

Reguletter

Reminder!!

As always; if you have any regulatory compliance questions please contact Jessi at 952-253-6081.

Hours of Service Exemption Threatened

DOT exempted agricultural carriers from the hours-of-service regulations if they operated only within a 100-mile radius from their central base of operation. A study by DOT's Volpe National Transportation Systems Center found that agricultural carriers operating exclusively within a 100-mile radius had a 19 percent higher crash rate than agricultural carriers operating outside a 100-mile radius during the period of 2005-2007. The study also showed that in 2007 agricultural carriers as a whole had higher violation and out-of-service rates than the rest of the trucking industry in the categories of unsafe driver, driver fitness, vehicle maintenance, and improper loading. The overall average increase was 32 percent. As a result, the Commercial Vehicle Safety Alliance (CVSA) is proposing that all motor carrier safety exemptions should be sunsetted, whether provided in statute or by regulation. Pam Guffain, Vice President of The Fertilizer Institute, reported a few weeks ago to the House Committee on Transportation and Infrastructure, Subcommittee on Highways and Transit, held a mark-up on the Surface Transportation Authorization Act of 2009. The 775-page bill does not have any provision that would affect the agricultural hours of service exemption at this stage; however, Committee Chairman Representative James Oberstar (D-Minn.) did express his strong opposition to "targeted" exemptions such as hours of service, citing them as obstacles to safety. (Asmark Institute)

Bill Introduced to Address Loopholes in DOT Drug & Alcohol Testing

The Safe Roads Act was recently introduced by Senators Mark Pryor (D-AR), Olympia J. Snowe (R-ME), Ben Nelson (D-NE), and Roger Wicker (R-MS). The Act would close a well-known loophole that currently enables drug and alcohol abusers to get behind the wheel of a commercial motor vehicle. The Senators said

despite DOT drug and alcohol testing requirements, commercial drivers can continue to drive 18-wheelers and buses even after testing positive. Factors that contribute to this problem include:

- Applicants who do not report their drug testing history to new employers,
- Carriers who do not fully complete background checks, and
- Self-employed drivers who fail to remove themselves from service.

Data shows that between 1.3 percent and 2.8 percent of drivers test positive for the presence of illegal drugs under random testing. Every year, approximately 5,500 fatalities and 160,000 injuries result from large trucks and buses. The Safe Roads Act would implement a recommendation from the Government Accountability Office (GAO) to establish a cost-effective, feasible database of drug testing information for commercial drivers. Specifically, it would authorize \$5 million annually to develop and deploy the database and clearinghouse; require medical review officers, employers, and other service agents to report positive results from drug or alcohol tests to the Federal Motor Carrier Safety Administration; and require employers to check the database prior to hiring prospective employees.

"I don't want my family sharing the road with truck and bus drivers under the influence of drugs or alcohol. I'm sure others feel the same way. We must change the status quo to ensure these drivers can't skirt the law," Pryor said. "A national clearinghouse is a cost-effective, feasible solution to weed out bad apples and keep our roads safe."

"Developing a centralized database for positive drug and alcohol test results will help give employers across the country the tools they need to ensure they aren't putting drivers with substance abuse problems on our roads," Senator Wicker said. "This is a feasible, common-sense approach to improving highway safety."

As a reminder...if you have drivers in the MCPR Drug & Alcohol Testing program make sure you are keeping your driver list current. If you need to add or remove a driver, or see who is currently on your driver list, this can be done through the Forward Edge Associates website; enter: <http://www.forwardedge.net/> into your web browser and click on Web Central (lowest box on the left side of the screen). For password or username help please contact Forward Edge at 1-800-480-3723. (Asmark Institute)



EPA Updates SPCC Plans.....Again

If you remember, on April 1, 2009 EPA published a final rule to further delay the effective date until January 14, 2010, for the SPCC amendments promulgated December 5, 2008. EPA was working on a final rule to extend the July 1, 2009 compliance date to provide facilities sufficient time to determine their compliance obligations under any rule amendments that become effective in 2010. On June 11, 2009, EPA again extended the compliance date for all facilities to November 10, 2010. Facilities must amend or prepare and implement SPCC Plans by the compliance date in accordance with revisions to the SPCC rule promulgated since 2002. Farms must also amend or prepare their SPCC Plans and implement those Plans by the same date. Additional information on the new amendment to the SPCC Rule is available by entering the following into your web browser: http://www.epa.gov/oem/docs/oil/spcc/spcc_06-12-09_amend_unsigned.pdf. (Asmark Institute)

