



February 2021 MGFA Newsletter



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MGFA Wants Your Photos for the Spring Cover of *Mill & Elevator News*

To keep our magazine member-centric, we invite all our member amateur photographers to submit your photos for the cover of the spring edition of the MGFA member magazine. We would love to see creative photos of your facility, your employees/co-workers or photos generally related to the grain and feed industry here in Minnesota.

If you plan to submit a photo, please note the following specs:

- Image size needs to be 8.75" x 11.25"
- Photos can be color or black & white
- Photo needs to be submitted by the original photographer
- Please provide a short write-up about your submitted photo
- We intend to give photo credit to the photographer, so we would appreciate a written note releasing your photo to be used on the cover of the MGFA magazine.
- Deadline to submit photos: **Wednesday, March 19, 2021**
- Submit photos to info@mgfa.org in a .jpeg file format.

We look forward to seeing your photos, so please send them in today!



Applications Now Available for the MGFA Commitment to Agriculture Scholarship Program

In an effort to financially assist students pursuing agriculture degrees at institutions of higher learning, the Minnesota Grain and Feed Association established a scholarship program, which is funded by generous donations from industry members and friends. The MGFA annually awards up to three \$1,000 scholarships to successful applicants.

Applicants must be:

1. The child of an elevator or feed mill employee whose employer is a current MGFA member, in good standing with the Association, OR
2. An employee/intern of an elevator or feed mill whose employer is a current MGFA member, in good standing with the Association

The student must be pursuing a degree in agriculture (preference will be given to those pursuing a degree in agribusiness) and have a minimum GPA of 2.75. The application for the 2021-22 Commitment to Agriculture Scholarship is available [here](#). The deadline to submit an application is **April 23, 2021**.

If you know of a student who would be interested in receiving a scholarship, please share this information & encourage them to apply. Information can also be found on the MGFA website at www.mgfa.org.



Grain Advisory Group Meeting Recap

Earlier this month, the Grain Advisory Group held a virtual meeting to discuss the grain law legislation that went into effect last July, issues related to farmer direct marketing and current state statutes, and an increase in fees for the MDA's Grain Licensing program.

MDA also shared several observations from the inspections they have performed to date, including:

- Through December, more than 40% of inspections of licensed facilities have been completed, with half of all large facilities being done.
- There have been many credit contract issues noted & corrected during inspections, especially a lack of requisite language on VECCs (voluntary extension of credit contracts).
- Inspections have revealed the need for many license changes, i.e. entities with *only* a buyers license also needing a storage license and some facilities no longer storing grain could switch to a buyers license only.
- Some grain buyers were unaware of the new grain buyer license fees. MDA says the new fees will eventually be rolled into the annual renewal for a facility, instead of needing a separate payment.
- MDA hopes to resume out-of-state inspections on grain facilities soon.

Affected grain elevators have also been sharing their feedback with MDA & MGFA regarding the State's new financial reporting requirements, especially those facilities with annual grain purchases over \$5 million who are now required to have their financial statements audited by a CPA. Many have serious concerns about the steep cost of a full audit versus a reviewed financial statement. Some facilities on the edge of the \$5M threshold are limiting their business to stay under \$5M. With the current grain markets trending higher than the last several years, MDA expects more elevators to be pushed into audited financials than originally expected.

Several facilities have also reported a shortage in availability of CPA firms familiar with auditing grain elevators. Some facilities have decided to change their year end dates and others have made the decision to switch from a review to a full audit halfway through their fiscal year, hoping the financial statement can be used in securing operating lines of credit.

MDA shared one very important issue related to the financial statements they have received to date. Very few submitted financials have met all the requirements listed in **MN Statute 223.17 Subd. 6**. (MDA will be contacting elevators whose financial statements were missing any of these required items listed below.) The statute reads:

Subd. 6. Financial statements.

