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## Minnesota Crop Production Retailers

# REGULETTER

### CFATS How to Comply

The Asmark Institute recently updated our CFATS "How to Comply" guidance document to coincide with the new Chemical Facility Anti-Terrorism Top-Screen tool. The guidance document provides step-by-step instructions designed to assist retailers with the CFATS process, requiring the review of Appendix A and submittal of the new Top-Screen assessment to DHS. A copy of the report is also available in PDF format on the Asmark Institute website. Visit: [https://www.asmark.org/HotTopics/ASINS\\_Terrorism\\_Bro\\_LO.pdf](https://www.asmark.org/HotTopics/ASINS_Terrorism_Bro_LO.pdf) to see the new guidance now. (Asmark Institute)

### PSM Guidance: Stay Tuned

Asmark had hoped to be able to provide guidance to those who are awaiting the next steps on the subject of PSM and RMP. OSHA didn't take kindly to the outcome of the September 23rd court decision citing that it could potentially jeopardize the validity of numerous other regulatory actions they have acted on in the past using the same procedures. On the eve of the presidential election, OSHA petitioned the court for a re-hearing on the subject. Notable to the case was the fact that the Supreme Court had upheld OSHA's use of the procedures in a similar case about two years ago. Add to this the new wildcard of the change in administrations and what regulatory actions could be struck down early next year - and frankly it causes everyone's crystal ball to become really fuzzy. Visit: <http://www.tfile.org/aohare/DOL%20Petition%20for%20Rehearing%20and%20Rehearing%20En%20Banc.pdf> to review the petition for the re-hearing. (Asmark Institute)

### Are Nitrogen Stabilizers Subject to Fertilizer Inspection Fee and Agricultural Chemical Response & Reimbursement Surcharge?

Currently, "nitrogen stabilizer's" are not regulated under the Minnesota Fertilizer Law, therefore, the Fertilizer Inspection Fee and Agricultural Chemical Response & Reimbursement Surcharge (ACRRA) are not collected on these types of products. The ACRRA surcharge is sometimes referred to as the "MN ground water tax". (MDA/MCPR)

### Employers Must Start Using New I-9 Form by January 22

The United States Citizenship and Immigration Services (USCIS) announced on September 12th that employers will need to begin using it on or before January 22, 2017. The agency released the new form on November 14, 2016 with an expiration date of August 31, 2019. The new form serves the same purpose as the current form, to verify employment eligibility and asks for the same information. However, employers should be ready for some enhancements and should know how the old form figures into their I-9 practices.

**Q.** *What changes are to come with the new Form I-9?*

**A.** The proposed new form (available in a pdf) is said to be "smart," as it attempts to prevent employees and employers alike from making errors on the form. The form includes features like the validation of data (ensuring the correct number of digits/type of data has been entered) and on-screen help text to explain the requirements of various fields.

**Q.** *Must we complete new forms for all employees when the new I-9 is issued?*

**A.** Employers must use the new form for newly hired employees beginning on January 22, 2017 (again, employers may begin using the new form as soon as it is released). They should not automatically complete new I-9s for employees whose forms were completed before use of the new form was required.

**Q.** *How do we handle updates to employees' documentation when the original Form I-9 is an older version?*

**A.** Updates to the Form I-9 should be made on a current version of the Form I-9. If an employee's documentation requires re-verification or revision, the employer should use a current form for those updates and attach the new form to the employee's original I-9. Between the new form's release and January 21, re-verifications and revisions may be made on the form that expired on March 31, 2016 or the newly released form. As of January 22nd, however, employers must use the new form for re-verifications and revisions. Visit: <https://www.uscis.gov/i-9-central/whats-new> for more information and to access the new form. (Asmark Institute)

### Top 10 OSHA Citations of 2016

Every October, OSHA releases a preliminary list of the 10 most frequently cited safety and health violations for the fiscal year, compiled from nearly 32,000 inspections of workplaces. One remarkable thing about the list is that it rarely changes. Year after year, our inspectors see thousands of the same on-the-job hazards, any one of which could result in a fatality or

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severe injury. More than 4,500 workers are killed on the job every year, and approximately 3 million are injured, despite the fact that by law, employers are responsible for providing safe and healthful workplaces for their workers. If all employers simply corrected the top 10 hazards, we are confident the number of deaths, amputations and hospitalizations would drastically decline.

