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EPA Issues Long Awaited Container & Containment Rules

On August 17th EPA released its final rules regarding the Standards for Pesticide Containers and Containment. These rules have been under review and discussion by the EPA for over 16 years. The new rules include five sections including pesticide containment standards. The rule is available from the EPA website:

<http://epa.gov/pesticides/regulating/containers.htm> (but be prepared for a bit of frustration with the download.)

DOT PROPOSES HAZMAT REGISTRATION FEE INCREASES

The Department of Transportation (DOT) published a notice of proposed rulemaking that seeks to increase the fees paid by businesses transporting hazardous materials. The agency seeks to increase the fees to \$2000 in 2007, and \$3000 in 2008 for large companies. Fees for small businesses (less than 100 full-time employees) would not change under the proposed rule. The increase in fees for large companies moving more material, DOT said, puts the fee structure in line with the risk associated with the shipments. Small businesses make up about 84% of registrations. If you remember, DOT in 2003 reduced fees due to a surplus, but that surplus has dropped in the last year.

Nurse Tank Inspection Program (NTIP) Update

As of the week ending September 1st, there have been 737 locations request to be covered by SP-13554. More than 9,000 kits have been shipped with 5,522 inspections recorded on the website. A total of 148 nurse tanks have failed to pass the testing for the reasons of visual (80), thickness (57) or pressure (11). Illinois is the state that has recorded the most nurse tank inspections. Please contact Kim Quinn by phone or at kim@asmark.org if you have questions or need additional information. If you have nurse tanks with missing or illegible data plates and you have not addressed this issue yet, we recommend that you do so immediately. Cliff Schoettmer with Prairieland Testing demonstrates the inspection process at the National Safety School.



A.I. Staff Participates in Safety School

If you haven't attended the National Agronomic Safety School in the past couple of years, we recommend that you consider attending. The program was EXCELLENT! Allen, Randy, Dustin and Kim attended this year. We believe the speakers and content would be very beneficial to help understand the regulations, especially a glimpse into what is coming down the pike. This year's program was kicked off by Bill Davisson, CEO of GROWMARK and included very timely topics and hands-on demonstrations. This is the third year the Safety School was successfully held in conjunction with IFCA's very popular MAGIE show.

Two Year Medical Cards for Hypertensive Drivers?

Commercial drivers who suffer from high blood pressure and who have been unable to obtain a two year medical certificate can find hope in recent guidelines from the Federal Motor Carrier Safety Administration. The agency has indicated the drivers suffering from hypertension who are able to lower their blood pressure to normal range, lose weight, and go off medication can be certified for two years if permitted by the driver's medical examiner. Current guidelines specify that drivers who reach a blood pressure of 140/90 or higher should not be certified for two years, but do not address how or if a driver can ever return to a two-year medical card.

Insulin and Vision Exemption Applications Online

The Federal Motor Carrier Safety Administration recently placed application forms on the internet for drivers seeking exemptions from the vision and diabetes standards in the FMCSR. The applications can be found under *Forms* at www.fmcsa.dot.gov/medical. Commercial vehicle drivers who do not currently meet the diabetes and/or vision standards found in 49 CFR 391.41 and who are unable to obtain a medical certificate may be eligible to apply for an exemption using the forms.

U.S. EPA and the Wabash Valley Case

There is much interest in a recent District Court's decision in the *USA v. Wabash Valley* case. In *USA v. Wabash Valley*, the company was accused of violating pesticide laws by allowing pesticides to drift onto another field. The court ruled that the application laws were unconstitutionally vague. The best resolution would be for the U.S. government to withdraw their appeal of the case and to request the District Court decision be vacated. Left standing, the District Court's ruling could jeopardize U.S. EPA's position to carry out and enforce the pesticide labels as we know them today. This case was brought to enforcement by U.S. EPA Region V and garnered attention in the recent hearing on uneven enforcement held by Senator James Inhofe.

Fire Extinguisher Explosion Disturbing

We received word an employee was killed when he used a portable fire extinguisher to put out a small fire. Corrosion on the bottom of the fire extinguisher was serious enough that the extinguisher case ruptured when it was activated, and parts struck another employee in the chest. The fire extinguisher had a rubber boot or cap to protect the bottom of the cylinder case. Moisture had seeped in between the rubber and outside cylinder wall and caused the cylinder to corrode inside the boot. Over time, this corrosion weakened the cylinder and it ruptured when the internal CO2 cylinder was activated. Other extinguishers of this type have been found to have the same type of corrosion underneath the rubber boot. Due to the corrosive environment found at a farm center, we recommend you make a special point to include a close review of the bottom of the fire extinguisher upon your next monthly round of inspections.

EPA Penalties Go Up

Although the EPA sought out fewer environmental crimes the penalties have soared over the past two years, simply because they have started prosecuting some of the largest environmental crimes. Statistics show:

- Criminal fines and restitution rose from \$47 million in 2004 to \$100 million in 2005;
- Jail time jumped from 77 years in 2004 to over 186 years in 2005;
- Environmental crime investigations dropped from 425 in 2004 to 372 in 2005;
- The number of charged defendants rose from 293 in 2004 to 320 in 2005;
- The cost for companies, governments, and other regulated entities to come into compliance with environmental laws rose from \$4.8 billion in 2004 to \$10 billion 2005.

New Labels Required on Diesel Pumps

To ensure compliance with new rules for low sulfur content in diesel fuel, EPA is requiring new labels on pumps that dispense the fuel. Beginning June 1, marketers, fleets, and non-highway outlets must place the new pump labels on diesel fuel dispensers. These labels must clearly indicate the sulfur content in the fuel sold at each pump. The requirement is part of the low-sulfur fuel regulations at 40 CFR 80.570. The rule was finalized several years ago and included various delayed compliance dates, many of which are now approaching. Three different diesel pump labels are available:

- 1) Ultra-Low-Sulfur labels intended for pumps dispensing diesel with 15 ppm sulfur content.
- 2) Low-Sulfur labels for pumps dispensing 500 ppm sulfur content.
- 3) Non-Highway (Off-Road) labels for pumps that may exceed 500 ppm sulfur content.

Please note: Do fleet owners need to label their fuel pumps even if they only use the pump to fuel their own trucks? Yes. Under the regulation, a fleet is considered a wholesale purchaser consumer, and must label dispensers which are connected to either aboveground or underground storage tanks with 550-gallon (or more) capacity. We recommend that you contact your supplier for more information.

Background Check Records Disposal Rule Effective

The Federal Trade Commission published a final rule in 2004 regarding the proper disposal of consumer report information and records. This rule added a new regulation, 16 CFR 682, Disposal of Consumer Report Information and Records, which became effective June 1, 2005. The new regulation requires that any person (including employers) that possesses or maintains covered consumer information (such as a credit report, pre-employment background check and even MVRs) take "reasonable measures to protect against unauthorized access to or use of the information in connection with its disposal." Examples of reasonable measures are listed in the regulation. Asmark Institute is contracted with a service that shreds our sensitive documents before they are disposed. If your facility generates or handles this type of documents you should evaluate your procedures for storing and disposal.

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