiver Committee will be reviewing the matter and developing comments on behalf of the association. Individual NGFA-member companies wishing to comment may do so either via the STB's e-filing format (complying with the instructions at the E-FILING link on the agency's website at <http://www.stb.dot.gov>), or by sending an original and 10 copies to: Surface Transportation Board, Attn: STB Ex Parte No. 669, 395 E Street, SW, Washington, D.C., 20423-0001.)





Senate Committee Conducts Hearing on Pet Food Recall

The Senate Appropriations Committee's Agricultural Appropriations Subcommittee today (April 12) conducted a hearing into the recall of commercial pet food following the Food and Drug Administration's (FDA) recent finding that imported wheat gluten from a single Chinese supplier contained a contaminant detected in several products.

Shortly before the hearing began, FDA announced that an "audit blitz" of 400 retail outlets had found some stores had not removed all of the recalled product from their shelves, and advised consumers to check product codes to ensure they were not on the recall list. FDA said it believes most retail stores have removed the suspect products, and said it would continue to monitor retailers' efforts.

Further, the agency announced that Menu Foods Inc., the private-label manufacturer based in Streetsville, Ontario, Canada, involved in the bulk of the recalls, had expanded its recall on April 10 to include additional cat food. The expanded recall was triggered after FDA notified the firm that it had confirmed test results it received from a laboratory at the University of California, Davis, that found additional canned cat food had tested positive for melamine, the contaminant found in imported Chinese wheat gluten. Melamine is a small, nitrogen-containing molecule that has been used as a fertilizer in some foreign countries, but is not registered or approved for such use in the United States. Melamine also has several industrial uses, including as an industrial binding agent, flame retardant and as part of a polymer in manufacturing cooking utensils and plates.

During today's hearing, senators focused primarily on what they called the "limited" federal presence in inspecting pet food plants, the alleged three-week delay by Menu Foods in notifying FDA after it allegedly first realized some pets subject to tasting trials were becoming ill, and alleged inadequacies of FDA in providing consumer-friendly access to information on recalled pet food products.

In response, Dr. Stephen F. Sundlof, director of FDA's Center for Veterinary Medicine, touted the traditional safety of commercial pet food in the United States as a reason that FDA focuses its inspection resources at higher-risk products. "We find very few problems with pet food," he said.

Meanwhile, Pet Food Institute, whose members manufacture upwards of 98 percent of commercial dog and cat food produced in the United States, announced the formation of a seven-member Pet Food Commission consisting of government and industry members that it has asked to investigate the cause(s) of the current pet food recall and to recommend any additional steps the industry and government should consider taking to further build on the safety and quality

standards that already exist for commercial pet food.

FDA last week banned imports of wheat gluten from the single Chinese supplier whose product has been implicated in contaminated pet food. FDA said no shipments from the supplier – Xuzhou Anying Biologic Technology Development Co., based in Wangdian, China – will be allowed to be imported into the United States unless it has been tested and found to be free of contamination. The agency also said it is requiring sampling and review of import testing of **all** wheat gluten imported from China.

In addition, the U.S. importer of the suspect wheat gluten – ChemNutra Inc., Las Vegas, Nev., announced April 3 that it had recalled all wheat gluten it had imported from the Chinese firm, one of three Chinese suppliers of wheat gluten that it utilizes. Importantly, ChemNutra also said the total of 792 metric tons of wheat gluten it imported from the suspect supplier was **not** distributed to facilities that manufacture human food. That claim was buttressed at today's hearing by FDA, which said it has detected no melamine-contaminated wheat gluten in the human food chain.

ChemNutra said its distributor shipped the wheat gluten only to four pet food manufacturers during the period of Nov. 9 through March 8. ChemNutra said it quarantined its entire wheat gluten inventory on March 8 after it first received reports from one pet food manufacturer that the ingredient might be suspect. ChemNutra, a U.S.-owned importer of more than 4,000 tons of ingredients from China annually, said it was particularly disturbed that the certificates of analysis provided by the Chinese supplier did not report the presence of melamine.

FDA's Sundlof said today that the agency still is "deep into its investigation." The agency last week said that while there is an "undeniable" link between melamine in the kidneys and urine of cats that died and in the food they consumed, the agency is "not yet fully certain" that melamine is the causative agent responsible for the pet deaths. "As in any investigation, we follow leads, use advanced forensics and try to narrow down the cause," FDA said.

Since March 16, FDA said recalls of pet food products, including certain varieties of dog food, have been conducted by Menu Foods Inc., Hill's Pet Nutrition, P&G Pet Care, Nestle Purina PetCare Co., Del Monte Pet Products and Sunshine Mills Inc.

FDA's website now contains a single list of all recalled pet food, which can be accessed by [clicking here](#). Meanwhile, [click here](#) to access a comprehensive series of questions-and-answers developed by the agency, which it is updating periodically as new information becomes available.



DHS Issues Chemical Facility Anti-Terrorism Standards Potentially Affecting Grain, Feed, Farm Supply Industries

The U.S. Department of Homeland Security (DHS) on April 9 published an interim final rule under which facilities – including grain elevators, grain processors and feed mills – that possess certain quantities of specified chemicals would be required to complete and submit a preliminary screening assessment to the agency to determine whether the facility represents a high security risk that would trigger additional federal security-related regulation.

The Homeland Security Appropriations Act of 2007 granted DHS the authority to regulate the security of “high-risk” chemical facilities, and required that it issue an interim final rule establishing risk-based performance standards for security of chemical facilities by April 4.

