

Reguletter

DOT Corrects Medical Exam and Recordkeeping Language

DOT recently published corrections to the Medical Examiner's Certification rule that appeared in the Federal Register on April 23, 2015 (80 FR 22790). Among the corrections was clarification on the implementation date for use of the revised medical examination report form and medical examiner's certificates. According to the revised text, the existing medical forms must be used until December 22, 2015, after which only the new versions of the forms will be accepted by DOT. The modified rule is effective June 22, 2015.

In the rule published in April, DOT amended the Federal Motor Carrier Safety Regulations (FMCSRs) to require certified medical examiners (MEs) performing physical examinations of commercial motor vehicle (CMV) drivers to use a newly developed Medical Examination Report (MER) Form, MCSA-5875, in place of the current MER Form and to use Form MCSA-5876 for the Medical Examiner's Certificate (MEC). Additionally, MEs must report results of all CMV drivers' physical examinations performed (including the results of examinations where the driver was found not to be qualified) to DOT by midnight (local time) of the next calendar day following the examination. That final rule was a follow-on rule to the Medical Certification Requirements as Part of the CDL rule final rule, published on December 1, 2008, and the National Registry of Certified Medical Examiners final rule, published on April 20, 2012. (Asmark Institute)

DOT Doesn't Authorize "recreational" or "medical" Use of Marijuana

Recently, some states have passed initiatives to permit use of marijuana for so-called "recreational" purposes, and some states have enacted laws authorizing the use of "medical marijuana." The US DOT, Office of Drug & Alcohol Policy & Compliance, has issued notices that make it perfectly clear that the state initiatives or laws will have no bearing on the Department

of Transportation's regulated drug testing program. The DOT's Drug and Alcohol Testing Regulation does not authorize the use of Schedule I drugs, including marijuana, for any reason. Therefore, Medical Review Officers (MROs) will not verify a drug test as negative based upon learning that the employee used either "recreational marijuana" or "medical marijuana." It is important to note that marijuana remains a drug listed in Schedule I of the Controlled Substances Act. It remains unacceptable for any safety-sensitive employee subject to drug testing under the DOTs drug testing regulations to use marijuana. (Asmark Institute)

Medical Review Board to Meet Regarding Changes to Diabetes Standard

DOT is announcing a meeting of its Medical Review Board (MRB). The MRB will identify factors the agency should consider with regard to regulatory actions concerning Type I diabetes and vision standards for interstate commercial motor vehicle (CMV) drivers. This follows the agency's issuance of a Notice of Proposed Rulemaking on May 4, 2015, that would permit drivers with stable, well-controlled insulin-treated diabetes mellitus (TDM) to be qualified to operate CMVs in interstate commerce. The MRB discussions would precede the agency's consideration of a rulemaking concerning the vision standard. (Asmark Institute)

EPA Proposes Stronger Standards for People Applying the Pesticides with the Greatest Risk

The U.S. Environmental Protection Agency (EPA) is proposing stronger standards for pesticide applicators who apply "restricted-use" pesticides. These pesticides are not available for purchase by the general public, require special handling, and may only be applied by a certified applicator or someone working under his or her direct supervision.

"We are committed to keeping our communities safe, protecting our environment and protecting workers and their families", said Jim Jones, EPA Assistant Administrator for the Office of Chemical Safety and Pollution

(continued on back)



Prevention. "By improving training and certification, those who apply these restricted use pesticides will have better knowledge and ability to use these pesticides safely."

The goal of today's action is to reduce the likelihood of harm from the misapplication of toxic pesticides and ensure a consistent level of protection among states. Pesticide use would be safer with increased supervision and oversight.

EPA is proposing stricter standards for people certified to use restricted use pesticides and to require all people who apply restricted use pesticides to be at least 18 years old. Certifications would have to be renewed every 3 years.

EPA is proposing additional specialized licensing for certain methods of application that can pose greater risks if not conducted properly, such as fumigation and aerial application. For further protection, those working under the supervision of certified applicators would now need training on using pesticides safely and protecting their families from take-home pesticide exposure.

State agencies issue licenses to pesticide applicators who need to demonstrate under an EPA-approved program their ability to use these products safely. The proposed revisions would reduce the burden on applicators and pest control companies that work across state lines. The proposal promotes consistency across state programs by encouraging inter-state recognition of licenses.

The proposal also updates the requirements for States, Tribes, and Federal agencies that administer their own certification programs to incorporate the strengthened standards. Many states already have in place some or many of EPA's proposed changes. The proposed changes would raise the bar nationally to a level that most states have already achieved. The estimated benefits of \$80.5 million would be due to fewer acute pesticide incidents to people.

EPA encourages public comment on the proposed improvements. The 90 day public comment period will begin when the proposal is published in the Federal Register.

A copy of the proposal and more information about certification for pesticide applicators: <http://www2.epa.gov/pesticide-worker-safety/epa-proposes-stronger-standards-people-applying-riskiest-pesticides>.

To comment on the proposed changes, visit <http://www.regulations.gov> and search for docket number EPA-HQ-OPP-2011-0183 after publication in the federal register.

Further Info on the Proposed Standard vs. Minnesota's Current Requirements:

1) The new rule only addresses applicator certification of Restricted Use Pesticides. The rule does not make any requirements on certification of people who use only non-RUP products.

2) Minimum certification age:

Preliminary view it appears there are very few certified applicators in Minnesota under the age of 18. Some states have age 16 for farm family members and 18 for everyone else. The federal proposal is for age 18 for everyone with no exceptions.

3) Recertification requirements. The EPA proposal if implemented 'as is' will have some affects on most of the recertification workshops.

3a) EPA is using a continuing education unit of 'an hour' (50 to 60 minutes) and is proposing (for MN commercial, noncommercial and structural applicators) a minimum of 6 CEUs of 'core' (minimum 300 minutes) and 6 CEUs of category content over three years. This means all recertification workshops that do not require annual recertification in Minnesota are not in compliance. For example, the current MN requirement is 5 hours minimum of classroom time workshop every other year for most categories. Over 3 years that averages to 7.5 hours (450 minutes) - well below the 600 minutes total over three years minimum being proposed.

3b) For private applicators the proposed recertification requirement is 6 core CEUs and 3 'category CEUs over three year (450 minutes minimum) vs MN's current requirement of 180 minutes every three years.

3c) Applicators must earn at least half of the required CEUs in the 18 months preceding the expiration of their certification. Currently required is workshop attendance the year BEFORE license renewal/certification expiration - so Minnesota currently meets this requirement.

3d) Attendees must present identification for both certification and recertification (something only done now at private applicator workshops).

3e) Recertification can be by either retesting or education (CEUs) - MN meets this requirement now.

4) Unlike many other states, most other parts of the proposal have small or no effects on Minnesota's pesticide certification program. (EPA/MDA)