



# NGFA Newsletter

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## Phosphine Manufacturers Urge EPA to Replace 500-Foot Buffer Zone with Fumigation Management Plan Requirement

The five manufacturing companies seeking to reregister aluminum/magnesium phosphide (which produce phosphine gas) for use in the United States have urged the Environmental Protection Agency to replace its proposed 500-foot buffer zone with a requirement that those using the chemicals develop a fumigant management plan.

The manufacturers/registrants – Degesch America Inc., Midland Fumigant Co. Inc., Pestcon Systems Inc., United Phosphorous TLTD., and Casa Bernardo Ltd. – made the proposal in a Nov. 9 letter to the director of EPA's Special Review and Reregistration Division, Lois Rossi. In the letter, the manufacturers proposed a series of changes to their products' label that they said "will advance mutual goals of safe and effective product for the user community." The manufacturers/registrants told Rossi that they

"do not believe that there are significant problems with the current use of these products." But they said they are committed to improving training and certification programs for certified applicators. Under the manufacturers/registrants proposal, certified applicators (in conjunction with facility managers) would be responsible for developing a fumigation management plan for each site. Manufacturers/registrants also committed to notify EPA of reports of phosphine poisoning incidents.

Under the manufacturers/registrants' proposal, the fumigation management plan requirement would stipulate that a certified applicator work with facility management to: 1) determine the suitability of the site for phosphine fumigation; 2) review relevant safety

*(Continued on page 7)*

## NGFA International Trade/Ag Policy Committee Maps Plans for Farm Policy Debate



Members of the NGFA's International Trade/Agricultural Policy Committee are shown during their Nov. 18 meeting in Washington. The committee met with congressional staff members to discuss farm policy changes likely to be proposed next spring, and mapped plans for an educational/information initiative to preserve the important fundamental reforms of planting flexibility, elimination of acreage idling and fostering agricultural growth embodied in the 1996 farm law. The committee also reviewed the status of trade negotiations, crop insurance reform and the Commodity Futures Trading Commission's agricultural trade option pilot program. Pictured in the front row are (from left): Claude Alexander, director of government affairs, Ralston Purina Co., Washington, D.C.; Charles A. Nelson, vice president/Washington Representative, Bunge Corp., Washington, D.C.; Kevin W. Kaufman, general manager, Kaufman Grain Co., West Lafayette, Ind.; and M. Ann Tutwiler, director agribusiness policy, Central Soya Co. Inc., Washington, D.C. Pictured in the back row are (from left) David Lindsay, director of legislative affairs, NGFA; James Mayer, president, James Mayer & Associates Inc., Northfield, Ill.; Hal Reed, grain division manager, The Andersons Inc., Maumee, Ohio; David C. Lyons, vice president government relations, Louis Dreyfus Corp., Washington, D.C.; John L. McClenathan, vice president grain marketing, GROWMARK Inc., Bloomington, Ill.; John Skelley, president, Arizona Grain Inc., Casa Grande, Ariz.; and Committee Chair Duane Fischer, president, The Scoular Co., Omaha, Neb.



## **CFTC to Propose Allowing Exchanges to Issue Rules without Preapproval**

The Commodity Futures Trading Commission on Nov. 17 announced it will seek public comment on a proposal to revise its current regulations to permit futures exchanges to issue new rules and rule amendments that could take effect without prior approval from the agency.

The proposal, which the CFTC said will be published "soon" in the *Federal Register*, will be subject to a 60-day comment period. The proposal would revise CFTC regulation 1.41. New CFTC Chairman William J. Rainer said the agency was "confident that the exchanges will assume responsibility for assuring that their rules comply with the Commodity Exchange Act and that they are fair to all market users." He said the CFTC "looks forward to a thorough and thoughtful discussion of the proposal." Meanwhile, CFTC Commissioner David Spears said that the proposal will be discussed during the CFTC Agricultural Advisory Committee meeting, which has been rescheduled for Dec. 8.

