



New Members

Cintas

8771 East Columbus Court
Columbia, MO 65201
Mr. Carl Gardner
(573) 441-2440

DLH Trucking LLC

160 Raceway Park Drive
Moscow Mills, MO 63362
Ms. Deanna Hines
(636) 366-4260

Eiken Trucking, Inc.

3339 Northwest Vivian Road
Riverside, MO 64150
Ms. Eva Jo Eiken
(816) 584-8668

St James Transportation LLC

206 North Outer Road
St James, MO 65559
Ms. Angela Kimberlin
(573) 265-1246

T-Chek Systems, Inc.

14800 Charlson Road Ste 100
Eden Prairie, MN 55347
Mr. Ryan Gyldevand
(612) 644-9630

U S Tool Grinding, Inc.

701 South Desloge Drive
Desloge, MO 63601
Mr. Rocky Newsom
(573) 431-3856

President's Message

In lieu of the normal President's Column, we are using the front page of this edition of the Missouri Memo to highlight the Agenda for the upcoming Missouri Trucking Association Convention. It will be held in Branson at the Chateau on the Lake on October 6-8. We hope you will join us for what promises to be a great event, with great information to help you weather the storm!

Wednesday, October 6

3:00 p.m. Registration Opens
5:00 p.m. Allied Industry Meeting
6:00 p.m. Welcome Reception

Thursday, October 7

7:30 a.m. Breakfast Buffet
8:15 a.m. Guest Speaker:
Linda & Tery Tennant, Attainment, Inc.
"Using Hard Times to Prepare for the Good Times"
10:00 a.m. MoTA Membership Meeting
11:00 a.m. General Session:
Kelly Anderson, Impact Transportation Solutions
"Management Techniques of America's Most Effective Owners and Managers"
Noon Guest Speaker: Tavio Headley, ATA
"Economic Outlook"
1:30 p.m. Ladies Program: Wine Tasting at the Chateau
1:30 p.m. Electronic On-Board Recorders Roundtable
2:45 p.m. CSA 2010: "What is the Latest?"
6:15 p.m. Chairman's Reception
7:00 p.m. Candlelight Banquet
Entertainment: Humorist



Friday, October 8

7:00 a.m. Breakfast Buffet
Speaker: Barbara Windsor, Incoming Chairman, American Trucking Associations
9:00 a.m. Golf Tournament: Payne Stewart Golf Course
Lunch at the Golf Course

In This Issue



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Jody Arnall Places Third in Step Van Class at NTDC

Jody Arnall of FedEx Freight in Springfield, MO placed third at the National Truck Driving Championships held August 3-7, 2010 in Columbus, Ohio. Jody competed against 32 other state champions attending the event. FMCSA Administrator Anne Ferro and Mark Courtier, of FedEx Freight, the Championships Chairman presented the Third Place Trophy to Jody. Tommy Hodges, ATA Chairman announced the winners during the Championships Banquet held in the Columbus Convention Center.

During the National Truck Driving Championships, the top three finishers competed in a run-off to determine the winners for each class before the winners were announced. Congratulations Jody on a job well done!



Eugenia "Jeanne" M. Churchill

The industry lost a friend and supporter August 15th with the death of Jeanne Churchill.

Jeanne is survived by her husband of 70 years, Kenneth Churchill, Churchill Truck Lines, Chillicothe, MO. She is also missed by her five children, ten grandchildren and eight great-grandchildren.

Jeanne and Ken never missed a Missouri Trucking Association convention. She will always be remembered for her smile and a kind word she had for everyone. ▲

'SPECIAL THANKS'

One of the truly great weeks of the trucking calendar is fast approaching. National Truck Driver Appreciation Week 2010 is scheduled for September 19 – 25. This is a great opportunity for the transportation community to say thanks to those men and women who make the trucking industry go. The Missouri Department of Transportation has joined in the fun. During this week they will have customized words of recognition and thanks for the professional driver on their electronic message boards located around the state. The Missouri Trucking Association and MoDOT have a great relationship and truly strive to work together to make Missouri the best place in the country to run trucks. A special thanks to MoDOT for honoring the Professional Driver. ▲

Supreme Court explores Bad-Faith Claims

Recognizing the "increasing prevalence of high-deductible" policies, a unanimous State Supreme Court, for the first time, addressed the issue of a bad-faith claim when the judgment entered against the insured was within policy limits. Chief Justice Abrahamson wrote the opinion in the Roehl Transport vs. Liberty Mutual case, which held:

- Roehl Transport, an insured with a deductible for its liability coverage, has a cognizable bad faith claim against its insurance company when the insurance company has control over settlement of a third-party claim and engages in bad faith conduct toward the insured, even though the judgment does not exceed the policy limits.
- Sufficient credible evidence supports the jury's finding of bad faith and the jury's determination of damages.
- Judicial public policy considerations do not preclude Roehl Transport's bad faith claim.
- Roehl Transport is entitled to attorney fees as a matter of law upon the jury's finding of bad faith. (The amount will be determined by the circuit court on remand).
- The circuit court did not err in denying Roehl Transport's claim for punitive damages.