... a) Except as allowed in paragraph (c), a grain buyer licensed under this chapter must annually submit to the commissioner a financial statement prepared in accordance with generally accepted accounting principles. The annual financial statement required under this subdivision must also:

(1) include, but not be limited to the following:

(i) a balance sheet;

(ii) a statement of income (profit and loss);

(iii) a statement of retained earnings;

(iv) a statement of changes in financial position; and

(v) a statement of the dollar amount of grain purchased in the previous fiscal year of the grain buyer;

... (3) be accompanied by a certification by the chief executive officer or the chief executive officer's designee of the licensee, and where applicable, all members of the governing board of directors under penalty of perjury, that the financial statement accurately reflects the financial condition of the licensee for the period specified in the statement.

When submitting your financials to MDA, please review the requirements above to be sure you are complying with MN statute.

On the topic of farmer direct grain purchases, MDA is concerned about protecting producers when dealing with online grain buyers & they are considering modifying MN statutes for these types of transactions. A short time ago, these types of transactions were not very common, but over the last 2 years they have gained significant popularity. The main issue is that Minnesota's grain statutes revolve around licensing physical locations where each entity must have a license at each location where grain is received. Direct buyers say they can't tell MDA which elevators they are working with because their relationships are transactionally based. MDA is also concerned about direct buyers making timely payments to sellers, especially since MN statutes clearly indicate when grain buyers must issue payments to sellers. As was pointed out by a stakeholder on the call, sellers need to know whom they are doing business with.

Finally, MDA's grain licensing program is operating in the red for the first time in many years. With the licensing changes made last year, a new examiner and additional office staff needed to be hired. Based on financial projections, the program will hit a funding shortfall this year and will likely be approaching the legislature for a fee increase soon. The last time there was an increase was in 2005.

If any members have additional input, please contact the MGFA office.



FDA Announces Remote Regulatory Assessment Program for Animal Feed Facilities

The U.S. Food and Drug Administration (FDA) on Feb. 18 announced a new pilot study for select medicated animal feed facilities to voluntarily opt in to have the agency conduct remote regulatory assessments (RRA) of records associated with veterinary feed directive (VFD) regulations. FDA stated the new voluntarily RRA program can benefit both the animal feed industry and FDA by helping reduce on-site inspection time, keep FDA and facility personnel safe during the COVID-19 pandemic, and make on-site inspections more efficient. The VFD program is a component of an overarching pilot study created for different FDA regulatory programs to explore alternate ways to protect the public and provide regulatory oversight during the pandemic beyond traditional on-site inspections.

The **FDA Fact Sheet** issued in conjunction with the announcement highlights several key aspects of the new program, including:

- FDA is focusing on VFD records for the initial animal food RRAs because facilities subject to VFD are required to keep specific records that can be reviewed outside of an on-site inspection to assess a facility's general compliance with VFD requirements. The VFD regulations apply to the manufacture and distribution of medicated feeds that contain animal drugs that are subject to VFDs because of antibiotic-resistance concerns.
- FDA will contact selected facilities by email to request their voluntary participation. Participating in the program is voluntary, and there is no penalty for declining a request.
- The RRA will include a review of a facility's VFD records that are shared electronically with FDA, along with an interview via phone or video call. If concerns are found during the record review, FDA said it will discuss findings so that appropriate actions may be taken by the facility prior to an on-site inspection.
- RRAs are not considered FDA inspections under federal law. As such, no FDA Form 482 – Notice of Inspection or FDA Form 483 – Inspectional Observations will be issued during a RRA.
- FDA will evaluate the success of the VFD RRA and determine whether to expand the pilot to other FDA animal food regulations.
- FDA currently is conducting RRAs for human food and other FDA-regulated products.

Source: NGFA Newsletter



House Democrats Introduce Legislation to Increase OSHA Recordkeeping Enforcement

House Democrats introduced legislation on Feb. 18 intended to increase the Occupational Health and Safety Administration's (OSHA) enforcement of workplace injury-and-illness recordkeeping rules. The "Accurate Workplace Injury and Illness Record Restoration Act" would reinstate OSHA's authority to issue citations for "continuing violations" of injury-and-illness recordkeeping requirements. It also would direct OSHA to reissue a rule "that will ensure the agency can cite recordkeeping violations when there are continuing violations."

OSHA citations for employer recordkeeping violations have decreased significantly since 2012, when a federal court decision limited OSHA's ability to cite continuing recordkeeping violations to six months from the date the violation occurred.

