



Volume 50

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Seasons Greetings!

As we enter into the holiday season, all of us at the Asmark Institute would like to wish you a Merry Christmas and a safe and prosperous New Year. We appreciate your business and look forward to working with you as we enter the new year!

22 days to Christmas; 50 days to Top-Screen Deadline

The Department of Homeland Security (DHS) finally published Appendix A, the List of Regulated Chemicals, in the [Federal Register](#) on November 20, 2007. Appendix A specifies the threshold quantities of chemicals that must be reviewed for compliance with the Chemical Facility Anti-Terrorism Standards (CFATS). Any facility that possesses (or later comes into possession of) the listed chemicals in quantities that meet or exceed the screening threshold quantity will have 60 days from the November 20th date to review and complete (if applicable) the CFATS requirements. DHS has posted an announcement on its website extending the Top-Screen submission deadline date to Tuesday, January 22, 2008, due to the weekend and Federal holiday on Monday, January 21, 2008.

How do I comply with CFATS?

On Monday, November 5, 2007, the Asmark Institute prepared and mailed a packet of information to each of its clients and affiliates, including management and staff. The mailing required a signature from the person accepting the delivery. If you have not already started your review and compliance with the CFATS requirements, then please locate this packet and begin immediately. The packet contains all the information needed to walk you through the CFATS process. Specifically, the packet included:

- How to Comply Guidance Document
- Appendix A List of Regulated Chemicals
- Cross-reference List to Agricultural Chemicals

Tips on CFATS Compliance - (listed by step)

Step 1 - Review of Appendix A to see if your facility is required to register.

- **Calcium Ammonium Nitrate** - Facilities with this product should await final interpretation from DHS whether this product is regulated or not.
- **Aluminum Phosphide** - Facilities with this product delivered into the facility for final use are not regulated by DHS if the facility does not ship the product.
- **Ammonium Nitrate** - We are awaiting final interpretations on questions concerning transportation packaging and the applicability of the mixture rule.
- Document your review of Appendix A. Maintain the documentation on file.

Step 2 - Register with DHS, if required.

- Reports indicate facilities are receiving their username and password approximately 14 days after registration.

Step 3 - Complete and Submit the Top-Screen

- Best advice continues to be print off a copy of the Top-Screen questions and answer them on paper before attempting to enter the answers into the computer.
- Sections entitled "Mission Critical" and "Economic Critical" typically do not apply to small businesses such as farm centers.
- Utilize the longitude/latitude from your most recent Risk Management Plan (RMP) for consistency. If you do not have a RMP, we recommend you use EPA's TRI Siting Tool for use in determining the most accurate longitude/latitude for your facility. [Click here](#) to access the TRI Siting Tool.
- After submitting your Top-Screen, DHS will notify your facility with one of three responses:
 1. DHS needs more information in order to determine your level of risk;
 2. Your facility is exempt and in compliance with the regulation (Tiered out); or
 3. Your tier rating and deadlines for completion of a security vulnerability assessment (SVA) and Site Security Plan (SSP).
- After the Top-Screen process, your next steps will only be completed when notified to do so by DHS. Not many companies will need to comply with these regulations beyond the Top-Screen process. DHS estimates that 6,000 facilities will fall into the high-risk category as covered facilities.

CFATS Incentive

CFATS gives DHS authority to seek compliance through civil penalties of up to \$25,000 per day, and the ability to shut down non-compliant facilities.

Industry Urges EPA to Proceed with Pesticide Container Rule

CropLife America is calling on the EPA to proceed on a definitive schedule with a rule to require the recycling of empty, disposable plastic pesticide containers used in agricultural and professional applications in the United States. [Click here](#) to review the request.

Billy Willard Nominated to Serve on EPA's Agricultural Advisory Committee

We extend our congratulations to **Billy Willard**, President of Willard Agri-Services of Frederick, MD, on his recent nomination to serve on EPA's Farm, Ranch and Rural Communities Federal Advisory Committee. The Fertilizer Institute nominated Mr. Willard to serve on the committee, which is being formed under the guidelines of the National Strategy for Agriculture. The committee will advise the administrator on environmental policy issues impacting farms, ranches and rural communities and operate under the rules of the Federal Advisory Committee Act (FACA).

Employer-paid PPE: What's covered under the new rule?

It was a long time coming, but on November 15, 2007, OSHA finally issued its final rule on employer payment for personal protective equipment (PPE). Under the rule, all required PPE, with a few exceptions, must be provided at no cost to the employee. Employers must implement the PPE payment requirements no later than May 15, 2008. The rule does not specify the method that employers must use to pay for PPE. Many employers use allowances or reimbursement systems, or maintain a stock of PPE and hand it out to their employees. All these methods are acceptable, as long as the employee receives the PPE at no cost.