The CFTC also gave final approval to new rules that will permit futures exchanges to list new contracts for trading – and subsequently to amend those contracts pursuant to exchange certification – without prior agency approval. This new listing procedure represents an alternative to the regular or so-called "fast-track" procedures currently in place. The rules will be effective 60-days after publication in the *Federal Register*. In a statement, the CFTC said it

granted this authority to the exchanges "with enthusiasm and faith in the market's ability to choose for itself which contracts serve an economic purpose... (and) with the utmost confidence that we can continue to assure market integrity through our existing surveillance and enforcement authority."

The two actions represent Rainer's initial attempts to reduce regulatory burdens on the futures industry. "Today, the commission began the process of modernizing itself as a streamlined, innovative and effective oversight agency," Rainer said in commenting on the agency's actions. "Our actions recognize that the futures markets have matured greatly under the (CFTC's) careful watch over the past 25 years and that the time has come to allow the exchanges to operate in a market environment free from unnecessary government intervention."

**Obtaining a Copy:** Copies of the final rules regarding the listing of new contracts and the proposed revisions to CFTC regulation 1.41 may be obtained by contacting the Office of the Secretariat, Three Lafayette Centre, 1155 21<sup>st</sup> Street, N.W., Washington, D.C., 20581, or by calling the agency at (202) 418-5100. Once available, this information also will be posted on the NGFA's web site at: [www.ngfa.org](http://www.ngfa.org) under the "Breaking News & Info" section on the NGFA's Internet home page.

## **China to Reduce Tariffs on U.S. Ag Exports under Trade Agreement**

The People's Republic of China agreed to reduce tariffs on U.S. agricultural exports to approximately 14.5 to 15 percent – down from the current 22.1 percent level – under the trade agreement announced Nov. 15 designed to allow China to enter the World Trade Organization, which was announced by the U.S. Trade Representative's Office (USTR).

The tariff reductions for agricultural commodities will be greater than the overall average reduction to 17 percent for non-agricultural exports, the USTR said. "There will be very significant liberalization on the agriculture sector, including, most importantly, with respect to the bulk commodities – corn, wheat, cotton and soybeans," said U.S. Trade Representative Charlene Barshefsky at a press conference in Beijing, China. Barshefsky said that under the trade agreement, China also will:

- ▶ establish "large and increasing" tariff-rate quotas for wheat, corn, rice and cotton, with a "substantial share" reserved for private trade, which she said will "significantly enhance market access across the board, not only for bulk commodities but for all the specialty agricultural products. Barshefsky said China agreed to eliminate all non-tariff trade barriers, including quotas and quantitative

restrictions on imports. She said most non-tariff trade barriers will be phased out within five years with some accomplished within two to three years.

- ▶ eliminate export subsidies, which will benefit primarily U.S. cotton and rice.

Barshefsky said the agreement also contains special rules designed to protect certain unspecified U.S. industries from surges in Chinese imports.

It was uncertain whether other elements of the bilateral agricultural trade accord reached between the United States and China on April 10 had been folded into the new agreement. Under the April 10 accord, China, among other things, agreed to allow the import of U.S. wheat and other grains that meet a specific tolerance for TCK smut. Under that agreement, the Chinese said they would not impose any special requirements on wheat that contains no more than 30,000 spores of TCK smut per 50 grams, provided the shipment was certified by USDA before it was exported. Previously, the Chinese government had imposed a zero tolerance level on wheat containing TCK spores, which had the practical effect of banning imports of U.S. wheat and other grains from the Pacific Northwest for more than 26 years.



# Senate Defeats Wellstone Agribusiness Merger Moratorium Bill

A provision that would have placed an 18-month moratorium on “major” agribusiness mergers was defeated decisively in the Senate on Nov. 17.

The measure, defeated by a 27 to 71 vote, was offered by Sen. Paul Wellstone, D-Minn., as an amendment to an unrelated bill being considered by the Senate.

The Wellstone amendment would have prohibited, for a period of 18 months following enactment into law of the underlying bill, any merger between two agribusinesses that had annual net sales of more than \$100 million and \$10 million, respectively. It also would have created a commission to investigate whether the nation’s antitrust laws are effective in maintaining “a fair and competitive agriculture marketplace for family farmers.” The legislation also directed the commission to issue its findings and recommendations to Congress within 12 months.

