



News & Views

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

OSHA Inspections Update ■

In last month's newsletter we informed the membership the Occupational Safety and Health Administration (OSHA) has established a Local Emphasis Program directed at grain handling facilities in three states in our region, Ohio, Illinois and Wisconsin. The program will include feed mills, wet corn mills (ethanol plants), pet food manufacturers, and grain elevators and warehouses and is scheduled to last through September of 2011.

We have had numerous questions from members asking for what the OSHA inspectors will be looking. The simple answer is "Everything." That answer isn't really helpful, so we have put together a checklist of the items of which you should be aware and compliant at your facility.

First, a few quick notes of explanation to the membership:

- This emphasis program affects facilities of any size in terms of storage capacity, throughput or number of employees.
- There is no "grandfathering" under OSHA rules. You are expected to be in compliance with the regulations regardless of the age of your facility or your equipment.
- Simply put, there is a new sheriff in town. You are playing a very risky game if you believe you will simply get a warning or a chance at a "do-over." OSHA is even now attempting to raise the level of fines, and they have stated they intend to use the full extent of their compliance enforcement authority.
- The inspections will be very comprehensive and may include the work being done by outside contractors at your facility. If they are on your property, assume you are responsible for the contractor's behavior. They may not technically be your employees,

but if a contractor gets hurt on your jobsite or creates a dangerous condition that hurts someone else, it is your problem.

- Contractors are required to follow your safety program and inform you of any hazards that could potentially occur as a result of their work on-site. Not only do you need to make sure that each contractor or subcontractor has a safety plan in place, but you also need to make sure that every contractor employee knows how to safely perform his or her job and has been trained as required by the OSHA regulations.

OSHA has stated the inspections will focus on the six major hazard areas of engulfment, falls, auger entanglement, struck by, combustible dust explosions and electrocution. With that in mind, we are supplying a checklist to go over some of the main areas that OSHA will be inspecting. Please be mindful, this is by no means either a complete list or does answering positively assure compliance, but it is a great starting point to judge yourself or to point out weaknesses.

Training

- Have all employees been trained for the task(s) they perform?
- Is the training documented?
- Do you provide new employee (harvest help) orientation?
- If you have forklifts, have all employees been trained to operate them?
- Have employees performing electrical work been trained?
- Have employees performing bin entry been trained in the hazards?

OSHA Recordkeeping

- Are your OSHA 300, 300A, and 301 logs covering employee illnesses and injuries complete? Please be aware OSHA will ask to see the past five years of them.
- Remember workers compensation and OSHA recordkeeping are two separate things and not all workers' comp injuries are OSHA recordable.

Grain Engulfment

- Do employees fill out bin entry permits? (A sample form is included with the newsletter.)
- If not, is there a supervisor present during the entire bin entry?
- Are lifelines and harnesses used for entry, if an engulfment hazard exists?
- If not, how is an employee protected?
- Are conveyors locked out and tagged?
- Is the bin atmosphere checked or is ventilation used?
- Have the entrant and observer been trained?
- Have hazards been eliminated in the use of sweep augers?

Fall Hazards

- Do all areas of the facility, over 4 ft. high on which employees use or work (general industry standard), have some type of fall protection?
- Are all portable ladders checked for damage and damaged ones removed from service?
- Are all handrails 42" tall with a 21" midrail and a toe board?

Auger Entanglement/Machine Guarding:

- Does all equipment have guards in place?
- Do V-belt guards have four sides?

Struck By:

- Have employees been trained about harvest safety (moving equipment)?
- Do all employees know traffic patterns?
- Do employees wear visible clothing?
- Do employees carry radios for communication (for example, while loading railcars)?

Combustible Dust:

- Do you have a housekeeping program?
- Do you have a housekeeping checklist?
- Are dust levels kept below 1/8" in priority areas?
- Do you have an emergency action plan?
- Do you have a maintenance program?
- Is all maintenance recorded?
- Do you follow hot work procedures? (A sample hot work permit is included.)

