



New Members

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Mr. Matthew LaRochelle
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Keytesville, MO 65261
Ms. Laurinda Littleton
(660) 288-3575

Ritchie Bros. Auctioneers
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Caseyville, IL 62232
Mr. Nick Pacino
(618) 688-1625

TAB Bank
250 Westfield Lane
Perryville, MO 63775
Mr. Tim Green
(573) 846-6652

President's Message

What started last year as an effort to bring more recognition to our Drivers of the Month, ended a few weeks ago with a once in a lifetime opportunity for many of last years winners.

A few statistics for your consideration:

- ✓ 419 years of experience.
- ✓ 50.8 million miles of safe driving.
- ✓ 2036 times around the world.

Those are the statistics for the group of drivers honored as Drivers of the Month by the Missouri Trucking Association in 2010. Collectively this group was recognized and received a standing ovation on the floor of the Missouri House of Representatives. They were also introduced and honored by the Missouri Senate.

It was quite a humbling experience to be able to bring this group of professional drivers and their families to the Capitol to be recognized for their achievements. It is difficult to explain the pride one feels as you hear an audible gasp rise up from the floor of the legislature when the statistics mentioned above are read in describing this professional group of drivers. I watched with pride and noticed every company official in attendance could barely contain their excitement as well.

Thank you to all companies who nominated drivers in 2010. A big THANK YOU to those who sponsored and contributed to the Safety Banquet as well. Without your support, none of this would be possible. A complete listing of those sponsors is contained in the Mo Memo.

Do you have any drivers that you think should be included in this elite group? The application process is simple, and as these pictures can attest, the rewards are priceless. Please nominate your deserving drivers today.

* * *



In This Issue



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~ Upcoming Events ~

Register now . . .

- ✓ Truck Driving Championships, Joplin, MO - June 10-11
- ✓ MoTA Annual Convention, Branson, MO - September 28-30

Go to www.motrucking.org and click on icons to register.

Mark your calendar . . .

- ✓ Sitton-Babcock PAC Golf Tournament, Lake Ozark, MO - June 21
- ✓ National Truck Driver Appreciation Week - September 11-17

MoDOT Appoints Chief Engineer



David Nichols, P.E., was appointed Chief Engineer of the Missouri Department of Transportation on March 4, 2011. He served as the department's first Director of Program Delivery just prior to becoming Chief Engineer.

Nichols started working for MoDOT in 1984. During his 27-year career, he has served in a variety of leadership roles including district engineer for the department's northwest district headquartered in St. Joseph. He has also worked in MoDOT's Kansas City district.

Nichols has been recognized for his visionary leadership in implementing cost-saving measures and producing results for Missourians. Under his leadership, MoDOT has produced millions of dollars in savings through innovative approaches like value engineering. On average, MoDOT has awarded projects 10 percent under budget since 2008. Nichols leadership was also key to the early completion of MoDOT's first two Design-Build projects -- Interstate 64 in St. Louis and the Christopher S. Bond Bridge in Kansas City.

He is active in the American Association of State Highway and Transportation Officials and the National Society of Professional Engineers. The University of Missouri Civil Engineering Academy has also honored him as a member of its distinguished alumni.

Nichols and his wife Leslie have one daughter. ▲

2011 Driver Compensation Survey

The ATA has now launched the 2011 Driver Compensation Survey *DCS 2011*. Companies are encouraged to participate in this survey. Companies who participate will receive a complimentary **DCS 2011 Final Report** for their support in this important effort.

The link for carriers to participate is <https://www.atasurvey.com/register/>. During registration the person the carrier designates to complete the survey will be emailed their unique Login and Password to gain access to the survey.

Past support for this survey has been well received and the ATA has plans on collecting this data on an annual basis to provide carriers with more real-time wage data.

If you have any questions, please contact ATA's Economics department at econdept@trucking.org or 703-838-1799 or contact ATA's contractor, Martin Labbe Associates, at mlabbe@mlabbe.com or 386-677-0433. ▲

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FMCSA announces the New Division Administrator for Missouri Division

Ms. Julie Lane brings more than ten years of transportation and CMV safety/security experience, having served in various program and management positions with Montgomery County MD Police Department, Commercial Vehicle Safety Alliance, Dept. of Homeland Security, FHWA and FMCSA. With FMCSA Julie has worked on building partnerships with federal, state and local agencies on FMCSA programs and grant initiatives, including her most recent work at the FMCSA-National Training Center (NTC) in the development, implementation and delivery of CMV safety and security training programs.

Darin Jones, Field Administrator for the Midwestern Service Center indicated that Julie's tentative report date is April 11, 2011. Darin is hoping to begin the transition in advance of her official report date on some of our administrative matters – so it's possible you will begin to see Julie's name before her official report/start date. ▲

Trucking Industry Faces Patent Infringement Challenge

A patent holding company, PJC Logistics, which purchased a patent for electronic position-based fleet management and tracking systems in February, has filed legal actions in 8 United States District Courts asserting that nearly 200 named trucking companies are using satellite truck-tracking systems that infringe on its patent. The patent broadly relates to technological systems for tracking truck location and condition, systems utilized by virtually every trucking operation. Many of the named defendants in the suits are using satellite-tracking systems purchased from Qualcomm, which has announced that it has engaged a national law firm based in New York City to defend its customers. A number of defense oriented law firms are also contacting trucking companies named in the suits seeking to organize a cost-effective and coordinated defense. ATA will actively monitor the litigation to assist in the coordination of defensive efforts on behalf of its many members named in the cases. Contact: Robert Digges, Jr. at rdigges@trucking.org. ▲

Member Cancellations February/March 2011

Name of Company	Class	Dues
AT&T Missouri	Allied	\$300.00
Ball Volvo Trucks	Allied	\$200.00
Central Dairy Co.	Private	\$480.00
Frank Potter Trucking Co.	For Hire	\$467.50
Gateway Logistics Inc.	For Hire	\$318.50
Krupp Trucking	For Hire	\$430.00
Lake Country Logistics LLC	For Hire	\$300.00
Luecke Distributing Co.	Private	\$300.00
Spencer Fane Britt & Browne LLP	Allied	\$300.00



FMCSA to Increase Focus on Driver Health

The Federal Motor Carrier Safety Administration (FMCSA) is looking ahead to a number of rules focused on driver health and fitness in the next year or two, after the agency completes its spate of mandatory regulations, Administrator Anne Ferro said.

