

Reguletter

March 1st Deadline Passes

As a reminder worth mentioning, SARA Tier II Submissions were due on March 1st. These are annual requirements that most retailers are familiar with, however, the penalties are quite severe for non-compliance. MCPR would like to remind our members of the deadline just in case the SARA Tier II reports are still sitting on someone's desk. Also, MCPR wants to remind facilities fertilizer held for resale to the end user (the farmer) is exempt from having to be reported on a Tier II Report...however there is one important exception, if the fertilizer is considered an Extremely Hazardous Substance (EHS) it must be reported and included in the emergency planning for the facility, county and state. Anhydrous ammonia is an EHS and should be reported on a Tier II report annually. USEPA actually cross-references between locations that report a RMP and a SARA to make sure they are reporting for both requirements. We have gotten word that some facilities may have gotten incorrect information regarding reporting anhydrous ammonia. (Asmark Institute)

Reminder for RMP (Ammonia Facilities)

In 2009, the U.S. Environmental Protection Agency (USEPA) established an online system to receive corrections and re-submittals of Risk Management Plans (RMP). As of January 1, 2010, the EPA Risk Management Plan Reporting Center will no longer accept the old RMP Submit 2004 disks. The online system has many enhancements which should streamline the submittal process once the facility has set up an account in the RMP eSubmit. The one time account setup can be done at any time, but should be initiated at least one month prior to the actual date first needed.

Tax Refund Possible for Business from New IRS "Carryback" Rule

Small-business owners caught by upside-down fertilizer prices or similar loss situations, can benefit this year from a Recovery Act extension that allows them to carry 2008 losses back five years. Businesses that amend their tax return for an earlier profitable year can get a refund on previously paid tax. Interested businesses should consult their tax preparer. (Asmark Institute)

Reminder....Time to Post Your 300A

It's time to complete your 2009 injury and illness record keeping obligations by posting the Summary of Work Related Injuries and Illnesses (OSHA 300A). OSHA requires that the notice be displayed from February 1st to April 30th of each year in a conspicuous place where employee notices are customarily posted. A company official must certify the information in Form 300A was examined and is believed to be correct and complete. (Asmark Institute)

Added Point of Interest for the OSHA 300 – OSHA Proposes to Require Record Keeping of Workplace Ergonomic Injuries

If finalized, the proposal would require employers to place a check mark in the "MSD" column if the injury met the regulatory definition. MSD (musculoskeletal disorders) are defined as "disorders of the muscles, nerves tendons, ligaments, joints, cartilage and spinal discs, expect those caused by slips, trips, falls, motor vehicle accidents for other similar accidents." The Advisory Committee on Construction Safety and Health (ACCSH) voted unanimously on December 11, 2009 to add an "MSD" column to the OSHA 200 and 300A record keeping forms. It is likely that the information being obtained from the logs will help OSHA build a case for re-proposing ergonomic industry standards similar to the one that was strongly opposed by industry in 2001. Comments were due by March 15, 2010.

Ag Groups Put EPA on Notice over Atrazine

Over 50 agricultural groups have sent a letter to EPA Administrator, Lisa Jackson, supporting the continued use of atrazine, a response to a recent press conference staged by the Land Stewardship Project and the Pesticide Action Network North America. The two activist groups continue to allege the use of atrazine in dangerous to human health and the environment and are urging Jackson to open a new review of the much reviewed crop product. The ag groups remind EPA its own review of atrazine over the last 30 years has shown it to be safe and effective, calling the activist action "an unfounded political attack not based on sound science." (Asmark Institute)



New Hire/Re-Hire Season is Just around the Corner

As the new hire season approaches MCPR would like to remind our members about some of the services that MCPR offers that may help you out.

- 1) Training kits can be ordered from a form on the MCPR website (www.mcpr-cca.org) under the Training tab. Training kits include a DVD on the subject, handbook on the subject and all testing materials. Most topics are only \$10/per person. If you aren't sure what training your employees need their is a guidance document that can assist you under the same tab.
- 2) Any driver that needs a Driver File will need a response from state agencies to the annual driving record inquiry. MCPR can provide the driving record request for \$10/per driver. The form can be found on the MCPR website (www.mcpr-cca.org), under the USDOT/ MNDOT Info tab. For a complete list of what needs to be in a Driver File (or to find out who needs one), check under the same tab listed above on the MCPR website.
- 3) If your new hires/re-hires need to be added to your Drug & Alcohol testing list please contact Forward Edge Associates at (800) 480-3723 to add or delete drivers or just to find out who is still on your testing list.

