

Reguletter

National Registry of Certified Medical Examiners Coming this Month

Effective May 21, 2014, all DOT medical physicals for truck drivers must be performed by a person listed on the National Registry. As long as an exam taken before that date was performed in accordance with Section 391.43, by someone defined as a medical examiner based on the prior regulations, it is valid through its expiration date. A CDL holder is still responsible for self-certifying and submitting his/her medical certificate to the state of licensing in order to operate a CDL vehicle in non-excepted, interstate commerce. The confusion lies in the fact that certified medical examiners are required to submit a monthly report to the Federal Motor Carrier Safety Administration (FMCSA) on the exams performed. This information is not shared with state licensing offices. J.J. Keller & Associates has informed us they are unaware of any pending changes to §391.41, §391.43, or the Medical Advisory Criteria to correspond with the implementation date of the National Registry. To determine if a physician is on the list, certified medical examiners are listed on the FMCSA website. Physicians can also register to become certified on the same site. (Asmark Institute)

DOT Proposes Use of Electronic Logbooks

DOT has announced a proposal to require interstate commercial truck and bus companies to use Electronic Logging Devices (ELDs) in their vehicles to improve compliance with the safety rules that govern the number of hours a driver can work. The proposed rulemaking is hoped to significantly reduce the paperwork burden associated with hours-of-service record keeping for interstate truck and bus drivers – the largest in the federal government following tax-related filings – and improve the quality of logbook data. The agency believes the proposed rule will ultimately reduce hours-of-service violations by making it more difficult for drivers to misrepresent their time on logbooks and avoid detection by DOT and law enforcement personnel. Analysis shows it will also help reduce crashes by fatigued drivers and prevent approximately 20 fatalities and 434 injuries each year for an annual safety benefit of \$394.8 million. (Asmark Institute)



Ag Industry Receives Positive Editorials

Following the announcement of ResponsibleAg a number of news organizations published positive editorials on the industry's voluntary efforts to prevent another tragedy like happened in West, Texas. Enter: http://www.wacotrib.com/opinion/editorials/editorial-worthy-fertilizer-industry-initiative-could-narrow-focus-to-questionable/article_518ad412-acb4-574b-987a-8d8cd6e89a85.html?utm_source=TFI+NewsBrief%2C+March+21&utm_campaign=TFI+Newbriefs&utm_medium=email into your web browser to read the Waco Tribune article. In early March, Chris Jahn, President of TFI and Kathy Mathers, Vice President of Public Affairs for TFI, along with Daren Coppock, President of ARA, travelled to meet with the editorial board of the Dallas Morning News. During the meeting they detailed the steps the industry has taken in the wake of the West, Texas explosion and outlined plans for ResponsibleAg. Enter: http://www.dallasnews.com/opinion/editorials/20140326-editorial-more-lessons-from-west.ece?utm_source=TFI+NewsBrief%2C+March+28&utm_campaign=TFI+Newbriefs&utm_medium=email to read the Dallas Morning News editorial resulting from their visit. (Asmark Institute)

FMCSA Amends GCWR Definition

DOT recently announced the final change to the definition of Gross Combination Weight Rating (GCWR) for single unit trucks (not truck tractors) when they are towing a trailer and the GCWR is not included on the vehicle manufacturer's label. The final rule is effective April 18, 2014. The new definition for both CDL requirements in Section 383 and Federal Motor Carrier Safety Regulations in Section 390 will read:

Gross combination weight rating (GCWR) is the greater of:

1. A value specified by the manufacturer of the power unit, if such value is displayed on the Federal Motor Vehicle Safety Standard certification label required by the National Highway Traffic Safety Administration, or
2. The sum of the gross vehicle weight ratings (GVWRs) or the gross vehicle weights (GVWs) of the power unit and the towed unit(s), or any combination thereof, that produces the highest value. Exception: The GCWR of the power unit will not be used to define a commercial motor vehicle when the power unit is not towing another vehicle. (Asmark Institute)

FMCSA Deactivating DOT Numbers if URS Not Renewed

The Federal Motor Carrier Safety Administration (FMCSA) said it has started to deactivate the DOT registration numbers of trucking companies overdue for updating their Unified Registration System (URS) data, which is due every other year. FMCSA sent out letters and e-mails to motor carriers in November 2013, warning them of the need to file the registration updates. URS is a company registration program (not vehicle registration) that applies to all interstate motor carriers (private and for-hire motor carriers of passengers and freight), freight forwarders, brokers, HM Safety Permit applicants/holders, and cargo tank manufacturing and repair facilities under FMCSA jurisdiction. The FMCSA notice said, "The agency will begin deactivating USDOT numbers starting in March 2014 for motor carriers due to update in January 2014 who failed to complete their biennial update." Every month the agency will proceed with purging carriers two months beyond deadline.

