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Minnesota Crop Production Retailers

REGULETTER

2017 Standard Mileage Rates Announced

The IRS has issued the 2017 optional standard mileage rates used to calculate the deductible costs of operating an automobile for business, charitable, medical or moving purposes.

Beginning on January 1, 2017, the standard mileage rates for the use of a car (also vans, pickups or panel trucks) will be:

- 53.5 cents per mile for business miles driven, down from 54 cents for 2016
- 17 cents per mile driven for medical or moving purposes, down from 19 cents for 2016
- 14 cents per mile driven in service of charitable organizations

The standard mileage rate for business is based on an annual study of the fixed and variable costs of operating an automobile. The rate for medical and moving purposes is based on the variable costs. (Asmark Institute)

DOT Final Rule Establishes Repository of DOT Drug and Alcohol Violations

A national database will be established by January 6, 2020 to record drug and alcohol violations occurring under a motor carrier's DOT testing program, according to a final rule published on Monday, December 5, 2016. The repository is designed to help detect unresolved violations.

The final rule will establish a national drug and alcohol clearinghouse for CDL drivers that tested positive or refused a DOT-required test.

Once this central repository is established, motor carrier employers will be required to:

- Query the system for information on driver applicants, and
- Search the database annually for current employees.

The clearinghouse will assist the motor carrier in determining whether a driver needs to begin or continue with the necessary steps in the DOT return-to-duty process (i.e., Substance Abuse Professional (SAP) program) in order to operate a commercial motor vehicle. Drivers that violate DOT testing rules under another motor carrier's program would be captured in the database. Examples include pre-employment tests in which the driver was not hired, previous employment, and concurrent employment, including those positions a driver may omit from the application.

Employers and service providers will be called upon to report DOT drug and alcohol testing program violations. Motor carriers, MROs, third-party administrators and SAPs must provide information when a driver:

- Tests positive for drugs or alcohol,
- Refuses drug and alcohol testing, and
- Undergoes the return-to-duty drug and alcohol rehabilitation process.

Regarding privacy, before a motor carrier may gain access to the information in the clearinghouse, a driver must grant consent. Without this consent, DOT is unable to release the driver's data to the employer. A driver can review his or her report at no cost by registering with the clearinghouse. (Asmark Institute)

OSHA's Agenda Reveals Plans for the Future

OSHA released their agenda of regulatory and deregulatory activities immediately following the 2016 election. OSHA's current intentions, as revealed in the 2016 Fall Agenda, includes a review of the Bloodborne Pathogen Standard and the initiation of a standard for combustible dust. Actions that would potentially affect retail farm centers are listed below.

Significant rulemakings at the development (pre-rule) stage include:

- Preventing backover injuries and fatalities
- Emergency response and preparedness
- Powered Industrial Trucks
- Lockout/Tagout update

Significant rulemakings at the proposed rule stage include:

- Infectious diseases
- Update to the Hazard Communication Standard

Significant rulemakings at the final rule stage include:

- Walking Working Surfaces and Personal Fall Protection Systems (Slips, Trips, and Fall Prevention)
- Certification of Employer's Continuing Obligation to Make and Maintain Accurate Records of Each Recordable Injury and Illness
- Respirable Crystalline Silica [Click here to read the entire agenda.](#) (Asmark Institute)

OSHA Says it has Jurisdiction Over Trucks Not Defined as CMVs

More wheel chocks will be needed when loading trucks starting in 2017, when OSHA's new "Walking-Working Surfaces" rule goes into effect. OSHA will expand its jurisdiction and require more use of wheel chocks to prevent trucks from moving during loading & unloading operations. Normally, only DOT has jurisdiction over Commercial Motor Vehicles (CMV), and they don't require wheel chocks except in very limited cases. But OSHA says it has jurisdiction over trucks that are not defined as CMVs, which technically includes any CMV that is operated off highway, such as in a company yard that is closed to public travel. It also includes trucks that are too small to be regulated as CMVs (example under 10,001 pounds).