She cited an overdue rule finishing a list of qualified medical examiners and added there has “been a long wait for anything on sleep apnea and those are all in the 2011-to-2012 range.”

FMCSA also is nearing completion of a rule updating a commercial driver license and learner’s permit rule, which could be finished “in the next three months,” she said.

The agency also expects to issue its entry-level driver training regulation, which has been ordered by a federal court, sometime in 2011.

Getting through these regulations, she said, is part of the agency’s plan to create “a full five-year schedule, similar to NHTSA,” that lays out what the agency is planning to do. ▲

Independent Review Casts Serious Doubt on FMCSA’s HOS Proposal

An independent review of the Federal Motor Carrier Safety Administration’s Hours of Service “Regulatory Impact Analysis” has found the Agency wildly overstated the proposal’s benefits. While the agency claims its proposal would result in up to \$380 million in annual benefits, an Edgeworth Economics’ independent review finds that proposal would result in net costs, and not benefits, of approximately \$320 million a year. The Edgeworth report states “... we find that FMCSA has overstated the net benefits of the proposed rule by about \$700 million annually.” ▲

Congress Repeals 1099 Reporting Requirements

On April 5, the U.S. Senate passed a bill that fully repeals the provisions contained in last year’s federal health care law that require businesses to issue IRS Forms 1099 to any supplier, whether of goods or services, with which they spend over \$600 during a tax year. These provisions would have taken effect for payments made in 2012. The law currently does not require reporting of payments made to corporations or those made for goods, as opposed to services. The expanded 1099 reporting would have been enormously burdensome for all business, but would have hit motor carrier, which are mostly small, highly mobile businesses with lots of suppliers, especially hard. The House of Representatives passed an identical bill (H.R. 4) earlier, so the legislation now goes to the President, who is expected to sign it. The bill also repeals the broadened 1099 reporting requirements concerning rental property, which had been enacted separately last year, but it does not repeal the 3% withholding requirement applicable to federal contractors that is also scheduled to take effect next year. ATA lobbied hard for the repeal of the broader 1099 reporting requirements, and continues to work to eliminate the 3% withholding rule. ▲

~ State Laws Newsletter ~

PHMSA Extends Wetlines Comment Period

PHMSA announced that it will extend the comment period for its proposed rule banning the transportation of flammable liquids in cargo tank external piping (wetlines) by 30 days. This announcement responds to ATA’s and NTTC’s requests for additional time in which to examine PHMSA’s database of wetlines incidents and a new manual purging technology that is being used to support PHMSA’s regulatory evaluation and cost benefit analysis. Comments are due on April 27, 2011. ▲

FMCSA Enhances PSP

The Federal Motor Carrier Safety Administration has enhanced its Pre-Employment Screening Program (PSP) by adding data for co-driver safety and post-crash violations to the roadside inspection and crash records previously available. The PSP report also now shows the date drivers’ safety records are updated. PSP is a safety tool that you can use, with driver permission, to electronically obtain drivers’ safety records as part of the hiring process. The PSP service requires payment of an annual subscription and charges \$10 per record. To access PSP, go to www.psp.fmcsa.dot.gov. ▲

UCRA Update

Most if not all of the states that participate in the Unified Carrier Registration Agreement began enforcing payment of the 2011 UCRA fees at the beginning of February, so it may be an appropriate time to give a status report on the UCRA program.

Although carrier compliance with UCRA requirements seems to be getting better year by year, the program has never produced the amount of revenue for the states that they anticipated getting from it. In 2007, the total collected was some \$73 million, in 2008 about \$78 million, and in 2009 just over \$83 million. The fees were raised substantially for most carriers in 2010, and the total collected did jump some 10%, to \$91.5 million. By the first of February, states had collected over \$72 million for 2011, and the money continues to come in. Still, even allowing for some noncompliance, the UCRA fees were set to bring in \$113 million per year. Every year, it seems that certain states collect their entire quota from the program, while others come up short, some by more than others. Many observers believe there must be a more efficient way to raise this money.

For more information, contact Bob Pitcher at rpitcher@trucking.org. ▲

Final Rule Banning Texting by Hazmat Drivers

On Feb. 28, the Pipeline and Hazardous Materials Safety Administration (PHMSA) published a final rule in the Federal Register prohibiting hazmat drivers from texting while driving. The final rule harmonizes PHMSA’s regulations with FMCSA’s existing regulations which prohibit texting by all CMV drivers (including HM drivers) engaged in interstate commerce. By issuing this rule, PHMSA extends the texting prohibitions to intrastate drivers of motor vehicles containing placarded quantities of hazardous materials or any quantity of a material listed as a select agent or toxin in 42 CFR Part 73 in either inter or intrastate commerce. The rule prohibits these drivers from typing, reading and sending text while operating a commercial motor vehicle. It also imposes civil penalties and disqualification sanctions for drivers who violate the rule. The effective date of the rule is March 30, 2011. Go to <http://edocket.access.gpo.gov/2011/pdf/2011-4273.pdf> for a link to the final rule. Contact: Abigail Potter at apotter@trucking.org. ▲

Hazmat Rail Crossing

On January 28, 2011, FMCSA and PHMSA published a joint notice of proposed rulemaking to prohibit motor carriers from entering onto a highway-rail grade crossing unless there is sufficient space to drive completely through the grade crossing without stopping. This rule was required by the Hazardous Materials Transportation Authorization Act of 1994. That’s not a typo – this rule is 17 years in the making. PHMSA’s participation in the rulemaking ensures that the requirements will apply to intrastate hazmat carriers. DOT has set a 60-day comment period. ATA is not expected to file comments on this rulemaking; however, if this rule impacts your operations, please consider filing formal comments. ▲



