



Minnesota Crop Production Retailers

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REGULLETER

Annual Clearinghouse Query Deadline Approaches

Employers of CDL drivers must conduct a query of the Drug and Alcohol Clearinghouse at least once per year for each CDL driver they employ. The annual query requirement is tracked on a rolling 12-month basis, and the one-year time frame resets with each query conducted on a driver. The deadline to meet the annual query requirement is January 5, 2021. A limited query satisfies the annual query requirement. Employers must obtain a general consent from CDL drivers they employ before conducting limited queries in the Clearinghouse. (*Asmark Institute*)

EPA Revises "List of Lists"

Dated August 2020, and just recently posted publicly, EPA has posted a revised version of the consolidated "[List of Lists](#)" on their website. The List of Lists is used as a reference for many regulatory requirements, but most importantly spill reporting. (*Asmark Institute*)

Agricultural Commodity Definition Clarified

DOT announced that it has published a final rule clarifying the agricultural commodity definition in the hours-of-service (HOS) regulations. Currently, during harvesting and planting seasons as determined by each state, drivers transporting agricultural commodities, including livestock, are exempt from the HOS requirements from the source of the commodities to a location within a 150-air-mile radius from the source. DOT has published this new rule to clarify the meaning of these existing terms to ensure that the HOS exemptions are utilized as Congress intended.

Agricultural commodity means any agricultural commodity, non-processed food, feed, fiber or livestock. As used in this definition, the term "any agricultural commodity" means horticultural products at risk of perishing, or degrading in quality, during transport by commercial motor vehicle, including plants, sod, flowers, shrubs, ornamentals, seedlings, live trees and Christmas trees. The definition of "livestock" is

now also revised to include "all living animals cultivated, grown, or raised for commercial purposes, including aquatic animals." And "non-processed foods" is clarified to mean food commodities in a raw or natural state and not subjected to significant post-harvest changes to enhance shelf life such as canning, jarring, freezing, or drying. (*Asmark Institute*)

EPA Finalizes AEZ Changes

EPA has finalized changes to requirements for the pesticide application exclusion zone (AEZ) - the area surrounding pesticide application equipment that exists during outdoor pesticide applications. AEZ requirements now only apply within the boundaries of the agricultural establishment, removing off-farm responsibilities that were difficult for state regulators to enforce. Immediate family members of farm owners are now exempted from all aspects of the AEZ requirements. Farm owners and their immediate family are able to shelter in place inside closed buildings, giving farm owners and immediate family members flexibility to decide whether to stay on-site during

pesticide applications, rather than compelling them to leave even when they feel safe remaining.

New clarifying language has been added so that pesticide applications that are suspended due to individuals entering an AEZ may be resumed after those individuals have left the AEZ. Lastly, the criteria to determine whether pesticide applications are subject to the 25 or 100-foot AEZ has been simplified. No changes were made to the “Do Not Contact” provision that prohibits a handler or applicator and the handler’s employer from applying a pesticide in such a way that it contacts workers or other persons directly or through drift. *(Asmark Institute)*

Electric Vehicles Negative Economic Impact on Ag Industry

The Agricultural Retailers Association (ARA) has released a study that analyzes the impacts of increased electric vehicle penetration on US biofuels, agriculture and the economy. The study reveals how proposals to ban internal combustion engine vehicles by 2035 and 2050 would have a disproportionate impact on US biofuels and agriculture.

Findings include US light-duty and freight vehicle consumption of ethanol and biodiesel could decline up to 90 percent to 1.1 billion gallons and up to 61 percent to 0.8 billion gallons, respectively. Overall, US net farm income would decrease by up to \$27 billion due to a proposed ban. Further, the study shows that US job losses could total over 250,000 in 2050. To read the study findings, click [here](#). *(Asmark Institute)*

Footnote Changes State Pesticide Restrictions

In a change for state regulators, EPA will no longer allow states to

further restrict federal pesticide labels through the use of FIFRA Section 24(c), the “special local needs” permits. While expansions may still be allowed under Section 24(c), restrictions will not. Instead, any additional restrictions must be done through Section 24(a). This will require a slower process, making it harder for states to further restrict the federal label. Essentially, if a state wants to impose more restrictions than the federal label, as some states have previously done with earlier cut off dates for dicamba, the state regulators will have to go through a state law or rulemaking process.

Some states, like Arkansas, already have a cutoff date for dicamba application that will likely not be affected by the policy change because they have already gone through a state rulemaking process instead of being authorized through a 24(c) permit. Other states that wish to impose additional restrictions to federally registered pesticides may still be able to do the same. *(Asmark Institute)*

EPA Continues Regulatory Review of Paraquat

As part of its regulatory review of paraquat dichloride, EPA is proposing new safety measures to better protect human health and the environment. The proposed changes include:

- Prohibiting aerial application for all uses except cotton desiccation;
- Prohibiting pressurized handgun and backpack sprayer application methods on the label;
- Limiting the maximum application rate for alfalfa to one pound of active ingredient per acre;
- Requiring enclosed cabs if area treated in 24-hour period is more than 80 acres;

- Requiring enclosed cabs or PF10 respirators if area treated in 24-hour period is 80 acres or less;
- Requiring a residential area drift buffer and 7-day restricted entry interval (REI) for cotton desiccation;
- Requiring a 48-hour REI for all crops and uses except cotton desiccation; and
- Adding mandatory spray drift management label language.

In addition, EPA is proposing to allow truck drivers who are not certified applicators to transport paraquat when certain conditions are met. Comments must be received by December 22, 2020. Click [here](#) to read the proposed interim decision. *(Asmark Institute)*

Why Do We Have ERGs?

The Department of Transportation (DOT) published the first Emergency Response Guidebook (ERG) in 1973 to aid first responders who arrive at the scene of a transportation incident involving hazardous materials. The ERG provides the first responders the information they need to protect themselves and the community during the initial phase of that incident. By regulation, drivers are required to have emergency response information with them when transporting most hazardous materials. A copy of the ERG in your trucks complies with this regulation. The DOT updates the ERG every four years. *(Asmark Institute)*

