



Minnesota Crop Production Retailers

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# INPUTS

## Risk vs Hazard

I learned of a presentation discussing “risk assessment” and how risk differs from a hazard. A ‘hazard’ is a shark swimming in the ocean. A ‘risk’ is you swimming with the shark in the ocean. An assessment of the degree of the risk might consider how many recent sightings there have been of a shark. As far as how people might be exposed to risk with pesticides, the presentation focus was mostly pesticide exposures such as residue left on material that is touched by people and absorbed by the skin.

The very availability of pesticide products and methods by which they are used are determined by how regulators assess these risks. Water quality regulations are also developed by regulators using very similar risk assessment methodology. Availability of pesticides hinge on how regulators assess all these risks. The assessment of ‘risk’ is an integral part of federal and state regulations of both pesticides and water.

A few years ago, EPA disapproved water quality criteria for human health submitted by state regulators. The issue involved EPA’s risk assessment related to fish consumption. EPA was using an unreasonable assessment that children eat an excessive amount of fish every day of the year and that these fish have an extraordinary amount of a chemical absorb into their tissue.

Using the graphic shark example above, it would be as if parents were forcing their children to go swimming every single day of the year in an ocean with sharks swimming nearby. EPA’s risk assessment in the case submitted was flawed. Fortunately, after input by agriculture associations and others, much public comment, EPA reconsidered its decision and developed new risk assessment methodology. That is why you are MCPR members and stay engaged in our common struggle...we must work together to keep the regulatory agency assessments reasonable.



## Capitol Update

- We have reached the phase of the Minnesota Legislative Session where committees of jurisdiction in the House and Senate have passed their omnibus bills out of committee.
- These large bills are making a final committee stop in each body before being discussed and debated on the floor. The various omnibus bills represent how each body would design a nearly \$52 billion budget for the state for the next two years.
- Since Minnesota has the only divided legislature in the country, there are significant differences between the House and Senate, not in the

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# Executive Director's Report

Hello MCPR members,

While the turmoil and demonstrations in Brooklyn Park over yet another police officer/black man tragic incident continue as I write this report, I am reminded of the turmoil and strife also evident at the Minnesota Capitol. The politicians are tussling over strong differences making compromise seem out of reach. You will note the dramatic differences in the Capitol Update between the Minnesota House of Representatives and Minnesota Senate.

None of this is new or different. Since the start of human civilization, the struggle over governance and control has been our common experience. These differences have

pitted segments in our societies into different groups based upon beliefs and power which have separated mankind into angry and at times violent conflict.

The many years I have spent at the State Capitol have convinced me that the political solutions are much preferred over violent battles. The beauty of our democracy based upon the rule of law is that at the end of the day, the conflict is settled according to our laws and our vote by the will of the majority.

What has caused me concern is that socialism has crept into the liberal wing of the US society. Blend with this an intolerance which seems to block the peaceful resolution to our differences, and you have the

perplexing conflicts in our country and our state.

During the heat of battle solutions seem to be out of reach and the strife seems insurmountable. But they are not. We will see the end of the legislative session just as the 201 Minnesota state legislators will ultimately face yet another election. Just remember when you stand in the voting booth during our next election that your vote makes a difference and is much preferable to a gun battle.

Until next time,



Bill Bond

## Capitol Update

overall budget amount, but in the details of the various bills. Overall, the House DFL is proposing a \$52.5 billion budget and the Senate GOP is proposing a \$51.9 billion budget. The approach of the Senate and House stand in direct contrast to each other on the issues of interest to MCPR members. In the Republican controlled Senate MCPR was able to express concern about items which ultimately have not been included in the Senate version of these bills.

### **Increase in pesticide gross sales fee in the House of Representatives.**

The manufacture, sale, and use of pesticides is extensively regulated by the Minnesota Department of Agriculture (MDA), and U.S. Environmental Protection Agency (EPA). MCPR reminded legislators that pesticide registrants are required to pay a fee of \$350 which the MN

Department of Agriculture (MDA) uses to regulate through registration of pesticides, licensing of pesticide applicators, and through research, inspection, and enforcement activities. The Minnesota Office of the Legislative Auditor (OLA) evaluated Minnesota MDA pesticide regulation in 2006 and made several recommendations to MDA. The 2020 revaluation found that MDA fully implemented eight of ten recommendations from the 2006 report, and that the Department has partially implemented the other two recommendations.