CSA and Intermodal Carriers

On December 17, 2010 Section 390.21 9 (g) required the identification of intermodal chassis with an identifier to help enforcement recognize who the owner is. The benefit is the violations will be credited to the chassis owner rather than the motor carrier. Enforcement officers in Missouri have been trained that if it is a chassis they should indicate IC in type of vehicle and they are directed to other information that will allow them to issue the violations noted on the chassis to the chassis owner. One member indicated that they received two reports one for their power unit and a second report that is for the owner of the chassis. During this transitional period, members that are using chassis should monitor their reports to insure that the correct notation is included on the report. If not, the carrier is advised to issue a DataQ challenge and provide supporting evidence that will allow enforcement to make the correction. Members needing further assistance should contact MoTA office. ▲

Most Carriers Unranked as CSA Launches

Barely 12 percent of active motor carriers are ranked in any of the five safety categories within the new Safety Management System (SMS) that the Federal Motor Carrier Safety Administration (FMCSA) made public for the first time on Dec. 12 according to an analysis by Commercial Carrier Journal (CCJ). The SMS, which replaced SafeStat, is a key component of what FMCSA now formally calls Compliance, Safety, Accountability (CSA) – not Comprehensive Safety Analysis 2010.

The agency published SMS data and metrics after a federal appeals court turned down an emergency request for a stay. CCJ's analysis of data published at FMCSA's Analysis & Information website shows that only 92,184 of the 758,682 active motor carriers in the agency's database are ranked in any of the five publicly available Behavior Analysis and Safety Improvement Categories (BASICs) – Unsafe Driving, Fatigued Driving, Driver Fitness, Controlled Substances and Vehicle Maintenance. The Cargo-Related and Crash Indicator BASICs are, for now, withheld from the public due to agency concerns that the data could be misleading.

Of the 92,184 carriers that are ranked in at least one BASIC, 52,967 carriers have at least one alert, meaning they exceeded the threshold for intervention. The greatest number of alerts, 29,207, are in the Fatigued Driving BASIC, followed by the Vehicle Maintenance BASIC at 21,791. The Controlled Substances BASIC had the fewest alerts at 3,605.

The majority of carriers are unranked because FMCSA set minimum thresholds of inspections to be considered within BASIC safety event groups. Those floors vary, but generally carriers must have three to five inspections in the past 24 months to be ranked in a BASIC. FMCSA plans to use those rankings to target interventions under its new graduated process, which starts with warning letters and escalates potentially to full-blown compliance reviews. ▲

Changes to CSA Warnings/Disclaimers

In keeping with a settlement agreement to end litigation with three trucking associations, FMCSA has agreed to make changes to the public display of carriers' CSA scores. Specifically, the agency agreed to replace the term "Alert" (assigned when carriers are over the threshold in any of the BASICs) with a symbol representing an exclamation point inside a yellow triangle. In addition, FMCSA will modify the disclaimer language that appears when an individual accesses a carrier's CSA scores. The new language will further clarify that CSA scores are not intended to imply safety ratings of carriers and that – unless the carrier has been issued an "Unsatisfactory" safety rating or shut-down order – the carrier is authorized to operate in interstate commerce. Contact: Rob Abbott at rabbott@trucking.org. ▲

Residue in Empty Containers Update

CBP has set an enforcement date of July 17, 2011, for implementation of Customs Ruling H026715 concerning the import of reusable containers (i.e., Instruments of International Traffic) with residue. The most current version of CBP's frequently asked questions (FAQ) document may be accessed through the following link: http://www.cbp.gov/linkhandler/cgov/trade/trade_outreach/advance_info/itt_faqs.ctt/itt_faqs.doc

ATA continues to work with CBP to establish a safe harbor that relieves carriers from the responsibility to estimate the exact quantity and value of the residue. While they have made some progress, the current version of the FAQs still requires carriers to estimate the quantity and value for residue returning to the U.S.

While ATA remains optimistic that they will be able to obtain additional relief, time grows short and carriers should begin thinking about potential changes to operations and customer contracts that may be required by the revised ruling. ▲

OSHA Issues Enforcement Guidance for Personal Protective Equipment

On February 15, OSHA issued the *Enforcement Guidance for Personal Protective Equipment in General Industry*, which provides enforcement personnel with instructions for determining whether employers have complied with OSHA personal protective equipment (PPE) standards that went into effect on February 10.

This directive replaces *Inspection Guidelines for 29 CFR 1910 Subpart I, the revised Personal Protective Equipment Standards for General Industry* issued in June 1995. Changes in this directive include clarifying what type of PPE employers must provide at no cost to workers and when employers are required and not required to pay for PPE. The directive also provides guidance that allows employers to use PPE that complies with current consensus standards and updates PPE enforcement policies based on court and review commission decisions.

These personal protective equipment standards require employers to provide – at no cost to workers – protective equipment, such as goggles and face shields that fit properly without restricting vision; earplugs and earmuffs when they will reduce noise to acceptable levels and are less costly than administrative and engineering controls; and respirators to protect workers from exposure to air contaminants. Additionally, the directive lists PPE and other items exempted from the employer payment requirements and includes questions and answers useful in clarifying PPE payment concerns. ▲



Hazardous Materials: Cargo Tank Motor Vehicle Loading and Unloading Operations

PHMSA is proposing to amend the Hazardous Materials Regulations to require each person (i.e., carrier or facility) who engages in cargo tank loading or unloading operations to perform a risk assessment of the loading and unloading operation and develop and implement safe operating procedures based upon the results of the risk assessment. The proposed operational procedures include requirements to address several aspects of loading and unloading, including provisions for facilities to develop maintenance testing programs for transfer equipment (i.e., hose maintenance programs) used to load or unload cargo tank motor vehicles (CTMVs). In addition, PHMSA is proposing to require each employee who engages in cargo tank loading or unloading operations to receive training and be evaluated on the employee's qualifications to perform loading or unloading functions. PHMSA is proposing these amendments to reduce the risk associated with the loading and unloading of cargo tank motor vehicles that contain hazardous materials.