In his floor remarks, Wellstone said that his amendment was “only a time out,” and that the rapid pace of consolidation in the industry was “choking family farmers.” Sen. Byron Dorgan, D-N.D., echoed those comments in his remarks, stating that the rapid consolidation of agribusiness firms was resulting in unfair market power among a few corporations. He also stated that the European nations “protect” their family farms because the governments there recognize the intangible values that those farms provide,

and that the United States should do the same.

In opposing the amendment, Sen. Gordon Smith, R-Ore., said that although he lauded Wellstone’s intentions and shared the concerns about family farmers, he objected to the methods prescribed in the provision, stating “...[t]his amendment is not the way to do it [address concentration issues].”

Agriculture concentration and how it is overseen by the nation’s antitrust laws likely will be revived as a major issue next year. The House Judiciary Committee conducted a hearing on the matter on Oct. 7, at which the NGFA testified. And Senate Judiciary Committee Chairman Orrin Hatch, R-Utah, has said he is considering holding similar hearings next year.

Senators voting for the amendment included: Sens. Thomas Daschle, D-S.D., Russell Feingold, D-Wis., Max Baucus, D-Mont., Tim Johnson, D-S.D., J. Robert Kerrey, D-Neb., Herbert Kohl, D-Wis., Tom Harkin, D-Iowa, and Charles Grassley, R-Iowa.

Among senators voting against the amendment were: Sens. Richard Lugar, R-Ind., Pat Roberts, R-Kan., Sam Brownback, R-Kan., Peter Fitzgerald, R-Ill., Mike DeWine, R-Ohio, Rod Grams, R-Minn., John Ashcroft, R-Mo., Chuck Hagel, R-Neb., and Richard Durbin, D-Ill.

## Congress Nears Deal with White House on Spending

Congressional leaders and the White House have finalized a deal that would complete federal spending measures for fiscal year 2000 (which began Oct. 2) and allow Congress to end the current session and return home for the holidays. The House debates the bill today, the Senate will likely take it up on Friday.

The final measure will incorporate five separate appropriations bills that have not been passed, or were passed and vetoed by President Clinton. All told, the package, known as an “omnibus bill,” could total \$385 billion. The Congressional Budget Office has estimated that, if this deal holds, federal spending will have grown by 5 percent (\$30 billion) over last year. Federal education, foreign operations, judicial, housing, and lands management programs will all be covered by the legislation.

As a stopgap measure, Congress has passed and Clinton has signed a series of “continuing resolutions” that allow agencies to operate at existing funding levels for specific periods of time, while work on the regular appropriations bills continues. The fiscal year 2000 spending bill for agriculture – which included \$8.7 billion in emergency farm relief – was signed into law (P.L. 106-78) on Oct. 22.

**Dairy Dispute Could Hamper Deal:** An issue that could interfere with the speedy conclusion of the final fiscal year 2000 appropriations measure involves a fierce regional debate over federal dairy policy.

Earlier this year, during the deliberations on the agriculture appropriations bill, the Senate defeated an attempt to continue a dairy compact that allows producers in the Northeast to charge more for milk than other regions of the country.

This week, however, it became apparent that Republican leaders were intent upon inserting language into the omnibus budget deal that would preserve not only the Northeast dairy compact, but also a Depression-era policy that affects milk prices based upon the distance of dairy farms from Eau Claire, Wisconsin. When news of this development leaked out, Midwestern senators, including Rod Grams, R-Minn., and Herb Kohl, D-Wis., who oppose the current pricing structure because it results in less revenue for their producers, vowed to filibuster other crucial Senate legislation unless the dairy provisions were removed from the omnibus bill. As this article went to press, negotiations in the Senate were continuing.

## Bill Introduced To Require Labeling of GMOs

On Tuesday, November 16<sup>th</sup>, Rep. Dennis Kucinich, D-Ohio, introduced legislation (H.R. 3377) that “requires the labeling of packaged food products that have been genetically engineered, altered, or otherwise modified.”