Under the risk-assessment methodology outlined in DHS’ chemical facility anti-terrorism standards interim final rule, the agency would evaluate a facility’s risk, in part, by classifying facilities based upon the particular chemicals it stores or handles. The regulations mandate that a facility must complete and submit an on-line preliminary screening assessment – which DHS has dubbed “Top-Screen” – if it possesses any of the chemicals listed in the rule’s proposed Appendix A (“DHS Chemicals of Interest”) at specified threshold quantities.

Threshold Levels of Chemicals: Significantly for the grain and feed industry, the DHS-proposed appendix includes the following chemicals and threshold levels: 1) ammonia (anhydrous), in quantities of 7,500 pounds (approximately 1,450 gallons) or greater; 2) ammonium nitrate (nitrogen concentration of 28 percent or 34 percent), in quantities of 2,000 pounds or greater; 3) methyl bromide, in any quantity; 4) phosphine, in any quantity; 5) propane, in quantities of 7,500 pounds (approximately 1,780 gallons) or greater; and 6) urea, in quantities of 2,000 pounds or greater.

In the preamble of the interim final rule, DHS said it reviewed several sources of information when compiling the list of chemicals and screening threshold quantities contained in Appendix A, including: 1) chemicals contained on the U.S. Environmental Protection Agency’s Risk Management Plan list; 2) chemicals from the Chemical Weapons Convention; and 3) hazardous materials regulated by the U.S. Department of Transportation. DHS also said it considered other categories of chemicals when developing Appendix A, such as those that can be used as precursors for improvised explosive devices and certain water-reactive materials that produce toxic gases.

DHS is providing a 30-day public comment period – ending on May 9 – on the chemicals and corresponding screening threshold quantities proposed in Appendix A.

Under the regulations, facilities would be required to complete and submit the “Top-Screen” to DHS within 60 calendar days of the effective date that Appendix A is finalized (which would be announced in the *Federal Register*) if they possess any of the chemicals and corresponding screening threshold quantities listed in the final appendix, or within 60 calendar days of coming into possession of any such chemical at the corresponding quantity.

Additional Background: DHS developed the “Top-Screen” approach as the first segment of its overall risk-assessment methodology in performing an initial “consequence” ranking of the level of security risk associated with any given facility handling potentially hazardous chemicals. As defined by DHS, the term “consequence” refers to the health effects, property damage, environmental effects and economic impacts of a potential security-related event involving the “DHS Chemicals of Interest” possessed by the facility. Facilities required to complete the “Top-Screen” would do so through a secure DHS website and answer a series of questions intended to assess the level of damage that could result if a terrorist incident occurred at the facility or if dangerous chemicals were stolen.

In the interim final rule, DHS stated that information obtained through the “Top-Screen” process is only one of several factors that will be evaluated to determine whether a facility is “high-risk” and thus covered by other aspects of the rule. DHS also said it anticipates that the vast majority of screened facilities will be found **not** to have a level of security risk that would result in a “high-risk” designation.

Importantly, DHS said it would provide written notification to facilities that it does classify as “high risk.” The regulations would require that such “high-risk” facilities complete and submit a security vulnerability assessment and site-security plan following specified criteria to DHS within 90 days and 120 days, respectively, after being notified. In addition, under the regulations, DHS said it would place “high-risk” facilities into a four-tiered structure based upon an assigned level of security risk. The structure would range from Tier 1 to Tier 4. The regulations provide for risk-based performance standards, with the greatest security requirements imposed on Tier 1 facilities and the lowest security requirements applying to Tier 4 facilities.

Members receiving the *NGFA Newsletter* electronically may [click here](#) to access the DHS website for more information about the Chemical Facility Anti-Terrorism Standards interim final rule and proposed Appendix A.



Membership Matters

by Todd Kemp
Director of Marketing/Treasurer

Grain Quality Management Seminar – Register Now!

... NGFA/GEAPS Collaboration Is a “Can’t-Miss” Meeting...

“...There is no better opportunity anywhere to improve your knowledge about grain-quality management. If your job requires you to keep grain in condition, it would be a mistake to miss this top-level program.”

That’s just one of the glowing testimonials for an upcoming day-and-a-half seminar co-produced by the NGFA and the Grain Elevator and Processing Society (GEAPS). The seminar is scheduled for **July 31-Aug. 1 at the Marriott Airport Hotel in St. Louis, Mo.** For program details and registration materials, see the enclosed brochure or visit www.ngfa.org.

At the seminar, an expert faculty of industry professionals involved in grain-quality management will present the latest information and technologies, as well as practical solutions. The program is designed to allow extensive discussion among seminar registrants and faculty to maximize learning opportunities.

Here is a sampling of major seminar sessions:

▶ **“What is ‘Quality’ Grain?”:** This session will cover grain quality terms of reference for end-user groups and other

stakeholders, including perspectives from both domestic and international markets.

▶ **“What is Quality Distillers Dried Grain?”:** Quality considerations for manufacturing, handling, storing and transporting DDGs will headline this session. Topics will include feedstock/input quality considerations; end-user considerations, including nutrient content, consistency and flowability; and drying, handling, storing and transportation concerns.

▶ **“What Can We Do About It and What Are Relevant Costs of Grain-Quality Management?”:** This five-part session, heavy on real-world case studies, will zoom in on good handling and storage practices; cleaning; drying and aeration; and stored grain pest management. It also will examine the economic considerations and impacts of “doing it” and “overdoing it.”

Attention Suppliers! The seminar will feature a tabletop show of related equipment and services. For more information on exhibit space and/or sponsorship opportunities, contact Juli Wagner of GEAPS’ staff at juli@geaps.com.



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TIME SENSITIVE

