



**National Grain
and Feed Association**

Combustible Dust and EPA Air Emissions Standard for Grain Elevators

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Globally Harmonized System for Labeling

- GHS Amendment to OSHA Hazard Communication Standard
 - Final Rule: 3/26/2012; Effective Date – 5/25/2012
- Combustible Dust is classified as “hazardous chemical” and is undefined
 - Products that could produce combustible dusts **e.g. whole grain when used in processing or where dust is produced is subject to new rule**
 - New requirements mean new Safety Data Sheets and labels for manufacturers, distributors and importers. Based on final rule grain handling facilities are considered manufacturer and distributor of a chemical hazard.



NGFA Legal Challenge to GHS

- The NGFA led a Coalition consisting of the American Feed Industry Association, Corn Refiners Association and National Oilseed Processors Association in legal challenge of final rule.
- OSHA conducted “backdoor” rulemaking and violated Administrative Procedure Act.
- Oral argument before the DC Circuit Court of Appeals on September 24. Final decision on October 14.



Decision in Legal Challenge

- In October 2014, a U.S. appellate court denied the petition from the industry organizations urging that it vacate the portion of OSHA's final regulations that included combustible dust within its GHS.
- For the grain, feed and processing industry, the primary implication of the court ruling is that raw grains and oilseeds shipped to downstream customers will be required to comply with OSHA's requirement to issue an SDS.
 - Labels have always been required under the HCS, but “chemicals” are exempt if they are subject to Federal Food, Drug and Cosmetic Act



Next Steps

- Combustible dusts i.e. grain dust are now considered "hazardous chemicals."
- New section on SDS to address "physical" i.e. explosive hazards.
- NGFA-led Coalition in process of developing SDS template and guidance document.
- June 1, 2015 is the deadline
 - Manufacturers must have converted all SDS and labels to the GHS format and begin sending to distributors and suppliers.



EPA Air Emissions Standard for Grain Elevators

- On July 9, EPA published a proposed rule to modify the existing standard.
- The proposal references EPA's decision to rescind a Nov. 21, 2007, letter of interpretation under which it had equated temporary storage structures with permanent storage facilities when it came to determining whether elevators were subject to costly permitting requirements under the Clean Air Act.
- Key item is “new” definition of temporary storage.
 - Formula that is based on 5 year throughput or 1/3 of temporary storage.



EPA Air Emissions Standard for Grain Elevators (cont.)

- EPA also is proposing to clarify definitions and provisions in its existing requirements, as well as add a new section to the rule that would apply to grain elevators where construction, modification or reconstruction begins after July 9.
- The new section includes new emissions limits for certain elevators, as well as additional testing, monitoring, recordkeeping and reporting requirements.



EPA Air Emissions Standard for Grain Elevators (cont.)

- The NGFA-led Coalition of 5 other trade groups is working on developing comments that are due on December 22.

Main areas of focus:

- **TSF – Default ratio should be around 10% (9:1 perm. vs. temp. ratio).**
- **Economic analysis estimates a disproportionately large incremental cost for the proposed control technologies and compliance assurance mechanisms relative to the small incremental amount of emissions reduction (31 tons per year) that would be achieved through changes.**
- **Too little testing data on record to validate tighter emissions standards.**
- **Increased recordkeeping and reporting would be undue burden and do little to reduce emissions.**