Although the NGFA has not yet received a copy of H.R. 3377, it will most likely be similar to a draft of the bill that was obtained earlier this month.

The bill would amend the Food, Drug, and Cosmetic Act and the Federal Meat Inspection Act to require that foods produced from genetically engineered organisms, or foods that contain materials that are genetically engineered, carry a label that would read as follows:

**GENETICALLY ENGINEERED**

UNITED STATES GOVERNMENT NOTICE:  
THIS PRODUCT CONTAINS A GENETICALLY ENGINEERED MATERIAL, OR WAS PRODUCED WITH A GENETICALLY ENGINEERED MATERIAL.

The bill defines genetically engineered material as “derived from any part of a genetically engineered

organism.” An organism is genetically modified if it “has been altered at the molecular or cellular level by means that are not possible under natural conditions or processes.” To be considered a GMO, the organism would have to be identified as such through “reasonably available technology” or “the person involved knows, has reason to know, or should know that the organism possesses such characteristics without regard to whether reasonably available technology can detect the presence of the characteristics.”

For seeds and foods that purportedly do not contain GMO’s but are later demonstrated to do so, the producers, shippers, receivers, and processors of such food would be exempt from liability under the bill under a paperwork “guaranty” system. Restaurants and many “retail establishments where food is offered for sale to consumers but not for immediate human consumption” would be exempt from the regulations.

The bill has 19 co-sponsors and was referred to the House Agriculture and Commerce Committees. These committees have jurisdiction over the nation’s food safety laws.



## RAILS, RIVERS AND ROADS

by randall c. gordon  
v.p., communications/gov't relations

## STB Requires More Reporting from CSX, Norfolk Southern

The Surface Transportation Board announced Nov. 8 that it will require additional reporting from the CSX Transportation Co. and the Norfolk Southern Corp. to facilitate the agency’s operational monitoring of the railroads’ acquisition of Conrail.

The new reporting requirements represent the third addition to the original data requirements imposed by the agency’s decision approving the Conrail acquisition. STB Chairman Linda Morgan said the new reporting requirements are in response to concerns about resource utilization, system fluidity, system velocity, on-line rail car populations and erratic service for shippers on the former Conrail system.

The additional reporting will include the submission of information in such areas as train delay on main lines and in terminals, and in the so-called “shared-assets” areas; and critical resource information on train crew utilization and locomotive availability.

Morgan said the STB continues to be actively involved in monitoring the implementation of the Conrail transaction. She said STB officials communicate weekly with

CSX and NS officials, as well as with officials of other railroads and with employees, regarding solutions to transitional service problems. In addition, Morgan said she has sought from both the CSX and NS information regarding their plans for handling seasonal peak traffic flows, efforts to improve the operations of the shared-assets areas, and cooperation between the two railroads to improve overall service performance.

Morgan also asked that the CSX and NS undertake certain activities relative to the Buffalo, N.Y., area. She also said that the STB’s Office of Compliance and Enforcement continues to work with shippers and carriers to resolve service issues informally. Shippers requiring assistance from the STB’s Office of Compliance and Enforcement may call (202) 565-1573 or fax information to (202) 565-9011 or (202) 565-9012.

The new reporting will become part of the public record in the docket entitled “*CSX Corporation and CSX Transportation, Inc., Norfolk Southern Corporation and Norfolk Southern Railway Company—Control and Operating Leases/Agreement—Conrail Inc. and Consolidated Rail Corporation*” [STB Finance Docket No. 33388].

### USDA/STB Issue November Grain Transportation Report

The U.S. Department of Agriculture and Surface Transportation Board on Nov. 10 issued the seventh in an ongoing series of reports on the current grain transportation situation in the United States, as well as predictions for the next several months.

The report noted that strong export demand for grain and soybeans has kept rail and barge shipments running above year-ago levels for several months. Lower rates for forward barge freight and discounted values in the secondary market for guaranteed rail freight suggest some easing of demand for transportation in early 2000, the report said.

