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Minnesota Crop Production Retailers

# REGULETTER

## Des Moines Water Works Lawsuit Dismissed

The U.S. District Court of Northern Iowa, dismissed the lawsuit brought by the Des Moines Water Works against a number of drainage district officials in counties northwest of Des Moines. At issue was whether the runoff from farms in the counties where the drainage districts operate was contributing to the need for the Water Works to spend large sums to remove nitrates from their drinking water intakes on the Raccoon River. The Water Works argued that the drainage districts should be required to have federal Clean Water Act discharge permits. The judge dismissed the case for lack of standing, explaining that the Water Works was not able to sue the drainage district officials. This decision comes on the heels of a related decision by the Iowa Supreme Court earlier in the year, which found that, under Iowa law, the Water Works was not able to collect any damages from the drainage districts associated with the nitrates in the Raccoon River. (Asmark Institute)

## Chao Confirmed as Transportation Secretary

In a vote of 93-6, the U.S. Senate approved Elaine L. Chao on January 31st as the Secretary of the U.S. Department of Transportation. Secretary Chao is the wife of Kentucky Senator Mitch McConnell. One of her first actions after being sworn in was to send a Department Bulletin with a subject line entitled "Elaine Chao: A Homecoming." In the Bulletin, she reiterated her desire to improve the nation's infrastructure for all modes of transportation. She said in her memo, "our infrastructure is the backbone of our economy, making it

possible to move people, goods, services and raw materials safely from our homes, factories, farms and mines to and from destinations throughout our nation, and across the world. (Asmark Institute)

## EPA Agrees to Reconsider Risk Management Plan Rule

EPA recently agreed to reconsider changes made by the agency in January 2017 to the risk management plan (RMP) program rule. The agency responded favorably to a petition supported by The Fertilizer Institute (TFI) and the Agricultural Retailers Association (ARA), requesting that EPA reconsider a number of provisions included in the rule changes, including the sharing of sensitive facility-specific security information with local emergency planners, the need for independent third-party audits following a facility incident, the obligation for facilities to conduct safer technology analysis, among other features. In responding favorably to the industry petition, the agency also agreed to administratively stay the rule, extending the compliance deadline from March 21st to June 19, 2017. (Asmark Institute)

## EPA Delays Implementation of its Pesticide Applicator Certification and Training Rule

In January, EPA published its final revisions to its rule for certification of pesticide applicators, which would set more strict national standards for applicator certification and training. In January, the Trump Administration ordered a 60-day freeze on the implementation of all

yet-to-be-implemented rules, including the certification and training rule. Now EPA says it will further delay the effective date for the rule to May 22, 2017. EPA writes in the Federal Register that it is "taking this action to give recently arrived Agency officials the opportunity to learn more about the regulation and to decide whether they would like to conduct a substantive review of any of those regulations." (Asmark Institute)

## Worker Protection Standard Update

The Worker Protection Standard (WPS) is a federal EPA regulation that primarily protects workers (people employed to perform work activities related to the production of agricultural plants) and pesticide handlers (people employed to mix, load or apply pesticides). On November 2, 2015, EPA revised the WPS, making significant changes to the rule's requirements. To accomplish this, EPA added the new revisions to the end of the existing regulation. Implementation of the revised rules are staggered over 3 years: 2016, 2017 and 2018. Until 2017, the existing regulations (subparts A, B and C of 40 CFR Part 170) will remain in effect with no changes. Compliance with most of the revised rule requirements (subparts D, E, F and G of 40 CFR Part 170) was effective beginning January 2, 2017. Visit: <https://www.epa.gov/pesticide-worker-safety/worker-protection-standard-wps-comparison-chart> for a table that summarizes the key provisions in EPA's current WPS regulation and the 2015 revisions. (Asmark Institute)

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## EPA Denies Petition to Ban Chlorpyrifos

The Trump Administration has denied a petition by environmental groups that sought to ban chlorpyrifos, a common pesticide used on citrus fruits, apples, cherries and other crops, reversing a push by the Obama administration to revoke all uses of the pesticide on food. In announcing the decision, EPA Administrator Scott Pruitt said that by not banning chlorpyrifos, he is providing "regulatory certainty" to thousands of American farms that rely on the pesticide. "By reversing the previous Administration's steps to ban one of the most widely used pesticides in the world, we are returning to using sound science in decision-making - rather than predetermined results," Pruitt said. (Asmark Institute)