A key question in this case is whether an excess liability judgment is a necessary prerequisite for an insured to bring a third-party bad faith claim under state law. Abrahamson wrote another way to review the question is whether the three types of bad faith claims currently recognized are the only types of bad faith claims cognizable in Wisconsin. The availability of a bad faith claim under the facts of the case at hand has not previously been decided.

The decision affirmed the judgment and order of the St. Croix County circuit court awarding Roehl Transport damages on its bad faith claim and denying Roehl Transport's claim for punitive damages. The decision reversed the trial court on the issue of attorney fees. ▲

Passing of Joe Boyd

We are sorry to inform you that Joe Boyd, Missouri Division Administrator for the Federal Motor Carrier Safety Administration passed away on Tuesday, August 10th, when he lost his battle with cancer.

Joe had been the Division Administrator in Missouri since 1998. Although he worked for an enforcement agency, Joe was very supportive of the Missouri Trucking Association by endorsing educational programs to help motor carriers with enforcement issues. Joe will be missed by all.

Joe is survived by his wife, Bonnie and a son Andy who live at the home in Jefferson City. ▲

2010 Roadcheck Results indicate High Industry Safety Compliance

The Commercial Vehicle Safety Alliance announced that data from Roadcheck 2010 show the overall vehicle compliance rate at 80.0 percent (compared to 80.4 percent in 2009), with an overall driver compliance rate of 95.6 percent (unchanged from last year). For Level I inspections, the compliance rates were 76.7 percent for vehicles (77.8 percent in 2009) and 96.3 percent for drivers (96.1 percent in 2009). Hazardous materials inspections resulted in a vehicle compliance rate of 83.7 percent (83.0 percent in 2009) and driver compliance rate of 97.5 percent (97.0 percent). Brake-related defects continue to account for half of all vehicle out-of-service violations. ▲

Member Cancellations August 2010

Name of Company	Class	Dues
Bloomdsdale Excavating Co Inc	Private	\$300.00
Colonial Life	Allied	\$350.00
Dancey Collision Repair Inc	Allied	\$200.00
Glenn's Transport Inc	For Hire	\$385.00
Helms Permit Agency	Allied	\$200.00
Kinedyne	Allied	\$350.00
R V R Trucking Inc	For Hire	\$302.50
Ritchie Bros Auctioneers LTD	Allied	\$350.00
S & K Industries Inc	Private	\$300.00

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Tom Crawford, President and CEO
PO Box 1247
102 E High Street
Jefferson City, MO 65102
573-634-3388
mota@motrucking.org





CSA 2010 BASICS: Cargo Related / Hazardous Materials

As we draw ever closer to the Federal Motor Carrier Safety Administration's implementation of Comprehensive Safety Analysis 2010 (CSA 2010), it becomes even more important that drivers fully understand how safety violations will impact their safety records and their futures.

This article addresses the sixth BASIC – Cargo-Related / Hazardous Materials – which covers violations to Parts 392, 393, 397 and all relevant hazardous materials requirements found in the Federal Motor Carrier Safety Regulations and Hazardous Materials Regulations. The most common violations under this 6th BASIC are improper tiedowns, improper cargo securement or retention methods, and improper securement of specialized commodities or packaging like cars, paper rolls and metal coils.

As you know, Section 392.9 of the FMCSRs requires that a driver not operate a CMV unless its:

- Cargo is properly distributed and adequately secured per Sections 393.100 through 393.136;
- Tailgate, tailboard, doors, tarpaulins, spare tire and other equipment used in its operation, as well as the means of fastening the cargo, are secured; and
- Cargo or any other object does not (1) obscure the driver's view ahead, to the right or to the left (except for drivers of self-steer dollies), (2) interfere with the free movement of his/her arms or legs, (3) prevent his/her free and ready access to accessories required for emergencies, or (4) prevent the free and ready exit of any person from the CMV's cab or driver's compartment.

In addition, if the load is such that you have access to it and it is not "protected" by a seal or other security device, you must – according to 392.9(b) – inspect the cargo and the securement devices within the first 50 miles after beginning a trip and make adjustments to the cargo or securement devices as necessary to ensure that cargo cannot shift on or within, or fall from the CMV. And, you must inspect/adjust the cargo securement devices during the course of transportation whenever you have a duty status change, or after three hours of or 150 miles of driving, whichever comes first. If you do not have access to the load (because the trailer or container has been sealed or locked), but you suspect a securement issue, be sure to report your suspicions to the safety supervisor and why.

Although we haven't covered all of the specific securement requirements in this article, you know that you are responsible for them. Under CSA 2010, if you fail to properly distribute and secure your load and an inspector records this failure, you will receive a score that will impact your safety records and the carrier's Safety Fitness Determination – and that's not good for you, the carrier or the industry. ▲

Many Fear CSA 2010 Could Create Driver Shortage

Motor carriers are increasingly expressing concern that Comprehensive Safety Analysis 2010 (CSA 2010) will result in a truck driver shortage. Some industry experts predict the new Federal Motor Carrier Safety Administration (FMCSA) initiative could reduce the pool of available drivers by 7 to 10 percent.

