



News & Views

A Monthly Publication Dedicated to the Feed, Seed, Grain and Farm Supply Industries of Wisconsin

Editor's note: Because of a couple items of note to the membership that are both important and time sensitive, we are publishing this month's newsletter earlier in the month than normal. The normal schedule will resume next month.

DHS Facility Registration■

We have been writing for a number of months concerning the Department of Homeland Security's proposal to issue a final version of its list of "chemicals of interest" (also known as, Appendix A) and threshold quantity trigger levels that will be used to determine which facilities potentially will be regulated under the agency's chemical facility antiterrorism regulations. The list and the threshold levels of those chemicals that will require registration were released on Friday, November 2.

These regulations, finalized earlier in the year, require facilities (including grain elevators, feed mills, grain processors and farm supply retailers) handling such chemicals at levels exceeding specific threshold trigger quantities to register with DHS and complete a web-based screening tool (dubbed "Top Screen"). The results of the "Top Screen" assessment tool then are to be evaluated by DHS to determine whether the facility represents a "high-risk" chemical facility that should be subject to additional regulations, *including a requirement to conduct a vulnerability assessment and implement additional performance-based security measures.*

The final version of Appendix A is expected to be published in the *Federal Register* during the week of November 19-22. Following publication, DHS will provide 60 days for affected facilities to register with the agency and complete the "Top Screen"

process. The result of the "Top Screen" process will determine if the facility is excluded from the regulations, or is placed in a preliminary tier of risk for further evaluation by DHS. Within 60 days after the "Top Screen" process is completed, DHS is to notify affected facilities as to whether they are a "high-risk" chemical facility, as well as their respective risk category. Four risk categories will be established – ranging from Tier 1 (highest risk) to Tier 4 (lowest risk), with the level of security risk-based performance standards escalating based upon the category. Affected facilities subsequently will be required to conduct a security vulnerability analysis that assesses security measures currently in place that mitigate or reduce the likelihood of a successful attack on an asset of the facility. Affected facilities then will be required to develop a site security plan that contains specific security measures the facility has implemented or will implement to meet the applicable risk-based performance standards.

So your question is now, what are they interested in? The following are chemicals that would typically be found in a commercial agricultural operation which is pulled from the far larger and complete comprehensive list. (Please be aware; *there is no farm exemption to these rules.*) The threshold levels will exempt most farms, as it does elevators and feed mills, but not all. For agronomy centers, virtually all will be required to at least complete the "Top Screen" process because of the threshold that is set for anhydrous ammonia. The following levels apply to each and every location that your business operates. They are not cumulative across all of your business' facilities, but rather location specific. In addition, if you are exempt today because you don't meet any of the threshold levels that does not exempt your facility forever. When you do come into possession of a threshold level of one of the listed chemicals (assuming you were not required to register prior), you will have 60 days in which to

register and comply. We have also included some comments with each of the relevant chemicals listed below:

- **Urea** was deleted entirely from Appendix A. DHS accepted the argument that urea would need to be combined with nitric acid to form a hazardous explosive device, and accepted the industry's recommendation to focus its regulatory attention on concentrated nitric acid. The result is extremely beneficial to feed manufacturing and fertilizer members.
- **Propane:** DHS substantially increased the screening threshold quantity to 60,000 pounds (14,285 gallons) from the initially proposed 7,500 pounds. In addition, facilities will not be required to count propane tanks containing 10,000 pounds (2,381 gallons) or less when calculating whether they possess a sufficient quantity of propane to reach the threshold quantity. DHS said the new trigger limit will encompass only very large, industrial-type agricultural facilities, providing significant regulatory relief to grain elevators, feed manufacturers and processing plants. We disagree with DHS' thought that this threshold level will only include the largest ag facilities. We are aware of numerous medium-size grain elevators that this level will capture.
- **Phosphine:** DHS classified this chemical as a release threat, but increased its threshold quantity to 10,000 pounds. However, it also classified it as a threat theft, and imposed a 15-pound threshold limit. Initially, the agency proposed to require "Top Screen" assessments if any quantity of phosphine was present at a facility. This will obviously impact grain fumigation companies.
- **Aluminum Phosphide:** In a potentially troubling development, DHS's final Appendix A classified aluminum phosphide as a sabotage/contamination threat and listed the threshold level as the quantity sufficient to require placarding. Indications are that could amount to a single pellet. The NGFA will be

seeking further clarification from DHS. Initially, DHS proposed a 2,000-pound threshold level.