## DOT Will Not Reconsider "Behind-The-Wheel" Requirement for Entry Level Drivers

A Petition for Reconsideration of the "Minimum Training Requirements for Entry-Level Commercial Motor Vehicle Operators" final rule was denied by DOT. The Truck Safety Coalition, Citizens for Reliable and Safe Highways, Advocates for Highway and Auto Safety and Owner-Operator Independent Drivers Association had filed the petition, asking the agency to reconsider how behind-the-wheel (BTW) training is handled. The proposed rulemaking had included a minimum number of hours for BTW instruction. This provision was left out of the final rule and was the organizations' impetus behind the filing of the reconsideration petition. The four organizations have received letters from FMCSA stating the debate over minimum BTW training requirements had been settled prior during the rule's comment period and explained in the final rule's Preamble. (Asmark Institute)

## EPA Seeks Beta Testers for Pesticide Mobile Application for Pesticide Label Matching

Every pesticide must have labeling that is approved by EPA before it can be sold or distributed. A pesticide is misbranded under FIFRA if its labeling is false or misleading, which can lead to unsafe and ineffective use

of the product. State governments generally have the authority to enforce these labeling requirements.

EPA is working on a mobile application that will dramatically save state government inspectors' time and increase efficiency, allowing for more labels to be inspected and improving compliance rates over time. As part of this effort, EPA is looking for state and federal officials to beta test the Pesticide Label Matcher (PLM) mobile application. EPA is particularly interested in federal and state officials who routinely go into the field and inspect pesticide products, as well as pesticide registrants.

The aim of the application is to modernize and streamline the current manual process for inspecting and reviewing pesticide labels for potential violations. With this application, inspectors can enter the EPA pesticide registration number on a mobile device and compare the label they are viewing with the approved federal master label and/or data contained in EPA's Pesticide Product Label System. This app will also include a webbased component for access via supported browsers on other devices such as laptops and desktops. Parties interested in participating in beta testing can contact Alan Boutureira ([LMP@epa.gov](mailto:LMP@epa.gov)). (Asmark Institute)

## Safe & Sound Online Training Management Tool Now Available

We invite you to review and consider passing along to your members the following special feature made available on the Asmark Institute website under the Compass Line of Services & Products. The Safe & Sound Online Training Management tool is ideal for organizations seeking comprehensive training solutions that incorporates advanced technologies to help manage their employee training from start to finish, simplifying and streamlining the process.

### Other features include:

- Thirty-one ag-specific topics on DVD licensed for on-site use
- Manage your employee list
- Order personalized new hire, re-hire or supplemental training kits
- Track results on your personal dashboard
- And much more!

Visit: <https://www.asmark.org/Compass/SafeAndSound.cgi> for more information. (Asmark Institute)

## Electronic Logging Device Technical Specification Public Meeting

FMCSA announces a public meeting to discuss the technical specifications in Appendix A to Subpart B of part 395, Functional Specifications for All Electronic Logging Devices (ELDs), as published in the "Electronic Logging Devices and Hours of Service Supporting Documents" Final Rule (ELD Rule). This meeting will be a forum for discussion of the minimum requirements for ELDs and is being held to help manufacturers produce ELDs that will comply with the ELD Rule.

**DATES:** The public meeting will take place on Tuesday, May 9, 2017, from 9:30 a.m. to 1:30 p.m., Eastern Time (E.T.). A copy of the agenda for the meeting will be available in advance of the meeting at <https://www.regonline.com/builder/site/?eventid=1953139>. (FMCSA)

On December 16, 2015, FMCSA published a final rule concerning ELDs (80 FR 78292). The final rule included detailed performance and design requirements for ELDs to ensure the devices produce accurate, tamperresistant records with a uniform file format and consistent displays. The ELD technical specifications from the ELD Rule are codified in Appendix A to Subpart B of part 395 of Chapter 49 of the Code of Federal Regulations. ELD manufacturers are required to self-certify that their devices comply with the ELD Rule and register the devices with FMCSA. Motor carriers subject to the ELD Rule are required to operate registered ELDs by the compliance date of December 18, 2017. Motor carriers that operate with automatic onboard recording devices (AOBRDs) prior to December 18, 2017 and are subject to the ELD Rule, have until December 16, 2019 to transition from AOBRDs to ELDs. A list of self-certified and registered ELDs can be found at <https://3pdp.fmcsa.dot.gov/ELD/ELDList.aspx>. (FMCSA)