The preliminary list as published by OSHA:

1. Fall protection
2. Hazard communication
3. Scaffolds
4. Respiratory protection
5. Lockout/tagout
6. Powered industrial trucks
7. Ladders
8. Machine guarding
9. Electrical wiring
10. Electrical, general requirements (Asmark Institute)

## OSHA Proposes Improvements to Respiratory Standard

OSHA recently issued a Notice of Proposed Rulemaking (<https://www.federalregister.gov/documents/2016/10/07/2016-23928/additional-portacount-quantitative-fit-testing-protocols-amendment-to-respiratory-protection>) to add two quantitative fit-testing protocols to the agency's Respiratory Protection Standard. The proposed protocols are variations of the existing OSHA-accepted PortaCount® protocol, but differ from it by the exercise sets, exercise duration and sampling sequence. The protocols would apply to employers in the general, shipyard and construction industries. (Asmark Institute)

## Retiring Senator Boxer Wants Stricter Safety Requirements for Fertilizer Facilities

Senator Barbara Boxer (D, CA), who retires from Congress at the end of this session, recently called for EPA to toughen its proposed modernization of safety regulations governing chemical facilities, and that includes fertilizer plants. She said it should be EPA's policy to mandate use of best possible technologies whenever possible. In a letter to EPA Administrator Gina McCarthy, Boxer said the agency's new rule should increase

requirements for companies to assess the availability of safer storage and incident prevention technologies and apply those requirements to all chemical facilities, not just the 12% covered by the agency's proposed rule. She also wants chemical companies to increase their communications with neighboring communities by sharing their safety risk assessments. Boxer pushed hard during her tenure as both chair and ranking member of the Senate Environment & Public Works Committee for tougher safety standards after the explosion at West (Texas) Fertilizer Company in 2013. (Asmark Institute)

## EPA "How to Comply" with the Revised WPS Requirements Published

The updated and highly anticipated 2016 WPS How to Comply Manual will supersede the 2005 version. Changes to the standard have made the 2005 version obsolete, so old copies need to be discarded. The new "How to Comply" manual includes:

- Details to help you determine if the WPS requirements apply to you;
- Information on how to comply with the WPS requirements, including exceptions, restrictions, exemptions, options and examples;
- "Quick Reference Guide" - a list of the basic requirements (excluding exemptions, exceptions, etc.);
- New or revised definitions that may affect your WPS responsibilities; and
- Explanations to help you better understand the WPS requirements and how they may apply to you.

Read the Pesticide Worker Protection Standard "How to Comply" Manual. For information about ongoing activities in the Office of Pesticide Programs, visit their homepage here: <https://www.epa.gov/pesticides>. (Asmark Institute)

## DOT Issues Final Rule on Windshield-mounted Safety Devices

DOT issued a final rule to amend the Federal Motor Carrier Safety Regulations allowing the voluntary mounting of certain devices on the interior of the windshields of commercial

motor vehicles (CMVs), including placement within the area that is swept by the windshield wipers. Section 5301 of the Fixing America's Surface Transportation Act (FAST Act) directs the Agency to amend the regulations to allow devices to be mounted on the windshield that utilize vehicle safety technology.

Vehicle safety technology includes a fleet-related incident management system, performance or behavior management system, speed management system, lane departure warning system, forward collision warning or mitigation system, active cruise control system and transponder. In addition, section 5301 states that all windshield-mounted devices and technologies with a limited two-year exemption in effect on the date of enactment shall be considered to meet the equivalent-or-greater safety standard required for the initial exemption. (Asmark Institute)

## Cooperative Income Up 14%, Sets 2015 Record; CHS Retains Number One Spot

The nation's agricultural cooperatives - farmer, rancher and fishery operations - increased net income in 2015 by 14%, hitting a record \$7 billion, USDA recently reported. While total business volume for the top 100 cooperatives fell from \$177 billion in 2014 to \$149 billion last year, USDA said, net income rose from \$4.3 billion to \$4.9 billion.

CHS Inc., Inver Grove Heights, MN, remains the nation's largest co-op, with total business volume in 2015 of \$34.7 billion. Dairy Farmers of America, Kansas City, MO, came in second with \$13.9 billion in total revenue, with Land O'Lakes, St. Paul, MN, third at \$13.1 billion. Iowa retained its status as the home state of most top 100 cooperatives, with 15. Minnesota is home to 11 of the top 100, with Nebraska home to 9, California and Illinois boasting six and Wisconsin home to five of the top 100. (Asmark Institute)