Therefore, MCPR concluded that increasing the percentage of tax levied, nearly double, from 0.55 to 0.9 percent on the annual gross sales of pesticide products in the state is unnecessary. This would increase revenue approximately 60 percent. We concluded by stating that we believe

MDA has sufficient funding based on its current budget, and recent lab and equipment upgrades making Minnesota a premier state regarding lab quality and testing ability.

We pointed out to House members that the agricultural economy has struggled recently due to factors including the pandemic, weather, trade, and prior low commodity prices. Raising prices through this increase in the pesticide fee which must be collected by MCPR members on their farmer customers moves counter to supporting the second largest economy in the state. Minnesota is receiving more than \$4 billion dollars from the Federal COVID Relief Aid passed earlier this year. Based on current budget projections, Minnesota is expected to have a budget surplus. We requested the House of Representative ag leaders

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remove the pesticide fee increase and suggested they use additional funding through federal COID relief aid dollars, or those provided through the Arts & Cultural Heritage Fund supported by the ½ cent sales tax. We opposed such a dramatic increase in fees that would ultimately affect the farmer. The pesticide fee increase was not included in the Senate bill as it moves through the legislative process.

### **Treated seed additional labeling.**

We told the House members that mandating additional cautionary statements on the label of seeds treated with neonicotinoid pesticides is redundant and unnecessary for seed labels with existing cautionary statements already regulated by EPA and its registration under Section 3 of the Federal Insecticide Fungicide Rodenticide Act or FIFRA. Requiring additional instructions on the labels of seeds treated with federally labeled and registered pesticide products moving through interstate commerce would likely violate the Interstate Commerce Clause of the Constitution and unduly burden manufacturers of seed supplied to Minnesota when the same seed coatings are subject to uniform regulations by the EPA and USDA and supplied in a consistent manner to all other states.

MCPR pointed out that seed treatments are an important tool that provide farmers with an economical means of protecting seeds and seedlings against early-season insect pests and diseases. There is no question that today's seed treatments are enabling America's farmers to realize greater yields and healthier crops than ever. At the same time, seed treatment technology is reducing potential risks to the environment, thanks to their highly targeted approach to controlling pests. It is important to note that pesticides

applied as seed treatments undergo rigorous testing and review by federal and state regulators to ensure their safety to applicators, wildlife, and the environment.

We also discussed additional actions which have been taken to protect pollinators. Examples are application processes to increase pesticide adherence to seeds, flowability agents that help minimize seed coat abrasion (dust-off) during planting, and an American Seed Trade Association-led stewardship campaign (<https://seed-treatment-guide.com/>).

Federal seed laws (specifically the Federal Seed Act) regulate the sale and movement of seed in the U.S., and seed companies must abide by those regulations. Within the Federal Seed Act, there are requirements about the labeling of treated seed. The tags on a package of treated seed must include identification of what the seed has been treated with, requirements of special guidance dependent upon the toxicity classification of compounds within the treatment recipe or risk assessment, label statements based on worker protection standards, and other applicable labeling requirements.

### **Agriculture Omnibus Bills going to the Senate and House Floors for Debate and Passage**

The policy section of the Senate bill includes the provision increasing the Agricultural chemical response and reimbursement account (ACRRA) maximum reimbursement payment increase from \$350,000 to \$600,000. However, the Mn Department of Agriculture testified that this increase in limit will require an increase in the portion of the pesticide fee which supports the ACRRA fund to cover the additional liability this limit increase requires. MCPR will be vigilante

to guard against environmental lobbyists and legislators expanding the liability coverage of the fund to cover household chemical remediation claims.

In spite of MCPR's lobbying covered above, the policy section of the House bill includes language that would require a pollinator warning on seeds that are treated with neonicotinoid pesticides and prohibits the use of treated seed as a food, feed, oil, or ethanol feedstock. The bill would prohibit the disposing of neonicotinoid treated seeds by composting or incinerating in a home or dwelling or burying near water. As was mentioned above, the bill also includes a pesticide fee increase from 0.55 percent to 0.9 percent on annual gross sales on both ag and non-ag pesticides.

