

# Reguletter

## **DRIVERS: What's The Big Deal With How You Check The Box?**

Make sure your CDL drivers are self-certifying accurately to avoid violations. If your CDL driver marked "excepted interstate" or claimed an "excepted intrastate" status during self-certification to avoid submitting a medical examiner's certificate to his or her state of licensing, you should be concerned. If the driver self-certified as "excepted interstate," he or she does not have an active CDL to operate in "non-excepted interstate" commerce. This declaration on his or her driving record could place the driver out-of-service for not having a current CDL for the vehicle operated.

"Excepted" means the driver is claiming he or she is engaged exclusively in one of the types of operations detailed in 49 CFR §390.3(f), §391.2, §391.68, or §398.3 — so he or she does not need a medical card.

Similarly, claiming an "excepted intrastate" status, the driver is using state regulations (exceptions mimicking or similar to the federal rules, grandfathering, etc.) that do not require the driver to have a medical exam. But the driver would have an intrastate-only restriction on his or her license. To engage in interstate commerce with the "excepted intrastate-only" restriction would result in a violation for not having the appropriate license for the vehicle operated.

To add to the dilemma, many states that downgrade the CDL to an "excepted status" require drivers to retake some of the CDL tests in order to reactivate to a "non-excepted interstate" commerce CDL. If your driver mistakenly claimed the wrong status, he or she should contact his or her state of licensing as soon as possible to correct the situation. (Asmark Institute)

## **2014 Regulatory Posters Coming Soon!**

The 2014 regulatory posters that MCPR offers to our retail members via Asmark Institute will ship in the next two weeks. The posters are normally updated and shipped around the middle of February, but are subject to delays each year due to the increase in the regulatory activity that prompts the labels and Safety Data Sheets

to be revised. The set of three includes posters with information on DOT shipping descriptions, Worker Protection Standards and Restricted-Use Products. (Asmark Institute/MCPR)



## **Ag Retailers: A Responsible Industry**

The Fertilizer Institute (TFI) prepared a very professional, short video that illustrates the commitment that ag retailers have toward safety, security, emergency response and regulatory compliance. Chad Lau of Burroughs Ag, Jim Fargo with Centennial Ag Supply Company and Billy Pirkle with Crop Production Services are featured in the video. We recommend that you provide a link to this video on your company website and help spread the word that our industry is committed to stewardship and compliance in all aspects of what we do. Our thanks and congratulations to Kathy Mathers, Vice President of Public Affairs with TFI, for this very professional video. Enter: <http://www.tfi.org/safety-and-security-tools/get-know-fertilizer-retailer> to access the video or go to [www.tfi.org](http://www.tfi.org). (Asmark Institute)

## **HR Spotlight: Employment Recordkeeping Recommendations**

With the increasing documentation for employment records needed today, just how should an employer organize all the records? HR experts recommend employee records be separated into three files to minimize accidental exposure of personal information and to be ready for regulatory audits. 1) A personal file should contain job descriptions, documents relating to offers, promotions, transfers, discipline records and performance evaluations. 2) A confidential file should contain reference and background checks, physician notes and FMLA paperwork, workers' comp claims and drug test results. 3) A payroll file should contain direct deposit authorizations, W-4, garnishment orders, and salary changes and bonus documents. For employees that are drivers subject to the federal rules, a separate file is necessary. (Asmark Institute)

## **EPA Proposes Update to WPS Rule - Heads Up!**

A proposed rule to expand requirements for protecting farmworkers and their families from pesticide exposure was released February 20th by EPA. Jim Jones, Assistant Administrator for EPA's Office of Chemical Safety and Pollution Prevention, told reporters that changes to the EPA's Agriculture Worker Protection Standard (WPS) are overdue.

The proposed rule, which runs 357 pages in a prepublication version, was expected to appear in the Federal Register around March 1st, starting a 90-day comment period. EPA hopes to have a final rule completed within a year. Just some of the new or tougher restrictions proposed are:

- increases frequency of training from once every five years to annually,
- Requires employers to retain records for two years of application-specific pesticide information as well as farmworker training and early-entry notification,
- Expands mandatory posting of no-entry signs prohibiting entry into pesticide-treated fields until residues decline to a safe level for the most hazardous pesticides,
- Prohibits children under 16 years old from handling pesticides, with an exemption for children who are immediate family members to the owners of family farms,
- Requires employers to inform farmworkers about their legal protections, including restrictions on entering pesticide-treated fields and surrounding areas,
- Increases access to information and use of personal protective equipment,
- Establishes no-entry buffer areas surrounding pesticide-treated fields to prevent exposure from pesticide overspray and fumes,
- Provides farmworkers or their advocates information about the pesticide in use, including the pesticide label and Safety Data Sheets,
- Mandates that respirator use be consistent with the OSHA standards
- Expands training to reduce take-home exposure from pesticides on work clothing.