Fines for failure to comply are \$1,000 a day up to a maximum of \$10,000. FMCSA said the DOT numbers themselves tell a company when to file. The last digit — 1 to 9 and then 0 — tells the month to register, January to October. The next-to-last digit indicates the year: odd numbers in odd-numbered years and evens in evens. URS is a separate program from Unified Carrier Registration, a system that collects carrier fees and distributes them to states. (Asmark Institute)

OSHA Requests \$565 Million to Inspect Hazardous Workplaces

Worth noting in this request is that it includes a proposed amendment to appropriation language to allow OSHA to inspect businesses with 10 or fewer employees. The U.S. Department of Labor published its Fiscal Year 2015 (FY 2015) Budget, which shows that \$11.8 billion in discretionary budget authority is being requested, along with 17,763 full-time equivalent employees (FTE). For OSHA in particular, a FY 2015 Budget of \$565,010,000 and 2,265 FTE have been requested for the agency to inspect hazardous workplaces and foster employer compliance with safety and health regulations. In addition, the budget request includes two proposed amendments to its appropriation language:

1. A request to increase the amount that OSHA may retain from training institute course tuition and fees from \$200,000 to \$499,000 per fiscal year; and
2. A proposal to allow targeted inspections of small establishments that may have potential for catastrophic incidents (e.g., those with Process Safety Management (PSM) or the EPA's Risk Management Program (RMP) - covered processes).

The current appropriations language limits OSHA's ability to conduct safety and health inspections of small businesses (10 or fewer employees) in industry codes that have lower-than-average workplace injury and illness rates. Neither the number of workers in a company nor low injury and illness rates, however, is predictive of the potential for high-consequence catastrophic incidents, resulting in multiple casualties and extensive property damage that can damage whole communities. (Asmark Institute)

RMP Five Year Update

June 2014 is the renewal date for most facilities regulated under the U.S. EPA Risk Management Plan (RMP) requirements. If you store bulk anhydrous ammonia, you must have a RMP. The RMP documentation and requirements have received a lot of attention over the last year in the wake of the fire and explosion at the West, Texas ag retail facility. The Fertilizer Institute and Asmark Institute developed the myRMP web-based program to help facilities comply with RMP requirements. Enter: <https://www.asmark.org/myRMP/> into your web browser to access the myRMP program.

More Lengthy, Complex OSHA Inspections

According to OSHA's FY 2014 budget proposal documents, the agency is exploring a new inspection system that could allow inspections to be rated on complexity, providing an incentive for OSHA compliance officers and area offices to focus their time and efforts on more complex inspections. This means that employers, who may not have seen much inspection activity in the past, or only general inspection activity, may soon see more and/or different types of inspections.

OSHA says it is at a crossroads concerning how it will direct its enforcement resources. The agency has always operated under the assumption that "more inspections are better," as the more establishments inspected, the greater OSHA's presence and impact. Consequently, there has always been pressure on the agency to conduct more inspections than it did in the previous years. The problem with this model, OSHA now believes, is that not all inspections are created equal. Some inspections, such as those dealing with process safety management (PSM), ergonomics, complicated electrical and machine guarding or industrial hygiene inspections dealing with unknown or unique chemicals, take more time and resources to complete than the average or typical OSHA inspection. The agency has never accounted for the resource needs of these complex types of inspections in its enforcement strategy.

With the burden to conduct more and more inspections with possibly fewer resources over the next several years, OSHA field personnel would find themselves forced to conduct less time-intensive, shorter inspections rather than the more complicated inspections. Under the current system, the only incentive for a compliance officer is to meet the inspection goals — there is no incentive for them to do the larger more complicated inspections. This is why in FY 2014, the agency intends to explore an inspection weighting approach in order to direct inspections to high hazard operations — including inspections of refineries and chemical plants, emerging chemical and health issues and workplace violence.

Right now, each inspection, whether it takes six months or six hours, is weighted the same. OSHA's current internal system does not take into account the wide array of resource intensive inspections performed by the agency. OSHA is not implementing the new weighting system this year, but is examining FY 2014 data to establish a solid baseline. (Asmark Institute)