Submit comments by May 10, 2011. To the extent possible, PHMSA will consider late-filed comments as a final rule is developed. ▲

Driver Pay for Excessive Detention

On February 17, Rep. Peter DeFazio (D-OR) introduced legislation (HR756) that directs the secretary of transportation to study the issue of driver detention time and establish standards for the maximum number of hours a trucker may be detained at the docks. Shippers and receivers would be required to compensate truck drivers that are detained beyond a reasonable amount of time determined by the study and rulemaking.

DeFazio released the findings of an earlier study he had requested from the Government Accountability Office of the impact detention time has on truck drivers and potential violations of Hours of Service requirements. GAO's summary findings include:

- Detention of drivers at shipper or receiver facilities is a prevalent problem: of over 300 drivers interviewed by GAO, 68 percent reported being detained within the past month.
- 80 percent of drivers that had experienced detention time reported that being detained impacted their ability to meet hours of service requirements.
- 65 percent of drivers reported lost revenue due to being detained.
- Shippers and receivers control many factors that lead to driver detention, such as facility staffing, lack of loading or unloading equipment, poor service, and products not ready for pick up.
- Shippers often disagree with carriers and drivers about the amount of detention time and some motor carriers choose not to collect detention fees from their customers.
- FMCSA does not collect data related to the cause for Hours of Service violations when such violations are discovered in roadside inspections or compliance reviews. ▲

Carriers May Ignore Cargo Insurance Warning Letters

The Federal Motor Carrier Safety Administration said motor carriers that received notices of investigation for revocation of authority based on cancellation of their cargo insurance policies on or after March 21 "need not respond to such letters if they have a service date of Feb. 19 or after."

Thousands of carriers recently received erroneous warnings from FMCSA about the possible loss of their operating authority due to the cancellation of cargo insurance policies that the agency no longer requires in most cases.

Agency officials said the cancellation notices "triggered system-generated letters indicating that FMCSA would revoke their authority within 30 days of the service date of the letter."

But FMCSA said it will "not revoke the operating authority of non-household goods carriers and non-household goods freight forwarders whose cargo insurance expires on or after March 21," the agency said in a statement released to Transport Topics on Friday.

FMCSA said it was taking corrective measures to alert carriers. ▲

Transport Topics

FMCSA to Pay for EOBRs on Mexican Trucks

The Federal Motor Carrier Safety Administration will require all Mexican trucks entering the United States to be equipped with electronic onboard recorders – and will pay for them, according to a Department of Transportation official.

The move was in part to quell concerns over Mexican drivers' hours of service and FMCSA would own and control all data gathered by the EOBRs used by the carriers, said the DOT official, who asked not to be identified.

The mandate for the EOBRs, which must be equipped with global positioning system capabilities, would be part of the cross-border trucking agreement reached between the United States and Mexico.

Under the agreement, Mexico would drop \$2.4 billion in retaliatory tariffs it has imposed on U.S. products. Except for an 18-month pilot program that was ended by Congress in early 2009, most trucks from each country have not been allowed to deliver beyond an approximately 25-mile border zone.

John Hill, who was FMCSA's administrator during the cross-border pilot program, told Transport Topics that FMCSA paid for GPS systems to be installed on all Mexican trucks that participated in the pilot project. ▲

~ Transport Topics ~

Truckload Carriers Back EOBR Proposal

The Truckload Carriers Association has voted to support the use of electronic onboard recorders and the federal government's proposal to make them mandatory for most trucking companies.

TCA's board of directors voted to support the proposal Sunday at its annual convention in San Diego, it said in a statement Monday.

The adopted policy specifies that EOBRs ought only to be required for documenting compliance with hours of service rules, TCA said. Requirements should be "based on the minimal, functional, and performance specifications necessary" to record HOS compliance.

TCA also established other caveats to its policy, saying that carriers should get tax incentives for EOBRs, they should be relieved of requirements to keep supporting documents and other details. ▲

~ Transport Topics ~



ATA Remains 'Poised' to File Lawsuit if HOS Rule Is Unchanged, Windsor Says

American Trucking Associations is "poised" to file a lawsuit against the Federal Motor Carrier Safety Administration if the agency adopts a proposed rule that could cut driver time to 10 hours a day, ATA Chairman Barbara Windsor said.

"The question is: What should be ATA's next step if FMCSA comes back with no changes to its current hours-of-service proposal?" Windsor told Transport Topics in a recent interview. "In that case, we would be poised to file suit."

"We hope things wouldn't go in that direction," she added. "We are trying to work together with FMCSA through all of this."

The proposed hours rule, announced on Dec. 23, adds one hour of off-duty time within an allowed 14-hour workday, limits consecutive driving hours to seven and allows two 16-hour work days a week if the daily driving limit has not been met.

The proposal also would modify the 34-hour reset provision by allowing a driver to begin a new weekly limit after resting for 34 hours, adding that the rest must include two periods between midnight and 6 a.m. The rule also could reduce the maximum allowable daily driving time to 10 hours from the current 11-hour limit.

ATA opposes the proposed rule and has asked that it be withdrawn.

Robert Digges, ATA's chief counsel, said he already has advised the organization's executive committee that, at some point, he could recommend taking FMCSA to court, if the agency's proposed rule becomes final this summer.

"I certainly think Barbara is correct that, if they stay with their current proposal and they have no better explanation or justification for it than they have now, given the tremendous impact on the industry, the next logical step is to challenge them on it," Digges told TT. "But nobody knows for certain what the agency's going to do and how the agency's going to go about justifying it."

Digges said a lawsuit on the hours rule would be far less costly than ATA's lawsuit against the Port of Los Angeles' clean trucks plan, which is now approaching a cost of \$3 million.