The bill – introduced by House Education and Labor Committee Chairman Bobby Scott, D-Va., Workforce Protections Subcommittee Chair Alma Adams, D-N.C., Veterans Affairs Committee Chair Mark Takano, D-Calif., and Rep. Joe Courtney, D-Ct. – includes the following provisions:

- Amends the six-month statute of limitations in the Occupational Safety and Health Act so that the six-month clock starts running on the date OSHA identifies a continuing violation, instead of on the first date that the violation occurs.
- Reverses the 2017 Congressional Review Act Resolution of Disapproval, which repealed an OSHA regulation that would have restored federal authority to issue citations for continuing violations occurring up to five-and-a-half years from the initial violation.
- Requires OSHA to issue a new regulation clarifying that an employer's obligation to make and maintain accurate injury and illness records is a continuing obligation.

The legislation coincides with the release of a Government Accountability Office (GAO) report, which found that more than half of the employers required to report injury-and-illness data to OSHA on an annual basis have failed to do so over the last three years. GAO – the investigative arm of Congress – said OSHA does not have sufficient procedures in place to encourage compliance with the recordkeeping rule or to penalize non-compliance.

According to the report, OSHA officials told GAO that they identified nearly 220,000 employers in 2019 who may not have reported their data and mailed reminder postcards to about 27,000 of them. OSHA also cited 255 employers for failure to report their data from mid-December 2017 through September 2019 after OSHA conducted on-site inspections.

"OSHA uses the summary injury and illness data to target high-risk establishments for certain comprehensive inspections," the GAO report stated. "Because OSHA has not evaluated its procedures, it does not know the extent to which its efforts may be improving injury and illness reporting or what other efforts it should undertake. Absent more complete information, OSHA is at risk for not achieving its objective of targeting inspections to establishments with the highest injury-and-illness rates."

Source: NGFA Newsletter



Purdue University 2020 Grain Dust Explosion Report: 8 Explosions and No Fatalities

Kingsly Ambrose, Purdue University associate professor of agricultural and biological engineering, recently released the 2020 annual grain dust explosions report that catalogues the number of deaths and injuries nationwide.

Grain dust is a highly combustible substance and often airborne in handling and processing facilities. Explosions occur when there is a source of ignition, often from small, unintentional sparks within the facility. According to the report, there were eight-grain dust explosions in 2020, resulting in zero fatalities and nine injuries.

The 10-year average for injuries is 8.1; it is 1.7 for fatalities.

The grain types identified in the explosions included two cases of corn, two wheat, two mixed feed, one rice and one dietary fiber.

Dust explosions occurred in eight different states, one each in Kansas, Iowa, Illinois, Ohio, Texas, Nebraska, Missouri and Arkansas.

Four of these explosions occurred in a grain elevator, and the remaining four in a feed mill, corn mill, rice mill and grain processor for dietary fiber.

Ambrose explained the importance of compiling these reports each year. "Most companies use this information for training their employees," Ambrose said. "Regulatory authorities also use incident reports for their training purposes. It helps with creating or spreading awareness on dust explosions and their causes."

To read the full report, [click here](#).

For more information contact, Kingsly Ambrose at 765-494-6599.



Should Origin Come into the Calculation When Formulating Poultry and Swine Feeds?

AFIA: What Has the US Feed Industry Learned From Working Through the COVID-19 Pandemic?



As geographical location and growing conditions influence the chemical composition, amino acid profile and energy content of the soybeans, peer-reviewed publications show soybeans from different origins deliver different nutritional values. Couple this along with processing conditions, and scientists can determine the final quality of the soybean meal under evaluation.

<https://ussoy.org/should-origin-come-into-the-calculation-when-formulating-poultry-and-swine-feeds>

Constance Cullman, president of the of the American Feed Industry Association (AFIA), in a talk during the virtual IPPE trade show earlier this month, provided insights gleaned from roundtable discussions the AFIA led in late 2020 on HR best practice during the COVID-19 pandemic.

<https://www.feednavigator.com/Article/2021/01/26/AFIA-What-has-the-US-feed-industry-learnt-from-working-through-the-COVID-19-pandemic>



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