Therefore, starting January 17, 2017, OSHA-regulated employers will have to make sure that "measures, such as wheel chocks or sand shoes, are used to prevent the transport vehicle (example a truck, semi-trailer, trailer, or rail car) on which a dockboard is placed, from moving while employees are on the dockboard." What's a dockboard? It's a device that spans a gap or compensates for a difference in elevation between a loading platform and a transport vehicle. They may also be known as bridge plates, dock plates, dock levelers, etc. (Asmark Institute)

EPA Releases Final Applicator Certification and Training Rule

EPA has released their final revised regulation on certification and training requirements for pesticide certified applicators. This is the last of two recent rule updates aimed at revising the existing rule for workers and pesticide applicators. The first being last year's revised Worker Protection Standard (WPS). Unlike the still controversial and much maligned new WPS, in finalizing the certification and training requirements rule, EPA made many of the adjustments that pesticide stakeholders recommended during public comment and ultimately released a much improved final regulation. The states will now begin to work with EPA to craft training materials and programs aimed at implementing the rule according to the phased-in enforcement timelines. Visit: https://www.epa.gov/sites/production/files/2016-12/documents/prepubcopy_certifiedapplicators_fm_fr_document_2016-12-12.pdf to review the final rule. (Asmark Institute)

NTSB Reveals its Most Wanted List

The National Transportation Safety Board (NTSB) recently revealed its 10 Most Wanted List of Transportation Safety Improvements for 2017-18. The list includes: eliminating distraction; reducing fatigue-related accidents; ending alcohol and drug impairment; requiring medical fitness; and increasing implementation of collision avoidance technology, ensuring the safe shipment of hazardous materials; strengthening occupant protection; expanding recorder use; improving rail transit safety oversight; and preventing the loss of control in flight in general aviation. According to the NTSB, the list reflects what the agency believes are the areas in transportation safety with the greatest opportunity for change and to save lives. Highway fatalities increased by 7.2% from 2014-2015, the largest increase since before the NTSB was founded in 1967. What's more, such traffic deaths rose another 10.4% in the first half of 2016. Look for more regulations in these areas. (Asmark Institute)

EPA Set to Publish New Updated RMP Rules

On December 21st, EPA released a pre-publication copy of the Risk Management Program (RMP) final rule. EPA's release stems from their initial July 2014 Request For Information (RFI) back in the wake of the West, Texas tragedy. The rule was published in the Federal Register on January 13, 2017 and was set to become effective 60 days following publication in the Federal Register or March 13th. The Trump Administration has halted all new rules from going into effect until they have time to research them. Their action includes these new RMP updated rules. The Fertilizer Institute and others are advocating for the withdrawal altogether of the rule through a petition under the Congressional Review Act. Congress is expected to move to withdraw a number of "midnight" Obama Administration rules over the next several weeks using this tool. (Asmark Institute)

PSM Guidance

PSM remains high on the list of OSHA's planned activities and there is more than a touch of high emotion involved given how the issue has turned out. The topic of PSM was well on its way to being applied to retail farm centers well before the tragedy at West, Texas occurred. West Fertilizer became a convenient vehicle as seen by some in OSHA to help

advance the issue. Based on this knowledge we offer the following guidance by category:

- Facilities that have already elected to proceed with PSM: If you elected to proceed with PSM then please continue on your journey - knowing that when the auditor (OSHA or EPA) visits, they will expect to see compliance with the full program. This includes a current Program 3 RMP and all documentation associated with PSM.
- Facilities that have waited to transition to PSM: We recommend remaining at the Program 2 level of RMP until required by OSHA and/or EPA to upgrade to the Program 3. While PSM is currently not required for a Program level 2 RMP, we advise facilities to continue to take these following actions:
 - Complete any mechanical integrity upgrades needed to bring your facility current.
 - Continue to keep your P&ID drawing current.
 - Continue to mark your valves with numbers.
 - Continue to keep your written operating procedures current with numbered valves.

Many of these activities were started in anticipation of complying with PSM. When PSM is actually required someday, having these requirements already completed and current will significantly reduce your effort, plus it has been shown completing these processes have had an overwhelmingly positive effect on those involved. (Asmark Institute)

Reminder: Time to Post Your 300A

It's time to complete your 2016 injury and illness recordkeeping obligations by posting the Summary of Work-Related Injuries and Illnesses (OSHA Form 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. Businesses with no injuries or illnesses for the year must still post the form. A company official must certify the information in Form 300A was examined and is believed to be correct and complete.

Note: Beginning this year, new electronic reporting requirements have been put in place for companies of certain sizes. Under the new rule, all establishments with 250 or more employees in industries covered by the recordkeeping regulation must electronically submit to OSHA injury and illness information from OSHA Forms 300, 300A, and 301. Establishments between 20-249 employees in certain industries, including "warehousing and storage" must electronically submit information from OSHA Form 300A only.