The FMCSA announces regulatory guidance concerning texting while driving a commercial motor vehicle (CMV)

The Federal Motor Carrier Safety Administration (FMCSA) issued a "Notice of regulatory guidance" on January 27, 2010, concerning texting while driving a commercial motor vehicle (CMV). The guidance is applicable to all interstate drivers of CMVs subject to the Federal Motor Carrier Safety Regulations (FMCSRs). The regulatory guidance is effective immediately concerning the applicability of 49 CFR 390.17, "Additional equipment and accessories," to CMV operators engaged in "texting" on an electronic devices while driving a CMV in interstate commerce.

Although the current safety regulations found in 49 CFR 390.17 do not include an explicit prohibition against texting while driving by truck and bus drivers, the general restriction against the use of additional equipment and accessories that decrease the safety of operation of commercial motor vehicles applies to the use of electronic devices for texting. Handheld or other wireless electronic devices that are brought into a CMV are considered "additional equipment and accessories" within the context of §390.17.

"Texting" is the review of, or preparation and transmission of, typed messages through any such device or the engagement in any form of electronic data retrieval or electronic data communication through any such device. Texting on electronic devices while driving decreases the safety of operation of the commercial vehicles on which the devices are used, because the activity involves a combination of visual, cognitive and manual distraction from the driving task. Research has shown that during 6-second intervals immediately preceding safety-critical event (e.g., crashes, near crashes, lane departure), texting drivers took their eyes off the forward roadway an average of 4.6 seconds. (Asmark Institute)

DHS Issues Final Tier Letter to another 544 Facilities

The Fertilizer Institute (TFI) has been advised that the Department of Homeland Security (DHS) issued final tier ranking letters to 544 facilities. Site security plans for these facilities will be due to DHS no later than June 1, 2010. The announcement also included a mechanism for cross-reference between agencies and requirements. DHS indicated that it is checking the Environmental Protection Agency's (EPA) database of Tier II and Risk Management Program (RMP) facilities for any facilities that may have triggered the reporting requirements under CFATS. If a facility in on either the Tier II or RMP list, and has not submitted a top screen to DHS, a letter warning of potential enforcement action will be sent. Penalties are up to \$50,000 per day and/or a shutdown order. MCPR appreciates Pam Guffain, Vice President of Membership Services at TFI, for sharing this information. (Asmark Institute)

CSA 2010 Driver Fact Sheet Now Available

A total of 3,067 stakeholders participated in the December 3rd and 10th Listening Sessions, submitting more than 1,150 questions! The CSA 2010 team has analyzed the questions and is compiling answers to those that were asked most frequently. The question below represents one of those most frequently asked. Also, check out the new Driver Fact Sheet by typing: http://csa2010.fmcsa.dot.gov/Documents/CSA2010_DriverFactsheet.pdf into your web browser. This document is designed to inform CMV drivers about what CSA 2010 means to them. Stay tuned for more questions and answers over the coming weeks!

Question: Will CSA 2010 assign safety ratings to individual commercial motor vehicle (CMV) drivers? I heard that CSA 2010 is designed to rate CMV drivers and to put many of them out of work this summer.

Answer: No. Under CSA 2010, individual CMV drivers will not be assigned safety ratings or safety fitness determinations. Consistent with the current safety rating regulations (49 CFR part 385), individual driver companies will continue to be rated, as they are today, following an onsite investigation at their place of business when they operate independently as a "motor carrier" (i.e. have their own USDOT number, operating authority, and insurance). CSA 2010 will provide enhanced tools for Safety Investigators to identify and address drivers with poor safety records as part of motor carrier investigations in order to increase driver accountability for safe driving behavior. CSA 2010 is designed to meet one overriding objective: to increase safety on the Nation's roads. Therefore, it is, by design, a positive program for drivers and carriers with strong safety performance records. Also, it will send a strong message that drivers and carriers with poor safety performance histories need to improve. (US DOT)

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

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.