"But when we decide we need to sue, I'll go back to the executive committee and tell them what it's likely to cost," Digges said.

"When you're dealing with litigation on an administrative agency ruling, you have the record that's already before you, made in the rulemaking," Digges said. "You don't have a trial, you don't have discovery, you simply have an appeal based on what was before the agency, and what the agency concluded," he said.

Indeed, the record already is extensive on the proposed hours-of-service rulemaking. It dates back to 2003, when the agency first issued a proposal that lengthened the Depression-era regulation by an hour, increasing a driver's maximum duty day to 11 hours. That proposal also cut the permitted work day to 14 hours from 15 after which a driver must take a 10-hour break, and allowed drivers to "reset" their week after resting for 34 hours.

However, the 2003 revisions were successfully challenged in federal court by a coalition led by Public Citizen and the Teamsters union in a series of lawsuits. To settle the most recent lawsuit, FMCSA agreed to revise its rule in 2009, resulting in the current proposal.

As a part of the settlement, the court ordered FMCSA to come up with the final rule by July 26. ▲

~Transport Topics

DOT Bolsters its Hazmat Enforcement Authority

On March 2, PHMSA published a final rule implementing the enhanced inspection, investigation, and enforcement authority authorized by Congress in the 2005 Hazmat Reauthorization law (SAFETEA-LU). This final rule establishes procedures for issuance of emergency orders (including out-of-service orders) to address conditions posing an imminent hazard; detention and inspection of potentially non-compliant packages; procedures for opening packages to identify undeclared or noncompliant shipments, and procedures for ordering carriers to transport packages under investigation. PHMSA believes that this rule results in no additional burden of compliance costs to industry, but failed to respond to ATA's comments on the costs that could result from shipment delays and orders to transport hazmat packages to locations for additional investigation. The final rule will take effect on May 2, 2011. A copy may be viewed through the following link: <http://edocket.access.gpo.gov/2011/pdf/2011-4270.pdf>. Contact: Rich Moskowitz at rmoskowitz@trucking.org. ▲

Graves Tells Congressional Panel Trucking Needs Affordable Diesel Fuel

American Trucking Associations President Bill Graves told a House of Representatives panel on March 31 that policymakers need to ensure the trucking industry has access to affordable diesel.

"There is no single solution to high oil prices," Graves told the Natural Resources Committee, according to an ATA statement. "We are not going to be able to either simply conserve or drill our way out of this crisis. We must do both."

In prepared testimony, Graves told lawmakers to take measures to increase domestic production of crude oil.

He said the Obama administration should issue more drilling permits for the Gulf of Mexico, encourage drilling in the Atlantic Ocean and eastern Gulf of Mexico and promote oil shale and coal-to-liquid and gas-to-liquid fuels.

Graves also asked the committee to promote the growth of natural gas-powered heavy-duty vehicles.

His testimony came a day after President Barack Obama called for new incentives to increase energy production, stricter fuel-efficiency standards for vehicles and a greater reliance on alternative sources of energy, all to reduce energy costs.

In his speech Wednesday (March 30), Obama set a goal of cutting the country's oil imports by a third within 10 years, Bloomberg reported. ▲

~Transport Topics

IRS Issues Guidance on Expensing

The federal tax bill enacted late in 2010 provided that businesses may fully expense equipment – including rolling stock – placed into service between September 8, 2010, and the end of calendar 2011. The law terms this "100 percent bonus depreciation." IRS has now issued guidance to taxpayers on how to take the enhanced write-off. See IRS Revenue Procedure 2011-26, here: <http://www.irs.gov/pub/irs-drop/rp-11-26.pdf>. ▲

TWIC Stakeholders

Effective April 11, 2011, the TWIC enrollment center in Kansas City will have new hours of operation – Monday through Friday: 7:00 a.m. – 3:00 p.m. All scheduled appointments outside the new hours of operation after the effective date will receive priority as walk-ins.

For additional information and updates on the TWIC program and on the TWIC Enrollment Center, please visit <http://twicinformation.tsa.dhs.gov>. ▲

TWIC Enrollment Centers

TWIC Enrollment Centers will be closed on Good Friday, April 22, 2011.

Fraudulent DOT Letter Makes a Comeback

FMCSA has reported that another round of fraudulent DOT letters has been arriving in motor carrier mailboxes.

The fraudulent USDOT letters are dated February 7, 2011. The letters appear to be from the “U.S. Department of Transportation Procurement Office” and are signed with the fictitious name of “David Hoffman - Senior Procurement Officer.”

The letters attempt to obtain banking information from the targeted companies.

Please advise company officials to ignore the letter, and report it to the USDOT. The USDOT/FMCSA does not request financial data in this manner, and cautions motor carriers about releasing sensitive information without checking the origin of the letter first. The USDOT Office of the Inspector General may be contacted through: http://www.dot.gov/ost/m60/fraudulent_letters.htm. ▲

Nation's Highway Traffic Reaches Highest Level Since 2007

Americans drove three trillion miles in 2010, the most vehicle miles traveled since 2007 and the third-highest ever recorded, the U.S. Department of Transportation announced on March 2. The increase in traffic volume comes as the U.S. in 2009 posted its lowest number of traffic fatalities and injuries since 1950.

“More driving means more wear and tear on our nation’s roads and bridges,” said Transportation Secretary Ray LaHood. “This new data further demonstrates why we need to repair the roads and bridges that are the lifeblood of our economy.”

LaHood noted that Americans drove 0.7 percent more, or 20.5 billion additional vehicle miles traveled (VMT), in 2010 than the previous year. Travel increased by 0.6 percent, or 1.4 billion VMT, in December 2010 compared to the previous December. It is the tenth consecutive month of increased driving.