Status of mySPCC Web Tools

USEPA has continued updating the SPCC rule and extending the deadlines accordingly. Soon the updates will end and everyone will be expected to comply. Until then, here is a recap:

Facilities with more than 10,000 gallons of oil product capacity should have already had a SPCC plan prepared by a professional engineer. The recent amendments do not remove any regulatory requirement for owners or operators of facilities in operation before August 16, 2002, to develop, implement and maintain a SPCC Plan in accordance with the SPCC regulations then in effect. Such facilities continue to be required to maintain their plans during the interim until the applicable date for revising and implementing their plans under the new amendments. This also applies to facilities with a tank used for oil products greater than a 5,000 gallon capacity.

Facilities that possess 10,000 gallons or less of oil product capacity are the main benefactors from the past few years of amendments to the SPCC rule. The final outcome has been a tiered approach to compliance based on the size of the facility. A professional engineer's services are not required to develop a SPCC plan for these facilities. Facilities fitting into this category will have options and can proceed with developing the SPCC plan for their facility as soon as the rule has been finalized and the new web-based compliance-assistance tools have been released for use.

The Asmark Institute was asked to partner with The Fertilizer Institute (TFI) in December 2006 to develop a state-of-the-art web-based tool to help facilities comply with the SPCC requirements. Asmark Institute has continued to work with The Fertilizer Institute and USEPA to develop two new web-based tools to be released as mySPCC Suite of Retail Guidance Materials. USEPA has conducted a preliminary review of mySPCC. Representatives of the Asmark Institute, TFI and USEPA will meet to finalize the review and release of these tools in the near future. It is anticipated that USEPA will support the program much like the popular myRMP program.

The new web-based mySPCC tools have been built with the same standard of quality, logic and user-friendliness as the recent myRMP Suite of Retail Guidance Materials. Programming for the self-certification SPCC plan (for use with a tank greater than

5,000 gallons) was completed in the fall of 2007. Programming for the second new tool that helps a user electronically complete the streamlined template (for use at facilities with no tank greater than 5,000 gallons) was completed the fall of 2008. Both tools are awaiting release. mySPCC was expected to be introduced in the first quarter of 2009 pending review and approval. Finalizing the tools have been delayed by the Obama administration's regulatory review process and the release of recent amendments. (Asmark Institute)

Pesticide Container and Containment (PCC) Rule

U. S. EPA published the final Pesticide Container and Containment (PCC) Rule in August 2006. The Rule seeks to provide sound stewardship practices and national consistency for pesticide labeling, container design, repackaging and storage. The fact sheet from CropLife America, that can be found on the MCPR website, discusses critical aspects of the Rule that affect selection, maintenance and use of refillable containers for pesticides. After August 16, 2011, all portable refillable containers must meet the following requirements. After this date, many existing portable refillable containers will be obsolete if they cannot meet these requirements. Below is an overview of the refillable rules:

- One-way valves or tamper evident device on openings (other than vents) is required. Contact equipment vendors about options.
- Containers must have a unique method of identification such as a serial number or other ID code.
- Must meet DOT design, construction, marking.
- No limits on size, except those placed by registrants, of the refillable container.
- Must be cleaned between uses unless tamper evident and/or one-way valves are intact and filled with same product.
- Containers must be on an approved list from the registrant.
- Must have registrant's cleaning instructions and repackaging authorization on hand.
- EPA Est. # and net contents must be on the product label affixed to the tank.
- Container integrity is the responsibility of both refiller and the registrant.
- Records must be kept for each inspection and fill.

As a reminder of the new requirements, CropLife America and the American Agronomic Stewardship Alliance have created a poster. As an incentive, they are having a "Post the Poster" contest and offering a Garmin GPS navigation unit to the most innovative and eye-catching placement of the poster. Two second-place entries will receive a \$150 gift certificate to Bass Pro Shops. Entry details can be found on the MCPR website.

For further information and for a Pesticide Refiller Checklist for Portable Refillable Containers type: www.mcpr-cca.org into your web browser.

This 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.