### **Senate and House Environmental Omnibus Bill Provisions Are Miles Apart**

The Senate environment bill ([SF 959](#)) is being carried by Senator Bill Ingebrigtsen (R-Alexandria). A few provisions to highlight include:

- Prohibit the MPCA from imposing certain restrictions on a NPDES (discharge) permit. A permit could not include conditions that would stop a producer from applying solid manure in February and March nor could a permit require a cover crop to be planted for September application.
- Clarify that the DNR must provide notice to an affected entity of a revision in the Public Water Inventory (PWI), must send a notification or a copy of a map that has been revised to a county that is affected by a revision and must give access to a copy of a county PWI maps if requested.

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This is information is believed to be reliable by MCPR. However, because of constantly changing government regulations, interpretations and applicability or the possibility of human, mechanical or computer error, MCPR does not guarantee the information as suitable for any particular purpose.



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# REGULETTER

## DOT Extends Waiver Again

DOT has extended the waiver for expiring Commercial Driver's Licenses (CDLs) and permits, as well as Non-CDL licenses for commercial motor vehicle (CMV) drivers, until May 31, 2021 in response to the COVID-19 public health emergency. Some CMV drivers have been unable to renew their licenses and are unable to provide medical certificates to their State Driver Licensing Agencies. Many states are experiencing greater than normal employee absences, reduced hours of operation or closed offices. In addition, many medical providers have cancelled regularly scheduled appointments and drivers have been unable to obtain appointments for physical examinations with medical examiners who comply with the Federal Motor Carrier Safety Regulations.

Drivers claiming relief under this waiver must continue to carry a paper copy of their expired medical certificate. Asmark will continue to mark drivers that fall within the specified time frame of the waiver as "Attention Needed" on Snapshots, as well as indicate the waiver's

time frame on the monthly status reports. If your physician is accepting appointments, please don't wait until the last minute to get your records updated. (*Asmark Institute*)

## Applicator Manuals Arriving Soon

The 2021 Applicator Manuals were scheduled to ship out mid-February. However, due to paper supply issues, our printer in Canada experienced a bit of a delay. The manuals will now be shipping out the first part of March and arriving soon, still in time for spring season. As soon as the books arrive at our office in Owensboro, we will be busting it to get all orders filled, packaged and shipped out as fast as possible.

These handy little manuals, sometimes referred to as 'Label Books', contain over 125 of the most common custom applied products. The manuals help to comply with EPA's requirement to have label information available to applicators while handling or applying pesticides.

If you still need to order, you can place your order [HERE](#). (*Asmark Institute*)

## Microsoft Edge Now Approved for Asmark's Website

After passing the year's mark since Microsoft released its Chromium-based web browser, Edge, Asmark's Web Development team is now adding this browser to our list of approved web browsers on our site. Our team has been watching and testing with the beta version of this browser since its original release in 2015, but due to bugs and poor design we did not put our trust in supporting it at that time. Then in 2020, it appeared that Microsoft was also unhappy with the progress of the browser, so they rolled it back and took a different approach - a Chromium approach.

Chromium is a free and open-source web browser framework that allows anyone with the time and where-with-all to build their own browser. Meaning, it basically acts as a shell or platform - a starting place, if you will - for web browser companies to build on. For example, Microsoft or Google started with Chromium then added their own features, design and mechanisms to make it uniquely their own; i.e. Google Chrome, Microsoft Edge.

With the new Chromium base, Edge now offers stability, speed of use, tracking preventions, as well as security. For these reasons, we have added it to our [Website System Requirements](#), which lists the details of computer and software we approve for use on our website. (Asmark Institute)

### OSHA Proposes Changes to HCS

OSHA has issued a proposed rule to update the agency's Hazard Communication Standard (HCS) to align with the seventh revision of the Globally Harmonized System of Classification and Labeling of Chemicals (GHS). The proposed modifications to the standard include revised criteria for classification of certain health and physical hazards, revised provisions for updating labels, new labeling provisions for small

containers, technical amendments related to the contents of Safety Data Sheets (SDSs), and related revisions to definitions of terms used in the standard. Comments may be submitted electronically at <http://www.regulations.gov> by April 19, 2021. (Asmark Institute)

### Grace Period Ends for CSB Reporting Rule

The accidental release reporting rule, requiring employers to report certain chemical incidents to the Chemical Safety Board (CSB) that was effective last Spring, hits its first anniversary. This serves as a good time for a reminder that the owner or operator of a stationary source must report any accidental release resulting in a death, serious injury, or substantial property damage.