The South Gulf area, a bloc of eight states ranging from Texas to Kentucky, experienced the greatest regional increase in December 2010 at 46.6 billion VMT, an increase of 624 million miles traveled compared to the previous December. ▲

MoTA Truck Driving Championships



June 10-11, 2011
Holiday Inn & Convention Center
Joplin, Missouri

Deadline Date for Driver Entry - May 20, 2011
(Preliminary Intent of Entry forms are due now)

Nine Classes of Competition

- ✓ Straight Truck Class
- ✓ Three-Axle Class
- ✓ Four-Axle Class
- ✓ Five-Axle Class
- ✓ Step Van Class
- ✓ Five-Axle Class
- ✓ Five-Axle Flatbed Class
- ✓ Twin Trailers Class
- ✓ Sleeper Berth Class

For more information regarding the upcoming Truck Driving Championships, go to www.motrucking.org and click on the Championships icon or call (573) 634-3388.





Hybrid Truck Funds available in California

The California Air Resources Board (CARB) has announced the availability of \$19 million for the purchase of hybrid vehicle technology. Fleets can reserve vouchers from authorized dealers to assist with the purchase of hybrid trucks that will be registered and operated in California. Vouchers can range from \$20,000 for delivery trucks to \$25,000 to \$30,000 for Class 8 tractors. Funding is available on a first-come, first-served basis. Last year the program funded more than 650 hybrid vehicles with more than half being Class 8 vehicles. Beverage, parcel and uniform/linen delivery comprised the largest categories of vehicles, accounting for more than 80 percent of the funded hybrids. For more information, visit CARB's Hybrid Truck and Bus Voucher Incentive Program <http://www.californiahvip.com/default.asp>. Contact: Mike Tunnell at mtunnell@trucking.org. ▲

CARB Issues Fact Sheet on Tire Requirements

The California Air Resources Board (CARB) has issued a fact sheet summarizing low rolling resistance tire requirements for 53-foot or longer trailers and the tractors pulling them. The fact sheet notes that until SmartWay verified retreads are available, affected equipment must use either new SmartWay verified tires or retreads on casings from SmartWay verified tires. Currently, model year 2011 and newer tractors and trailers are subject to these California requirements. Exemptions are included for registered short-haul tractors or storage trailers, relocating equipment, and tractors with two or more non-SmartWay open-shoulder drive tires. The fact sheet is available on CARB's web site: http://www.arb.ca.gov/cc/hdghg/fact_sheets/lrr_tire_info_2011.pdf. Contact: Mike Tunnell at mtunnell@trucking.org. ▲

CARB Evaluating Changes to Refrigeration Unit Regulation

At a workshop this week, the California Air Resources Board (CARB) indicated they are evaluating a number of amendments to their Transport Refrigeration Unit (TRUs) regulation. Extending the current seven-year in-use compliance period by 1 to 3 years is among the changes being considered.

Since these amendments may impact 2004 model year TRUs, which are scheduled to be brought into compliance by December 31, 2011, CARB anticipates being able to provide more direction regarding compliance by this summer. CARB is currently accepting informal comments on proposed changes with a second workshop scheduled for May 10, 2011.

A handout summarizing potential amendments and CARB staff's contact information is available at: http://www.arb.ca.gov/diesel/tru/documents/slides_workshop-1_2011-03-29.pdf

Refrigeration Unit Deadline nears in California

The California Air Resources Board (CARB) has issued notice that the 90-day compliance extension for model year (MY) 2003 transport refrigeration units (TRUs) will end on March 31, 2011. CARB extended the compliance deadline and lowered the minimum performance requirement to 50 percent particulate matter (PM) control for these TRUs. TRUs include the diesel-powered temperature control systems used on semi-trailers and van trucks. Currently, all MY 2002 and older TRUs operating in California must meet a minimum 50 percent PM control requirement. TRUs found in violation of these requirements can be issued citations of up to \$1,000. The CARB notice can be found at http://www.arb.ca.gov/msprog/truckstop/faq/faq_ts.htm#trudeadline. Contact: Mike Tunnell at mtunnell@trucking.org. ▲

Judge Suspends California Greenhouse Gas Rules

On March 18, San Francisco County Superior Court Judge Ernest Goldsmith suspended California's greenhouse gas (GHG) regulations (AB 32). The judge ruled that the California Air Resources Board violated state law when it failed to properly evaluate alternatives to its cap-and-trade program and other GHG regulations, such as the state's low carbon fuel standard (LCFS).

The judge rejected requests by California's state attorneys to allow the GHG rules to continue while the state revises its deficient environmental impact review. ATA is part of a separate lawsuit challenging the constitutionality of California's LCFS, which would increase the cost of diesel fuel sold in California without reducing global GHG emissions. The state is likely to appeal the ruling. Contacts: Mike Tunnell at mtunnell@trucking.org and Rich Moskowitz at moskowitz@trucking.org. ▲

CARB offers Training on Tractor-Trailer Requirements

The California Air Resources Board (CARB) will conduct several compliance and reporting training workshops on their tractor-trailer greenhouse gas regulation. The regulation requires the use of aerodynamic technologies on 53-foot dry-van and refrigerated trailers and the tractors pulling them. The training workshops will be held in Sacramento and broadcast over the internet on March 21, April 6, and May 2 at 11:30 a.m. PDT. In person only workshops will be held in El Monte on April 13, May 11, and June 9 at 11:30 a.m. PDT. Fleets of 20 or more model-year 2010 and older trailers wanting to participate in an optional phase-in compliance schedule must be registered in CARB's online database by July 1, 2011. Contact: Mike Tunnell at mtunnell@trucking.org. ▲

CARB Fleet Compliance Calculator Available

The California Air Resources Board (CARB) has released an updated fleet calculator which can be used to determine compliance with the requirements of their Truck and Bus (engine) Regulation. The Excel calculator reflects recent amendments adopted in December 2010. One of these amendments now requires trucks with model year 1996 to 1999 engines to be compliant by Jan. 1, 2012. Multi-year compliance can be determined using engine model years for individual trucks or entire fleets with credit provisions available for fleets that have downsized since 2006 or have purchased trucks with diesel particulate filters. The fleet calculator is available on CARB's website at <http://www.arb.ca.gov/msprog/onrdiesel/compliancetool.htm>. Contact: Mike Tunnell at mtunnell@trucking.org. ▲

Comments Solicited on Canadian Refund for Idle Time

Last year, the Canada Revenue Agency (CRA- the Canadian equivalent to the IRS in the United States) announced the availability of a refund of the 4 cent per gallon Canadian federal fuel tax for diesel fuel consumed in trucks for the production of electricity for heating and air conditioning or otherwise for the comfort or use of the driver or passengers. In Canada, such uses are referred to as "hotel services" or "hoteling"; in the U.S., they would fall into the category of idle-time consumption.

