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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 last week 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.

5-Year RMP Updates Submitted

Work on the 5-year RMP updates due on June 21, 2009 ended when all the reports were mailed via Certified Mail on June 19th. **Dustin Warder** manages the RMP Program for the Asmark Institute. The next step is waiting on the "green" receipt card to be returned to us indicating the RMP Reporting Center has received and signed for each report. Dustin will forward a file copy of the current RMP and Certified Mail documentation to each location for their use as documentation to be kept on file.

Important Notes: (1) We received word this week that each RMP facility should expect an inspection within the next five years. Inspections have been mostly in states where EPA has contracted with a state agency to inspect facilities on their behalf. Provisions are being made to inspect facilities in all states. (2) EPA has expressed their intent to move everyone to their new web-based RMP*eSubmit. (3) EPA has identified a very low rate of compliance associated with some of the more routine changes. According to EPA, RMP*eSubmit was developed to make updates easier for the regulated facilities. You can expect inspectors will be looking for current information on their visits.

National Safety School 2009 - Register Today!

The National Agronomic Environmental Health and Safety School will be held in Bloomington, IL this year on August 18th & 19th. There is a renewed spirit and level of energy in the Safety School and we encourage everyone to register and participate in this quality program. An outstanding lineup of topics and speakers for 2009 has been secured. The Safety School program will benefit you and your staff! We ask that you seriously consider attending this year to see for yourself. The 2009 agenda has been posted and can be viewed by visiting www.naehss.org.

While in Bloomington that week, we recommend you stay over an extra day to attend the Midwest AG Industries Expo (MAGIE) on August 19th & 20th. It's truly one of the finest displays of "ride and buy" shows in the United States. For more information on registering for MAGIE, visit www.ifca.com.

Reminder: HazMat Registration Expired on June 30th

If your company transports, or offers for 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 expired on June 30th. If your company registered 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 clicking [here](#).

Asmark Institute Expands Training Program for 2010

The Asmark Institute Board of Directors voted on June 4th to expand the offering of Emergency Response to Agricultural Incidents training by relocating the courses to a more central venue that will allow for more classes. The expansion also includes development of additional meeting rooms and resources to facilitate a wide variety of industry meetings and educational classes. Plans include a large conference room, meeting room and a computer training lab. The Board had initially requested staff investigate the opportunity of adding a second training venue located on the West Coast. However, the final research supported offering the training at one central location in the United States. Convenient and economical airfare and other related travel expenses were significant influences on the selecting one final centralized location. Owensboro lost affordable air service in 2007. The final stages of research focused on selecting a city with characteristics favorable to the incoming training participants.

In reviewing location options, it was learned that Tennessee Farmers Cooperative (TFC) had recently vacated a building located on their LaVergne, TN property, the headquarters for their operations. "We have clients in 49 states, and the Nashville area is a good, convenient location for people to travel into with inexpensive airfare, plenty of hotels, and friendly people," said **Allen Summers**, Asmark Institute President. "I liked the LaVergne property because it's secure and the building lends itself to being retrofitted nicely. A very positive relationship has been developed with TFC and their management helped fashion a value-added lease to make the relocation and expansion possible." Plans call for the first few meetings to be held at the new Asmark Institute Training Center in LaVergne, TN the week of October 19th. Twenty weeks of classes will be offered in 2010, up from six formerly offered in Owensboro.

Registration Begins for the 2009 Emergency Response Refresher Course

Invitations to the 2009 refresher courses were mailed on May 30th and classes are filling up. There will be 25 days of training provided at remote locations around the country this year for the one-day refresher course. If you received an invitation, please register today to ensure space is available for the class of your choice. Register online by [clicking here](#).

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. Final copy is expected to be published in the Federal Register prior to the current July 1, 2009 compliance date. Additional information on the new amendment to the SPCC Rule is available by clicking [here](#).

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. We've 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.

Nurse Tank Inspection Program (NTIP) Update

As of the month ending June 30th, there have been 1,241 locations request to be covered by DOT SP-13554. More than 21,000 kits have been shipped with 15,426 inspections recorded on the website. A total of 395 nurse tanks have failed to pass the testing for the reasons of visual (220), thickness (132) or pressure (43). As we head into the summer "inspection, repair and maintenance" season.....have you tested/inspected your nurse tanks with illegible or missing ASME data plates?

Cell Phone Tax Policy Proposed by IRS

Under a 1989 law, employees who use company-provided mobile phones for personal calls are supposed to count the value of those calls as income and pay federal income taxes accordingly. Businesses and employees have long ignored the requirement, prompting the IRS to consider steps the agency said would make it easier to comply. In one proposal, employers assign 25% of an employee's annual phone expenses as a taxable benefit. Under that scenario, a worker in the 28% tax bracket, whose wireless device costs the company \$1,500 a year, could see \$105 in additional federal income tax. Employees could avoid tax liability if they showed proof they used personal cell phones for non-business calls during work hours. The agency also could decide on a set number of phone minutes as "minimal personal use" that would be untaxed. In a third option proposed by the IRS, employers could use a statistical sampling to determine what portion of workers' cell-phone use is personal and how much is work-related. Workers would be taxed on the difference. This marks a stricter enforcement of the existing rule that classifies employer-provided cell-phones as a taxable benefit, rather than a 24-hour-a-day work tool. The IRS said it will collect comment on its proposal through September 2009 before issuing a decision.

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."

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