- **Chlorine:** DHS created two separate threshold screening levels: a) 2,500 pounds as a release threat; and b) 500 pounds (e.g., five or more 100-pound cylinders) as a theft hazard. Initially, DHS proposed a 1,875-pound threshold.
- **Anhydrous Ammonia:** DHS classified this chemical as a release threat, but increased the threshold quantity level to 10,000 pounds from the originally proposed 7,500 pounds. It also clarified that the threshold applies to product with a minimum concentration of 1 percent. This level will capture virtually all agronomy centers in the state that deal in this product requiring registration. The level is also consistent with the EPA's threshold for development of a Risk Management Plan.
- **Ammonia (concentrations of 20 percent or greater):** DHS classified this chemical as a release threat, but increased the threshold quantity to 20,000 pounds from the originally proposed 15,000 pounds. This level will capture virtually all agronomy centers in the state that deal in this product requiring registration. The level is also consistent with the EPA's threshold for development of a Risk Management Plan.
- **Ammonium nitrate, solid (nitrogen concentration of 23% nitrogen or greater):** DHS classified this chemical as a theft threat, with a threshold quantity of 2,000 pounds. This will include virtually all agronomy centers that deal in this product.

In addition, we are working with Homeland Security and the National Grain and Feed Association to develop a guide to help you complete the process. We developed a similar "checklist" for completion of the FDA Bioterrorism facility registration program and reduced the time involved from an FDA estimate of 45 minutes to an average reported completion time by members of 10 minutes. We

hope to have this developed sometime this month and will get it out to you.

Your association, working with others across the country, was able to convince DHS in virtually every case to raise the threshold levels higher than had been initially proposed. By doing this, we have minimized the impact on the number and size of members required to comply. Thanks to NGFA for parsing through the list for this ag list and for some of their comments. If you have any questions, please contact us.

Corn, Sales Tax and You■

As part of the recent state budget, a little proposal was included that cleaned up an annoyance for many Wisconsin feed and grain dealers that sell corn for home heating purposes. The issue revolved around the point that corn sold for feed was sales tax exempt but corn used for home heating wasn't. Since many corn stove fuel buyers were also feed customers, we suggested to members to "don't ask, don't tell" as the dollars involved were minimal and the customers already had exemption certificates for feed purchases on file. If the corn buyer wasn't an existing feed customer, simply charge the sales tax and be done with it.

With the new budget, this has been cleaned up. Effective, December 1, 2007, corn sold for home heating purposes will also be sales tax exempt. A sales tax exemption form will still be required though. Where your feed customers have checked the box on the front (or page one) of the form, corn fuel customers will go to the back page (or page two) and check the box at the very bottom of the page marked "Other." In the area that asks for a description of "other" simply have them write the following words in the box" *Corn for home heating use.*

Not a big item, but one that WASA worked on to remove a minor annoyance for a lot of WASA members.

Safety Day 2008■



Recent incidents at grain storage facilities in and around Wisconsin have highlighted the need for increased safety awareness, both during and after the harvest season. Accordingly, WASA will be focusing on safe bin entry and rescue procedures, as well as fire prevention at this year's Safety Day.

The training will be presented by qualified personnel who have special knowledge, skills and expertise in responding to grain bin entrapments as well as in preventing and fighting grain facility fires. The trainings will include hands-on experience using a unique mobile bin training system pictured above.

Both classroom and hands-on training sessions will be held inside the warmth of the Kalahari convention center. We encourage you to consider sponsoring one, or more persons from your local fire department so they can attend along with your own employees.

Looking Down the Road■

- Nov. 28 & 29 National Dialogue on Ingredient Import Safety**, sponsored by AFIA
**Crowne Plaza Airport
Rosemont, IL**
- Dec. 9-11 NGFA Country Elevator and Feed Industry Conference**
**Marriott Magnificent Mile
Chicago**
- Jan. 23 WASA Safety Day**
Kalahari Resort, Wisconsin Dells
- Jan. 24 & 25 WASA Annual Convention & Trade Show**, held in conjunction with the Wisconsin Corn/Soy Expo
Kalahari Resort, Wisconsin Dells

Route:

- General Manager
- Feed Department
- Grain Department
- Agronomy
- Safety Director
- Personnel
- _____

WASA Board of Directors

Tom Stehr, President

(920) 484-3894

Tom Lefeber, Vice-President

(920) 773-2505

Pat Duffy, Secretary/Treasurer

(920) 623-4160

Doug Cropp (608) 882-2620

Kim Lamp (920) 674-8513

Dennis Schultz (715) 654-5134

Steve Strachota (262) 626-3080

John Van De Wiel (608) 744-2287

David Wiederholt (608) 739-3103

WASA Staff (608) 223-1111

John Petty, Executive Director

RB "Bob" Willder, Loss Control Dir.

Denise Poindexter, Office Manager



**WASA offices will be closed
November 22 & 23 for the
Holiday weekend.
*Happy Thanksgiving***