A few states, although not the U.S. federal government, offer fuel tax credits for idling. CRA noted, however, that its requirements on taxpayers to substantiate their fuel use for the purposes of the refund might be too stringent, and asked for comments on how to make the process simpler.

To date, only the Canadian Trucking Alliance, Canada's primary motor carrier association, has offered comments, to the effect that



CRA's current requirements are in fact unworkable for carriers, and suggesting less onerous rules.

In hopes of getting more input, CRA has extended the comment period through March 31 this year.

ATA expects to comment in support of CTA and encourages carriers with significant operations in Canada to consider commenting as well. The CRA solicitation for comments may be found at: <http://www.truckline.com/AdvIssues/Tax/Documents/Excise%20Taxes%20and%20Special%20Levies%20Notice,%20March%202010.pdf>. CTA's comments may be found at: <http://www.truckline.com/AdvIssues/Tax/Documents/100531-Hotel-Services-Final.pdf>. ▲

Indiana Department of Revenue Denies Sales Tax Exemption

The Indiana Department of Revenue has ruled that a warehousing and logistics operation was not entitled to the state's broad sales and use tax exemption for entities engaged in "public transportation."

The taxpayer here maintained its primary facility near the factory of a major manufacturer, the taxpayer's main customer. As described by the state, the taxpayer received its customer's products, already packaged to some extent, stored them, readied them for shipment, and arranged for their shipment by other parties. The taxpayer held federal motor carrier and broker's operating authority and also Indiana household goods operating authority for intrastate movements. It did not, however, move goods itself.

Nevertheless, it argued that it was entitled to the tax exemption, since it "generates a large amount of shuttle freight revenue per year." The department ruled that this was not enough: to get the exemption an entity had to be directly involved in the transportation itself. The taxpayer's alternate argument, that it was due the sales tax exemption for manufacturing, was also denied, since the state found it was not closely enough involved in those operations either. ▲

~State Laws Newsletter~

Trucks from Mexico

Despite all the hype, don't expect to see hundreds or even dozens of Mexican trucks traveling U.S. highways anytime soon. An announcement by President Obama and Mexican President Felipe Calderon that they had reached preliminary agreement on how to end retaliatory tariffs coupled with the longstanding impasse over U.S. access for Mexican trucks is just that—preliminary! Mexican trucks would be required to meet all applicable U.S. safety standards, including being equipped with electronic on-board recorders (EOBRs) to monitor hours-of-service compliance. According to the White House, once a final agreement is signed, Mexico would immediately reduce its tariffs by 50%. When the first Mexican carrier has been granted operating authority, the remaining tariffs would be suspended. Shortly after a final agreement is signed, DOT would publish a Federal Register notice on the program, with a 30-day period for public comment. Congress has not weighed in yet, and several key members are known to oppose granting access to Mexican trucks. ▲

I-70 Blanchette Bridge Historic Westbound Bridge Scheduled for Rehabilitation

Motorists who drive the I-70 Blanchette Bridges will be faced with major construction in 2012 and 2013. The westbound I-70 bridge over the Missouri River was built in the late 1950s and is in serious need of major repairs.

"Major river crossings are designed to last 100 years with a major overall needed at 50 years and the westbound Blanchette Bridge

was built in 1958," said MoDOT Project Manager Tom Evers. "Without major repairs, the bridge will continue to fall into disrepair and emergency repairs will be required at more frequent intervals with longer traffic closures. These repairs will become increasingly more expensive. Over the past year, the bridge has had emergency repairs with lane closures affecting rush hours five times.

Funding is available for repair work in 2012 and 2013. Because the bridge is historic and is eligible for the National Register of Historic Places (NRHP), MoDOT must consider alternatives and involve the public in the decision-making process.

"The contract is scheduled to be awarded in fall 2011. MoDOT will provide the bidding contractors a two-year time frame to do the work in 2012-2013 with one year of a complete closure of the westbound I-70 bridge," said Evers. "The contractors' bids will detail the exact timing of the one year closure in the two year work timeframe."

During the closure, all I-70 traffic will use the eastbound I-70 Blanchette Bridge with three lanes in each direction. Detailed information on the traffic handling on the bridge is available online.

The westbound I-70 Blanchette Bridge over the Missouri River at St. Charles is eligible for the National Register of Historic Places, and the proposed intensive rehabilitation will have an adverse effect on the historic property. If the westbound bridge's trusses are replaced, the new trusses will have a similar shape and look as the original. It will continue to match the shape of the late 1970s eastbound I-70 Blanchette Bridge. The main difference in the new trusses will be the steel pieces that make up the truss will be shaped as H beams instead of box beams. Detailed information about the historic nature of the bridge and the plan repairs is available on the website.

MoDOT is interested in public comments. The public can view the information and make comments online at www.modot.org/Blanchettebridge and click on the virtual public meeting link. Information is also available at the following locations:

- St. Charles City-County Library Kathryn Linnemann Branch, 2323 Elm Street, St. Charles
- St. Louis County Library Bridgeton Trails Branch, 3455 McKelvey, Bridgeton
- MoDOT St. Louis Office, 1590 Woodlake Drive, Chesterfield or 14301 South Outer Forty, Chesterfield

For more information on the Blanchette Bridge project or to sign up for email updates, visit www.modot.org/Blanchettebridge. ▲

New Rules Regarding New York Highway Use Tax Permits and Stickers

Based on a change in Federal law (Public Law 109-59) and its interpretation by the Federal Motor Carrier Safety Administration, effective immediately, motor carriers subject to the highway use tax imposed under Article 21 of the Tax Law, are no longer required to either display highway use tax stickers or to carry highway use tax permits in their motor vehicles.