Examples under the new rule Employers do NOT have to pay for:

- Non-specialty safety-toe protective footwear (e.g., steel-toe shoes/boots)
- Non-specialty prescription safety eyewear
- Sunglasses/sunscreen

- Sturdy work shoes
- Lineman's boots
- Ordinary cold weather gear (coats, parkas, cold weather gloves, winter boots)
- Logging boots required under Sec. 1910.266(d)(1)(v)
- Ordinary rain gear
- Back belts
- Long sleeve shirts
- Long pants
- Dust mask/respirators used under the voluntary use provisions in Sec.1910.134.

Examples under the new rule Employers DO have to pay for:

- Foot protection
- Special boots for longshoremen working logs
- Rubber boots with steel toes
- Shoe covers--toe caps and metatarsal guards
- Non-prescription eye protection
- Prescription eyewear inserts/lenses for full face respirators
- Prescription eyewear inserts/lenses for welding and diving helmets
- Goggles
- Face shields
- Laser safety goggles
- Fire fighting PPE (helmet, gloves, boots, proximity suits, full gear)
- Hard hats
- Hearing protection
- Welding PPE
- Non-specialty gloves: Payment is required if they are PPE, i.e. for protection from dermatitis or severe cuts/abrasions. Payment is not required if they are only for keeping clean or for cold weather (with no safety or health consideration).
- Rubber sleeves
- Aluminized gloves
- Chemical resistant gloves/aprons/clothing
- Barrier creams (unless used solely for weather-related protection)
- Rubber insulating gloves
- Mesh cut proof gloves, mesh, or leather aprons

I-9 Form Revised, Required for New Hires

The US Citizenship and Immigration Services (USCIS) branch of the Department of Homeland Security (DHS) has issued a revised Form I-9, Employment Eligibility Verification, and M-274, Handbook for Employers, Instructions for Completing the Form I-9. Employers should use the new form, which went into effect November 7, 2007, for all new hires. You do not need to fill out the new form for current employees. The new form and the new handbook are available as downloadable PDFs at www.uscis.gov.

MVRs & Recordkeeping

Understanding what motor carriers must retain in the driver qualification file will prevent a lot of headaches. If you inadvertently purge a document that you should have kept, there's no going back, especially when it comes to state-generated reports such as the motor vehicle record (MVR). Many motor carriers mistakenly believe they can purge the original MVR required under §391.23 after three years. According to §391.51, this document must be retained for the duration of employment, plus three years after it ceases. Only the annual MVRs requested under §391.25 may be purged after three years.

If an existing driver switches his or her residency, and subsequently his or her licensing, between MVRs, you would be required to request an MVR from each state in which the driver was licensed in the past 12 months.

It is equally important to make sure that a driver transfers his or her licenses as soon as possible if he or she moves to a new state. For CDL holders, this is required within 30 days of the move according to §383.71(b). For non-CDL drivers, each state has a requirement as to how long you may operate any kind of vehicle (personal or commercial) with a license issued by the state of former residence.

Tractor Lighting Question Cleared Up in Indiana

There has been some question lately whether agricultural tractors are required to display a flashing amber strobe light when operating on the highways in Indiana. The short answer is "no," and comes from a reading of the Indiana Code (IC 9-19-6-11 and IC 9-19-6-11.3) and phone conversations with the Indiana State Police.

Social Security Benefits Increase January 1st

Social Security benefits for nearly 50 million Americans will go up 2.3% on January 1, 2008, the smallest increase in four years. It compares to 3.3% last year and 4.1% in 2006. The cost of living increase adjustment means the monthly benefit for the typical retired worker in 2008 will go from \$1,055 to \$1,079.

Court Stays Hours-of-Service Regulations

The Washington D.C. Court of Appeals recently decided to keep the current hours-of-service (HOS) regulations in place until December 27, 2007, to give the Federal Motor Carrier Safety Administration (FMCSA) more time to consider possible changes in the rules, in light of the court's earlier July 24, 2007, decision. At that time, the court voided the 11-hour driving limit and the 34-hour restart provisions of the HOS regulations on procedural grounds. The action comes on the request of the American Trucking Associations (ATA) that filed a motion with the court on September 6, 2007, asking that the Court keep the current HOS provisions in place for an eight month period, allowing the Federal Motor Carrier Safety Administration (FMCSA) time to issue a new final rule. ATA said that it would continue to urge FMCSA to proceed to a final rule in a timely manner.

Petition to Cancel All Chlorpyrifos Registrations

EPA is seeking public comment on a September 12, 2007 petition from the National Resources Defense Council (NRDC) and Pesticide Action Network North America (PANNA), available in docket number EPA-HQ-OPP-2007-1005, requesting that the Agency revoke all tolerances and cancel all registrations for the pesticide chlorpyrifos. The petitioners, NRDC and PANNA, request this action to obtain what they believe would be proper application of the safety standards of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Federal Food, Drug, and Cosmetic Act (FFDCA), section 408, as amended by the Food Quality Protection Act (FQPA) of 1996. Comments must be received on or before December 17, 2007. Submit your comments, identified by docket identification (ID) number EPA-HQ-OPP-2007-1005, by one of the following methods; the Federal eRulemaking Portal at <http://www.regulations.gov>; or by mail at the Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001.

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