The report said rail carriers in the western United States have been able to keep their systems fluid and meet shipper transportation needs despite strong demand for several months. The Burlington Northern Santa Fe has kept its past-due car orders substantially below year-ago levels by keeping a high percentage of its fleet loaded and moving to destination and, at the same time, holding its grain car cycle times at some of the lowest levels in weeks. Grain train speeds on the Union Pacific indicate that it also has been able to maintain good cycle times on its grain cars, despite stronger demand on its system over the past few months, the report said.

However, service reliability continues to be a significant problem in the eastern United States, particularly on the lines of the former Conrail system now operated by CSX Transportation and Norfolk Southern, the report said. Stronger demand for rail transportation and problems associated with flooding caused by Hurricane Floyd reduced grain train speeds again in October, it said. Dwell times in key terminals that connect the eastern Corn Belt

and southeast markets also continue to be higher than levels experienced before the Conrail acquisition, slowing less-than-unit-train load shipments of feed grains and feed ingredients.

A serious concern for eastern Corn Belt grain and feed ingredient shippers and southeastern poultry and hog feeders alike is the toll that winter could take on both NS and CSXT, the report noted. Without significant improvements in operating performance on both railroads in the next few weeks, it may be impossible to expand Southeast feed inventories sufficiently to deal with any major snowfalls that could block rail lines in critical passes through the eastern mountains, it said.

USDA also noted that while total production of corn, sorghum, barley, oats, wheat, rye, and soybeans in 1999/2000 is expected to be 4 percent less than 1998/99, the largest carryover in a decade will push total grain and soybean supplies for 1999/2000 to their highest levels since 1987/88. Current projections put this year's grain and soybean use up less than 1 percent from 1998/99, USDA said. But even with this small increase, 1999/2000 total use could be the second highest ever, maintaining strong demand for transportation.

**Obtaining a Copy:** A copy of the 44-page report is available on the NGFA's web site at: [www.ngfa.org](http://www.ngfa.org). Click on the "Reference Desk" heading on the left-hand column of the NGFA's home page. Then click on the Transportation subject icon to access the report. Members without Internet access may obtain the report by calling the Transportation Marketing Division at USDA's Agricultural Marketing Service at (202) 690-1303.

### Senate Confirms STB Chairman Morgan to Another Term

The U.S. Senate on Nov. 10 voted 96-3 to confirm Surface Transportation Board Chairman Linda Morgan to another term, which will expire on Dec. 31, 2003. President Clinton previously announced that Morgan would continue to be designated as chairman upon confirmation by the Senate.

The three dissenting votes were cast by Sens. Conrad Burns, R-Mont., Jay Rockefeller, D-W.Va. and Arlen Specter, R-Penn.

Morgan's prior term expired on Dec. 31, 1998, but she continued to serve without Senate confirmation until the Senate's Nov. 10 vote. The NGFA earlier this year sent

letters to both the White House and the Senate in strong support of her renomination and confirmation, as well as her redesignation as chairman. Among other things, the NGFA wrote that: "Clearly, Linda Morgan was a highly qualified nominee when you nominated, and the Senate confirmed, her for service as an ICC commissioner. She then rose to the challenge of shepherding the new STB after enactment of the ICC Termination Act of 1995. Key ingredients of (Morgan's) success have been her unquestioned integrity and substantive expertise during a period of railroad mergers and service failures. Thus, Linda Morgan has, and genuinely merits, credibility with railroads, rail users and Congress when addressing issues coming before the agency."

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## NGFA Members' Input Invited on New Draft of Grain Trade Rules

NGFA Grain Trade Rules Committee Chairman James W. Keistler is inviting input from members on the latest draft of potential changes to the Association's Grain Trade Rules.

The NGFA Trade Rules Committee is scheduled to meet on Dec. 7-8 in St. Louis, Mo., following the Country Elevator Council/Feed Industry Council meetings to complete its work on a major rewrite/reorganization of the Grain Trade Rules. Members of the NGFA's Rail Shipper/Receiver Committee have been asked to provide input because the draft proposes to delete or rewrite several rail-related rules.

