

Reguletter

DHS Issues Advisory on Recognizing Suspicious Activity

Washington D.C. – Some commercially available fertilizers can be used in the manufacture of homemade explosives and vehicle-borne improvised explosive devices. Terrorist use of fertilizer-based explosive devices is well-documented both in the United States and overseas. The use of this tactic warrants alertness to suspicious purchases of fertilizer.

Potential indicators of suspicious purchases of fertilizers: Although a single indicator may not be suspicious in itself, one or more, in combination, may signify a suspicious purchase:

- Attempts to purchase quantities that are inconsistent with customer's stated use, business, or purchase history.
- Insistence on paying in cash for bulk purchases or using someone else's credit card.
- Insistence on in-store pickup instead of store delivery of bulk purchase.
- Use of rented or out-of-state vehicle to transport a fertilizer purchase.
- Use of vehicle without farm or commercial tags to transport large quantities.
- Bulk purchases by individuals who do not own or operate farms, landscaping business, or other commercial enterprises that normally deal in large quantities of fertilizer.
- Attempts to purchase material during the off-season.
- Inquiries about fertilizers containing high concentrations of nitrogen or ammonium nitrate.
- Smaller purchases at different locations within a short period of time.
- Displaying nervous behavior and evading or deflecting questions about intended use.
- Refusal or reluctant to provide full contact information.
- Exhibiting little or no knowledge of crops, soil composition, field size, application methods, or proper use of fertilizer.
- Interest only in ammonium nitrate or urea-based fertilizers. (Asmark Institute)

CSA 2010 Rollout Detailed

The Federal Motor Carrier Safety Administration (FMCSA) developed a revised schedule for the roll out of CSA 2010. The rollout schedule is designed to methodically step federal and state enforcement staff, as well as the motor carrier industry, into the program one stride at a time increasing understanding and accountability for good safety performance. The rollout timeline is outlined below:

- April 12 – November 30, 2010 – Motor carriers can preview their own data by seeing their roadside inspections/violations and crash events organized by Behavior Analysis and Safety Improvement Category (BASIC).
- June 30 – The Operational Model (Op-Model) Test will end.
- July – The four "50/50" Op-Model Test states, Colorado, Georgia, Missouri and New Jersey, will join the five 100% Op-Model Test states in implementing the program.
- August – Motor carriers will be able to see an assessment of their violations based on the new Carrier Safety Measurement System (CSMS) which will replace SafeStat later in 2010.
- Fall/Winter 2010 – SafeStat will be replaced by the CSMS. CSMS will be available to the public, including shippers and insurance companies.
- FMCSA/States will prioritize enforcement using the CSMS.
- FMCSA will begin to issue Warning Letters to carriers with deficient BASICS.
- Roadside inspectors will use the CSMS results to identify carrier for inspection.
- Winter 2010 – Safety Fitness Determination Notice of Proposed Rulemaking (NPRM) is scheduled to be released.
- 2011 – Enforcement staff will be trained, and new interventions will be implemented State-by-State. (Asmark Institute)

CSA 2010 - 11,000+ Have Already Previewed Data

DOT's Comprehensive Safety Analysis (CSA) 2010 Data Preview, which allows individual motor carriers to review their safety performance data by the CSA 2010 Behavior Analysis and Safety Improvement Categories (BASICS) has been available for just over two months now. According to CSA's website an average of 723 new Motor Carriers are logging in each week. To date, 11,259 unique Motor Carriers have viewed their safety data by BASIC since the site launched on April 12th. The data preview period ends on November 30, 2010, the national launch date for the CSA 2010 safety enforcement program. During the data preview period, motor carriers are encouraged to closely examine their performance data and immediately address any safety problems. This is also an

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opportunity for motor carriers to update and verify their safety performance data online. This important step is designed to focus motor carriers on identifying and addressing unsafe behaviors that can lead to crash risk. It also underscores FMCSA's commitment to data integrity and the motor carrier industry's responsibility for ensuring commercial vehicle safety. Complete details on the Data Preview and the CSA 2010 implementation schedule are published in the Federal Register. Sounds to us like DOT is asking you to preview and "proof" your data before the program is launched officially in December. (Asmark Institute)

FMCSA Publishes Technical Amendments to Medical Card/CDL Rules

The Federal Motor Carrier Safety Administration (FMCSA) has published revisions to 49 CFR Parts 383 and 391 making technical amendments to the Medical Certification Requirements as Part of the Commercial Driver's License (CDL). The amendments in this final rule became effective May 21, 2010.