Electrical:

- Do employees perform electrical work or troubleshooting?
- Have employees been trained in electrical safety related work practices?
- Do employees work on live equipment?
- Are all extension cords in good condition?
- Are outlets wired correctly?
- Have employees been trained in Lockout/Tagout?
- Does all equipment have a specific Lockout/Tagout procedure?
- Does company have equipment capable of locking out all equipment?

We are well aware compliance with these standards will most likely result in capital expenditures. We are also aware that safety takes time, which facing record corn and soybean harvests is probably the greatest limiting factor to your operations right now. That said; non-compliance is a very risky short-term bet. You may be betting your employees' and your own livelihoods. And OSHA doesn't take IOU's.

We wish to thank the Grain & Feed Association of Illinois and the National Grain & Feed Association for sharing information included in this article.

Dairy Expo Buyers Missions■

World Dairy Expo will welcome international buyers of livestock feed and ingredients to meet with companies interested in building export markets in Southeast Asia.

Four feed buyers from some of China's largest dairies and one buyer from the Philippines will meet with exporters of: animal feeds, genetics, machinery,

technology and agricultural services at the Expo. To put this in perspective, US exports of animal feed to China exceeded more than \$228 million in 2009. While to the Philippines, in 2009, the U.S. exported more than \$50 million of animal feed products.

One-on-one meetings with each buyer will provide companies the opportunity to establish relationships with potential clients in these important and ever expanding export markets. The meetings will be held September 29 through October 1, at World Dairy Expo.

Companies must pre-register to meet with the buyers and the cost to meet with any or all of the buyers is \$150. Please contact Jennifer Lu of DATCP at either 608-224-5102 or jennnifer.lu@wi.gov

Somebody Asked■

Q.: I heard from a friend of mine in the feed and grain business in Iowa that he received a letter from attorneys involved in the VeraSun bankruptcy case. I don't understand what is happening. Do you know what is going on and do I need to be concerned?

A.: Just as a reminder, this case dates back to Oct. 31, 2008, when ethanol producer VeraSun and 24 of its subsidiaries and affiliates filed voluntary petitions for relief under Chapter 11 of the U.S. Bankruptcy Code in the U.S. Bankruptcy Court for the District of Delaware

Attorneys representing the "reorganized debtors" from the VeraSun Energy Corp. bankruptcy proceedings are threatening widespread legal action against entities which were paid for grain sold to VeraSun prior to its bankruptcy in 2008.

The letters, which demand significant moneys as a settlement in lieu of the threatened legal action, are directed at companies and entities that received payment from VeraSun within 90 days prior to the filing of its bankruptcy. The letters state the settlement offer "will remain open through" September 30. We are aware of some companies being offered settlements requiring the repayment of over one million dollars.

As for whether you should be concerned, obviously in this case, it depends whether or not you sold grain to VeraSun. And if you did you would probably have received a letter by now.

To educate members regarding this confusing subject, WASA offered an excellent session presented by Ann Ustad Smith of Michael Best & Friedrich LLP at the January '09 WASA Convention. That session was entitled *Lessons Learned from the VeraSun Bankruptcy*. It looks like we're still learning two years later.

A Tip of the Hat, Again■

Another month, another change, as you will note below; long-time WASA member Phil Vasby has sold his facility and operation in Cambridge to Gavilon Grain. Phil and members of his family had grown the facility to be one of the largest single site storage facilities in the state. He is to be congratulated on long and successful career in the industry and we wish him the best.

WASA Directory Update■

The following updates should be made to your WASA Directory.

Change:

Gavilon Grain dba Peavey Co.
formerly Vasby Farms, Inc.
2844 Clear View Rd.
Cambridge, WI 53523
Phone: (608) 423-3610

New:

Castle Rock Renewable Fuels
N9585 State Rd. 80
Necedah, WI 54646
Phone: (608) 565-2958

As additions or changes are made throughout the year, we will notify you here in *WASA N & V*.

Looking Down the Road■

Feb. 3 & 4 **WASA Annual Convention and Trade Show**
held in conjunction with the
Corn/Soy Expo
Kalahari Resort
Wisconsin Dells