While members are encouraged to review the entire document, the most significant changes pertain to the following rules (references are to new rule numbers):

- ▶ **Grain Trade Rule 13 (condition guaranteed on arrival of rail cars):** What factors represent "condition?" Condition appears to be a "non-grading" factor. Should these "condition" factors be defined? Do they include mycotoxins, biotechnology-enhanced factors, etc.?
- ▶ **Grain Trade Rule 17 (rail loading requirements).**
- ▶ **Grain Trade Rule 19 (rail routing issues).**
- ▶ **Grain Trade Rule 20 (rail bills of lading):** Are the assumptions in this rule still correct?
- ▶ **Grain Trade Rule 21 (drafts).**
- ▶ **Grain Trade Rule 23 (truck, rail overfill and underfills).**

- ▶ **Grain Trade Rule 27 and 28 (terminal market issues).** Current thinking is that these rules can be deleted. Will this cause any problems?
- ▶ **Grain Trade Rule 29 (rail demurrage):** Are cars still billed to "shippers order."
- ▶ **Grain Trade Rule 30 (rail loss and damage claims).**

**Obtaining a Copy:** The latest draft version of the proposed changes to the NGFA Grain Trade Rules are accessible by members on the NGFA's web site at [www.ngfa.org](http://www.ngfa.org). Click on the "Trade Rules, Arbitration and Mediation Services" heading on the left-hand column of the NGFA's home page. Then click on the "New Draft of Grain Trade Rules" icon to access the draft rules. The blue sections of the proposed rules reflect changes suggested during the June meeting of the Trade Rules Committee in Minneapolis, while the green sections contain potential changes developed since that time. Members without Internet access may obtain a copy of the draft proposed changes by contacting Juli Butler at the NGFA at (202) 289-0873.

**Comments Welcome by Nov. 26!** Members are encouraged to provide comments on the proposed changes to the Grain Trade Rules **on or before Nov. 26**. Please make any suggestions **in writing** (including an explanation of your reasoning) and submit them by fax to (202) 289-5388 or by e-mail to [dbarrett@ngfa.org](mailto:dbarrett@ngfa.org). Questions also can be directed to Barrett by calling the NGFA at (202) 289-0873.

## Judge Refers Pennsylvania Vitamin Litigation to State Court

A U.S. District Court judge has ruled that even though Pennsylvania does not have an antitrust law, a lawsuit filed by an indirect purchaser of vitamins against alleged conspirators in the vitamin price-fixing case can be brought in commonwealth (state) court.

In an opinion issued Nov. 2, U.S. District Court Judge Ronald L. Buckwalter ruled such cases can be brought before Pennsylvania courts because those courts "have recognized the unlawfulness (apparently under common law theories) of price-fixing conspiracies and other combinations in restraint of trade." Further, he ruled that the "availability of a private-damage remedy for a civil conspiracy to perform an unlawful act is recognized in Pennsylvania."

Although the plaintiff in the case [*XF Enterprises Inc. v. BASF Corp., et al.*] conceded that it is an open question under Pennsylvania law as to whether damages against the vitamin companies are available – as opposed to purely equitable relief – Judge Buckwalter found that such an

"unsettled question" of state law does not allow a federal court to exercise jurisdiction over that claim. "This is a question for a state court to decide," Buckwalter wrote.

The plaintiff's lawsuit asserted only state law claims including antitrust conspiracy, fraud, negligent misrepresentation and violations of the Pennsylvania Unfair Trade Practices and Consumer Protection Law. The defendants' lawyers argued that the plaintiff's antitrust claim was a federal claim and should not be permitted to be heard in state court.

But Judge Buckwalter said that the defendants noted that the plaintiff could not have made its indirect purchaser claims under federal antitrust law, since the plaintiff was an indirect purchaser of vitamins. Thus, the judge reasoned, the state court system was the only place the indirect purchasers could file a claim. "Since the Supreme Court held that federal antitrust law does not preempt state antitrust law, the plaintiff is free to bring its claims as a vitamin purchaser under state law," Judge Buckwalter wrote.