For investigations and inquiries, if the driver provided the motor carrier with a copy of the current medical examiner's certificate that was submitted to the State, the motor carrier may use a copy of a medical examiner's certificate as proof of the driver's medical certification for up to 15 days after the date it was issued.

391.41 Physical qualifications for drivers has been revised to read: Beginning January 30, 2012, a driver required to have a commercial driver's license under part 383 of this chapter, and who submitted a current medical examiner's certificate to the State in accordance with § 383.71(h) of this chapter documenting that he or she meets the physical qualification requirements of this part, no longer needs to carry on his or her person the medical examiner's certificate specified at § 391.43(h), or a copy. If there is no medical certification information on that driver's CDLIS motor vehicle record defined at 49 CFR 384.105, a current medical examiner's certificate issued prior to January 30, 2012, will be accepted until January 30, 2014. After January 30, 2014, a driver may use a copy of the current medical examiner's certificate that was submitted to the State for up to 15 days after the date it was issued as proof of medical certification. A CDL holder required to obtain a medical examiner's certificate, who obtained such by virtue of having obtained a medical variance from FMCSA, must continue to have in his or her possession the original or copy of that medical variance documentation at all times when on-duty.

391.51 General requirements for driver qualification files has been revised to read: Exception. For CDL holders, beginning January 30, 2012, if the CDLIS motor vehicle record contains medical certification status information, the motor carrier employer must meet this requirement by obtaining the CDLIS motor vehicle record defined at § 384.105 of this chapter. That record must be obtained from the current licensing State and placed in the driver qualification file. After January 30, 2014, a non-excepted, interstate CDL holder without medical certification status information on the CDLIS motor vehicle record is designated "not certified" to operate a CMV in interstate commerce. After January 30, 2014, a motor carrier may use a copy of the driver's current medical examiner's certificate that was submitted to the State for up to 15 days from the date it was issued as proof of medical certification. (Asmark Institute)

Major Changes: New Walking-Working Surfaces Proposed Rule

OSHA published a long-awaited proposed rulemaking, which will revise the walking-working surfaces and personal protective equipment standards to improve worker protection from tripping, slipping, and falling hazards. The proposed revisions include a reorganization and re-designation of the standards to make the rule clearer, as well as a performance-oriented approach to compliance. The proposed rule establishes requirements for general industry walking-working surfaces and prescribes the use of fall protection systems (including personal fall protection systems) to protect employees from falls. It also contains performance criteria for personal fall protection systems.

According to OSHA, the current walking-working surfaces regulations allow employers to provide outdated and dangerous fall protection equipment such as lanyards and body belts that can result in workers suffering greater injury from falls. Construction and maritime workers already receive safer, more effective fall protection devices such as self-retracting lanyards and ladder safety and rope descent systems. The proposed revisions would also require similar protections for general industry workers.

In addition, the current walking-working surfaces standards do not allow OSHA to fine employers who let workers climb certain ladders without fall protection. Under the revised standards, this restriction is lifted in virtually all industries, allowing OSHA inspectors to fine employers who jeopardize their workers' safety and lives by permitting the climbing of these ladders without proper fall protection. OSHA is also adding an entirely new section (1910.140) under Subpart I, "Personal Protective Equipment," which provides requirements for selection, use, testing, inspection, maintenance, and training with regard to personal fall protection systems. OSHA estimates these revisions will help prevent 20 workplace fatalities per year and more than 3,500 injuries serious enough to cause people to miss work. (Asmark Institute)

Reminder: HazMat Annual Registration Expired on June 30th

If your company transports, or offers to transport, hazardous materials that require placarding by the DOT, they must be registered with the Department of Transportation (DOT). If your company registers with DOT annually, then your HazMat Registration expires on June 30th each year. If your company registers for a two or three year period, check your registration for the expiration year. A copy of the current registration must be carried in every company vehicle used to transport hazardous materials. You can register and pay the fee online at the DOT's website by entering this into your web browser: <http://www.phmsa.dot.gov/hazmat/registration>. (Asmark Institute)

Nurse Tank Inspection Program Entering Fifth Year

In 2005, USDOT Office of Pipeline & HAZMAT Safety Administration (PHMSA) began requiring anhydrous ammonia nurse tanks with missing or illegible data plate to enroll in the Nurse Tank Inspection Program (NTIP) in which the nurse tanks must undergo and pass hydrostatic pressure testing, thickness testing, and a visual inspection once every five years in order to keep them in service. The industry is now coming upon year five of the program in which tanks will need to be retested and pass in order to use the NH3 nurse tanks. If you have any questions about the USDOT requirements or need to find an inspector, please contact Jessi at (952) 253-6081. (IFCA)