The submission of a report to the National Response Center (NRC) under other laws does not satisfy the CSB's reporting requirement, but it can be satisfied by submitting the NRC identification number to the CSB within 30 minutes of submitting a report to the NRC. If the facility has not submitted a report to the NRC and then notified CSB, the facility must submit a report directly to CSB within 8 hours of the accidental release. Reporting can be submitted by downloading the [reporting form](#) and emailing it to the CSB or by calling 202-261-7600. (Asmark Institute)

### FMCSA Top Five Violations for 2020

FMCSA has issued their top five violations as cited at roadside inspections in 2020. The following lists the top five for driver, vehicle and hazardous materials categories (below):

#### FMCSA Top Five Violations for 2020

Rank	Code	Description	Violations
<b>2020 Roadside Inspections - Driver Violations</b>			
1	392.2	Speeding 6-10	58,134
2	392.2	Failure to obey traffic control device	49,454
3	392.16	Failing to use seat belt	45,397
4	395.8(e)	False report of drivers' record of duty status	35,056
5	392.2	Lane restriction violation	33,022
<b>2020 Roadside Inspections - Vehicle Violations</b>			
1	393.9	Required lamp(s) not operable	311,791
2	396.17(c)	Operating without proof of a periodic inspection	136,106
3	393.47(e)	Brake(s) out of adjustment	113,386
4	393.95(a)	No/discharged/unsecured fire extinguisher	99,321
5	396.3(a)(1)	General inspection/repair/maintenance	90,580
<b>2020 Roadside Inspections - Hazmat Violations</b>			
1	177.834(a)	Package not secure in vehicle	3,435
2	107.620(b)	No copy of USDOT hazmat registration number	2,016
3	177.817(e)	Shipping paper accessibility	1,885
4	177.817(a)	No or improper shipping papers	1,787
5	172.504(a)	Vehicle not placarded as required	1,655

# Capitol Update (continued from page 3)

The House environment bill ([HF 1076](#)) is being carried by Rep. Rick Hansen (DFL- South Saint Paul). A few provisions to highlight:

- \$1 million for a Soil Health Cost-Share Program with a goal of 30 percent of privately owned farmland using soil health practices by 2030. Practices could include, but is not limited to, cover crops, perennial crops, no-till or reduced tillage, strip cropping or managed rotational grazing.
- Allow cities to ban the use of pollinator lethal pesticides. Estimates are this covers over 800 cities in Minnesota. We see this as the “camel’s nose under the tent” provision which is just one step down the road to banning pollinator lethal pesticides – which means whatever pesticides advocates can dream up to include.
- Ban the use of chlorpyrifos on WMAs, state parks, state forest, aquatic management areas or an SNA.

- Require public information meetings to be held every 5 years for non-expiring air permits.
- Appropriate funds to MPCA to conduct treated seed disposal rulemaking and would also clarify and make clear the regulatory jurisdiction of state agencies and local government regarding treated seed.

As in years past, the ultimate test will be the House/Senate Conference Committee debate and decisions which must resolve the differences in these bills. We are hopeful and anticipate that the Senate members and MCPR interests will prevail. It’s not over, until it is over which for the Minnesota legislature has a constitutionally mandated adjournment date which this year is May 17. If they cannot agree on a final budget and must adjourn, the Governor must call them back to an expensive and messy special session. Stay tuned, MCPR members. It will be interesting.

## Focus on Paycheck Protection Program (PPP) Taxes in Minnesota

Although the federal government declared that Paycheck Protection Program (PPP) loans would not be taxed at the federal level, not so in Minnesota. As it currently stands, MCPR members will face substantial state tax bills on their PPP loans. Conformity to federal tax code is being advanced at the Minnesota Capitol right now, with legislation already having passed the Republican-led Senate. Democrats have yet to pass its companion in the House, however. MCPR is joining other business and ag associations to protect our members.

Last session, MCPR and numerous ag and business associations secured federal tax conformity with Section 179 in relation to the Tax Cuts & Jobs Act of 2017. The legislation provided much needed tax relief to Minnesota’s business climate.



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