*("Phosphine" continued from page 1)*

information with company employees; 3) develop appropriate safety measures for fumigators and nearby workers; 4) implement monitoring to confirm that workers and bystanders, including local residents, are not exposed to phosphine concentrations at levels exceeding permissible limits (discussed later in this article); 5) develop procedures for use in an emergency; and 6) placard fumigated sites properly.

The manufacturers/registrants proposed that these changes replace EPA's proposed requirement, issued on Dec. 23, that the use of aluminum/magnesium phosphide be prohibited within 500 feet of a residence.

**Other Proposals Made by Phosphine Manufacturers/Registrants:** In addition to developing a fumigation management plan requirement, the manufacturers/registrants of aluminum/magnesium phosphide proposed to EPA that they change label requirements in the following ways:

► **Notification:** The manufacturers/registrants proposed that facilities using the fumigant be required to annually provide and review with local officials (such as fire departments, rescue squads, police, etc.) the material safety data sheets for phosphine, as well as the applicator's manual and other safety information that may be relevant if an emergency occurs. The same information would be required to be provided to company employees before fumigation occurs. In addition, companies would be required to notify the receiver of fumigated railcars and other containers. These proposed notification requirements would replace EPA's Dec. 23 proposal to notify residents and businesses within 750 feet of fumigation so that they "can make decisions regarding temporarily leaving their property during fumigation."

► **Certified Applicators:** The manufacturers/registrants proposed that aluminum/magnesium phosphide be sold only to those who hold a "dealer or certified applicator license." Further, they proposed that aluminum/magnesium phosphide only be used by certified applicators or trained persons working under the "direct supervision" of a certified applicator. The revised label would define "direct supervision" to require that at least one certified applicator be physically present at the site and maintain visual and/or voice contact with all fumigation workers during application. As noted previously, the manufacturers/registrants would pledge to develop training materials that can be used by states in their certified applicator training programs.

► **Monitoring:** The manufacturers/registrants proposed that monitoring be mandatory during phosphine

fumigation. Under the revised label, after exposures were "adequately characterized," only spot checks would be required. The proposed revised label would direct that gas measurements be made in the worker's breathing zone and readings documented in an operations log or manual for each site and operation where exposure may occur.

► **Exposure Limit:** The manufacturers/registrants recommended that the existing 0.3-part-per-million exposure limit be retained in lieu of EPA's much more stringent 0.03 p.p.m. proposal until research currently underway on the toxicological nature of phosphine gas is completed. The research findings are scheduled to be submitted to EPA by Jan. 1. After reviewing these data, EPA would determine if sufficient reason exists to set a new exposure limit or if additional data are needed. If EPA reaches the latter conclusion, the manufacturers/registrants suggested that they develop a research proposal to be completed within 12 months of approval by EPA. The public should be provided an opportunity to comment on any changes in the current exposure limit prior to implementation, the manufacturers/registrants told EPA.

**Stakeholder Meetings:** The manufacturers/registrants suggested that only one stakeholder meeting on this issue occur, and that it be scheduled during the Grain Elevator and Processing Society (GEAPS) convention in Kansas City, Mo., at the end of February.

**Important – NGFA Seeks Members' Input:** The NGFA is scheduled to meet with the phosphine manufacturers/registrants on Dec. 8 to discuss and provide feedback on their proposed label changes. The NGFA wants to hear from members on or before **Dec. 8** if they have concerns over the proposals submitted by the manufacturers/registrants of aluminum/magnesium phosphide to replace agency's original proposal. The manufacturers/registrants of these chemicals say that they welcome input from users, since the proposals have not been approved yet by EPA. Comments should be forwarded by **Dec. 8** to NGFA Director of Technical Services Thomas C. O'Connor at [toconnor@ngfa.org](mailto:toconnor@ngfa.org) or by phone or fax to (202) 289-0873 or (202) 289-5388.

A copy of the manufacturers/registrants proposed changes, as submitted to EPA, are available on the NGFA's web site at: [www.ngfa.org](http://www.ngfa.org). Click on the "Reference Desk" heading on the left-hand column of the NGFA's home page. Then click on the "Environmental" subject icon to access the document. NGFA members without Internet access may obtain a copy by calling Jackie Congress at the NGFA at (202) 289-0873.