“The EPA’s current 22-year-old standard has been ineffective, allowing up to 20,000 farmworkers annually to join the ranks of workers suffering from acute pesticide poisoning” according to Amy Liebman, Director of Environmental and Occupational Health for the Migrant Clinicians Network. On February 11th, a coalition of 51 House Democrats wrote a letter to the EPA urging the agency to finalize the rulemaking, saying that the current standard is “limited and insufficient.” Enter: <http://www.epa.gov/oppfead1/safety/workers/proposed/pre-pub-wps-proposed-rule.pdf> into your web browser for a prepublication version of the Federal Register notice. Enter: <http://www.epa.gov/oppfead1/safety/workers/proposed/index.html> in to your web browser to access EPA’s website for information on the proposed rule.

“The health and safety of America’s farmworkers is paramount to the crop protection industry, and we have strived for decades to continuously improve the technology surrounding product formulation and application,” noted Jay Vroom, CLA’s president and CEO. “We look forward to providing comments to EPA on the proposed changes to the Worker Protection Standard and ensuring that any final regulation is representative of the ongoing, science-based advancements in our industry.” (Asmark Institute)

### **ResponsibleAg - ARA and TFI Join Forces**

ARA and TFI announced plans on February 18th to create ResponsibleAg, an independent, not-for-profit organization designed to support fertilizer retailers’ compliance with federal safety and security regulations. Under ResponsibleAg, retail fertilizer dealerships will have access to comprehensive inspections based on federal regulatory requirements. The inspections will be carried out by trained auditors who will have successfully

completed an intensive training course based on the objectives of ResponsibleAg.

“While the vast majority of fertilizer retail businesses operate safely, securely and in compliance with federal regulations, we are acting out of an abundance of caution and concern for the well-being of workers and communities,” said TFI President Chris Jahn. “ResponsibleAg will verify compliance at more facilities and with greater speed than is currently being done by the multitude of federal agencies that regulate the nation’s fertilizer retailers, so we are choosing to act now rather than waiting for the next government inspection.” “ResponsibleAg will help ensure existing regulations are conveyed and easily understood by fertilizer retailers,” said ARA President & CEO Daren Coppock. “Retailers want to do the right thing, but overlapping, duplicative or potentially conflicting requirements make compliance a challenge. This program will help retailers by collecting the regulatory requirements into one standard, and offering them tools and information to ensure their facilities conform to all current federal regulations.”

ResponsibleAg will credential auditors who will inspect and verify individual facilities’ level of compliance with applicable federal regulations. Facilities that successfully complete assessments will be recognized for having done so. Any site that does not successfully complete an assessment will be provided a list of recommended corrective actions. Additionally, random quality assurance reviews to verify the assessments will be conducted by third party auditors.

TFI and ARA are each contributing \$100,000 in startup capital for the organization, and the Asmark Institute is providing an ongoing contribution that provides for training programs, training facilities and administration of the ResponsibleAg website and database. Once established, ResponsibleAg will be funded by registration fees paid by participating fertilizer storage and handling inventory points and their suppliers. Auditor training costs will be funded by tuition paid by those seeking the ResponsibleAg auditor credential. Membership in TFI, ARA or any other organization is not a requirement for participation.

“ARA and TFI are committed to ResponsibleAg as a common sense approach to mitigating the potential of another accident like the one in West,” Coppock said. “Compliance needs to be the focus rather than a push for broad new regulations. The effort and resources retailers dedicate to compliance should be directed towards achieving the greatest level of safety and security possible for employees, first responders and the communities in which our members live and work.”

*Tip:* To get a head start in preparing for the ResponsibleAg third-party audit, complete the Compliance Assessment Tool offered by TFI and ARA by contacting Jessica Brunelle at the MCPR office at (763) 235-6473 or [jessi@mcpr-cca.org](mailto:jessi@mcpr-cca.org). (Asmark Institute)

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