Please note that this change does not relieve a carrier's obligation to file returns and pay the highway use tax. The revenue from this tax is pledged to the Dedicated Highway and Bridge Trust Fund and is used exclusively to construct, maintain, and repair the State's highways and bridges to ensure they are in a safe condition for motor carriers and motorists in New York State.

Motor carriers must still obtain highway use tax permits for motor vehicles subject to the highway use tax. However, stickers will no longer be provided with the permits. Carriers should retain the permits, even though they are no longer required to be carried in the vehicles, to assist them in filing highway use tax returns and paying the tax. These new rules apply to all types of permits (e.g.,



automotive fuel carrier permits, trip permits). The fees for all permits remain the same.

It should be noted that at the time this memorandum was issued, the Executive Budget proposal contains legislative amendments to Article 21 which will eliminate the permit and sticker requirements. In lieu of permits and stickers, the proposed legislation will require motor carriers to apply for a certificate of registration for each motor vehicle subject to tax. It also provides that rather than obtaining a certificate of registration, a carrier may opt to continue to use the existing highway use tax permits and stickers until such time as the Commissioner requires a renewal registration of vehicles.

MoTA Staff contacted NYHUT to ascertain how to handle transactions when plates are lost because Missouri Motor Carrier Services issues a new license plate in place of a replacement plate. According to Mary Wade, Assistant Director of the HUT/IFTA unit, motor carriers should copy the old NYHUT credential, cross out the old plate number and write in the new plate number and fax (518-485-7477) to the department. The department will issue a new credential and mail to the motor carrier. There is no charge for the correction. ▲

Wisconsin Explains Sales Tax Rules for Truck Owner-Operators

The Wisconsin Department of Revenue has published an explanation about how the state sales tax affects owner-operator and other lesser purchases of rolling stock. For sales tax purposes, the state has considered an owner-operator lease (that is, the provision of a truck with a driver) to be a nontaxable transportation service rather than a lease or rental of the vehicle since 2009. Whether the owner-operator's initial purchase of the equipment is taxable depends on its subsequent use, both under lease and by the owner-operator on his own account.

The Department of Revenue explained that a truck that is permanently leased to a contract or common carrier is exempt. However, the exemption does not apply to a truck that is leased part of the time and used by the owner-operator the remaining time to haul his own goods. In another example, one division of a pass-through entity (an LLC) hauls the goods of another division for a fee; for sales tax purposes, the business is considered a single entity and, because the vehicle is then engaged in private carriage, it is taxable. ▲

Lane Restrictions on I-94 East-West in Wisconsin

The Wisconsin Department of Transportation (WisDOT) has begun full-time lane restrictions on the project to rehabilitate I-94 in both directions from WIS 16 to 124th Street in Waukesha County, and westbound I-94 from 70th St to 32nd Street in Milwaukee County.

Milwaukee County:

I-94 WEST from 32nd Street to 70th Street - Full time single lane closure was put in place overnight Wednesday March 2. It includes full closure of 35th Street, Mitchell Boulevard, and Hawley Road entrance ramps to I-94 WEST. The I-94 EAST exit ramp at Mitchell Boulevard will also close. Access to/from Mitchell Boulevard will be open for Brewers home games.

Waukesha County:

I-94 WEST from Milwaukee County Line (124th Street) to WIS 16 - Full time single lane closure in effect overnight March 2. I-94 EAST from WIS16 to Milwaukee County Line (124th Street) - Full time single lane closure begins the evening of March 14.

Lane closures during peak travel hours are scheduled to conclude late June 2011. The I-94 East-West Freeway is one of the busiest routes in southeast Wisconsin. It serves as a vital link to downtown Milwaukee and the western suburbs. Pavement repair and bridge work is needed to keep I-94 serving the area for years to come.

WisDOT encourages motorists to plan ahead, use alternate routes and modes of transportation, and expect delays during this project. Visit www.repave94.org for the latest project information and travel times or call our project hotline at (262)548-8721. ▲

ATA Challenges Wyoming Law Requiring Credential Display in Trucks

The American Trucking Associations (ATA) has petitioned the Federal Motor Carrier Safety Administration for a determination that a Wyoming law requiring trucking companies to carry in their vehicles and display proof of intrastate Wyoming operating authority is preempted by federal law when that requirement is imposed on interstate carriers.

ATA's position is that the Wyoming law violates 49 U.S. Code section 14506, which bans all credential display requirements imposed by state or local governments on interstate motor carriers, apart from a few specific exceptions not applicable to the Wyoming statute. Congress enacted the law as a part of the Unified Carrier Registration Act, intending to relieve interstate carriers of the remnants of state economic regulation. The petition follows a letter from ATA to the Wyoming Highway Patrol asking the state voluntarily to stop enforcing the rule against interstate carriers. The state declined to do so. ▲

2011

Spring Safety Conference / Awards Banquet

The 2011 Spring Safety Conference, sponsored by the Missouri Trucking Association Council of Safety Supervisors, was held on March 30 & 31 at the Lodge of Four Seasons, Lake Ozark, Missouri.

Attached is a recap of the two-day event that was attended by nearly 100 safety professionals and speakers.

The Council of Safety Supervisors would like to thank the following companies for their generous financial contribution to help make this event a success:

D & D Sexton, Inc. - Carthage, MO

Frontier Leasing, Inc. - Joplin, MO

Golden State Foods - St. Peters, MO

J J Keller & Associates, Inc. - Neenah, WI

O & S Trucking, Inc. - Springfield, MO

Prime, Inc. - Springfield, MO

Roberts Perryman, PC - St. Louis, MO

Wallis Companies - Cuba, MO

Walmart Transportation - St. James, MO

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