As currently devised, CSA 2010 would ultimately result in the termination of many truck drivers, some with considerable experience, because warnings issued to truck drivers are considered the same as a ticket. Many carriers are convinced highway patrol officers use warnings as a way to inspect driver logs and equipment.

Another concern is that the growing emphasis on safety training provided by carriers may blur the line between independent contractors and employees. "This distinction could create a serious problem for fleets that use independent drivers, especially at a time when the Obama administration has said it intends to actively pursue cases in which companies improperly claim that workers are independent contractors instead of employees," according to an article in the June 28 issue of *Transport Topics*. ▲

FMCSA Sends HOS Proposal to White House

The Federal Motor Carrier Safety Administration (FMCSA) sent its proposal for a new hours-of-service rule to the White House Office of Management and Budget for review, meeting the first of its court-appointed deadlines for issuing the rule.

According to OMB's website, the notice of proposed rulemaking was filed with by FMCSA on July 26 – nine months after the agency entered into a settlement agreement with a coalition of groups led by Public Citizen and the Teamsters union.

Under that agreement, FMCSA said it would review the rule and within nine months send the White House a new proposal. The agency now has until July 2011 to publish that proposal, collect comments and issue a new final rule.

Since agreeing to issue the new rule, FMCSA has opened a docket seeking information about the hours-of-service rule and held more than half-dozen listening sessions around the country collecting input from drivers, fleet executives and advocacy groups about the regulation.

On its website, OMB said that the rule was "economically significant." Typically, the budget office reviews regulations like the hours rule for roughly 90 days, putting the rule on pace to be published in the Federal Register by late October or early November. ▲

~ *Transport Topics* ~

Estimate: 69 percent of Fleets will face Intervention

Analysis of data from 1,500 fleets shows that at least 69 percent would face some form of federal intervention when CSA is fully operational. Vigillo, a data mining company, told *Fleet Owner* that only 1.3 percent face intervention under the current SafeStat safety management system that will be retired in 2011. Vigillo analysis also suggests that inconsistent state enforcement of truck safety regulations contributes to inequity in the system. ▲



FMCSA Proposes to Extend HOS Waiver for Anhydrous Ammonia

The Federal Motor Carrier Safety Administration (FMCSA) today announced that the agency is proposing a two-year, limited exemption from the federal hours-of-service (HOS) regulations for the transportation of anhydrous ammonia from any distribution point to a local farm retailer or to the ultimate consumer, and from a local farm retailer to the ultimate consumer, as long as the transportation takes place within a 100 air-mile radius of the retail or wholesale distribution point.

This move would extend the 90 day waiver which was announced on March 22, 2010 for motor carriers engaged in the distribution of anhydrous ammonia during the 2010 spring planting season.

This proposal is open for a 30 day comment period before it can be finalized. This short term move is not a surprise since the agency staff indicated recently in a meeting between AFTC and other agricultural groups that they felt the need to proceed in a "transparent" manner. This comment period process allows for such transparency. While it is not yet a permanent move, the two-year period is very significant and the agency used very positive language in the announcement.

The Agency stated that it believes that the proposed exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such an exemption, based on the terms and conditions imposed.

In making this determination the agency cited strong evidence that is very favorable to the industry. The agency stated again, as it did in the March 22nd announcement, that the earlier interpretation of the exemption which disallowed movements which were not directly to or from a farm "may not reflect today's economic reality as it pertains to the transportation of anhydrous ammonia during planting and harvesting seasons."

The agency stated that: "The Agency has considered the available data concerning the safety performance of agricultural operations in general, and the safety performance of anhydrous ammonia transporters during the 90-day, limited waiver granted earlier this year."

It discussed the positive "study, "Agricultural Commodity and Utility Carriers Hours of Service Exemption Analysis," May 2010." Details of this study were discussed in a notice to AFTC members on June 10, 2010 which can be found at <http://www.truckline.com/Federation/Conferences/AFTC/NewsandUpdates/DOT%20Completes%20Analysis%20of%20Ag%20HOS%20Exemption.pdf>.

In addition to the study, the Agency considered data concerning the safety performance of anhydrous ammonia transporters during the limited 90-day waiver mentioned above and concluded that "only one of the five [incidents] involved a crash and that crash involved a driver who had been on duty only two hours after having two consecutive days off duty."

This proposal has terms and conditions similar to the earlier 90 day waiver.

AFTC will submit comments strongly in favor of this proposal.

The full proposal can be found at http://www.ofr.gov/OFRUpload/OFRData/2010-17138_PI.pdf. ▲

FMCSA issues Retention Guidance for Scanned Logs

On June 10, the Federal Motor Carrier Safety Administration (FMCSA) issued regulatory guidance simplifying the record keeping and retention requirements for drivers' records of duty status (logs). Previously, the agency held that drivers must create logs in duplicate. In response to a petition for an exemption (filed by an ATA member) to allow drivers to electronically send a scanned copy of the log back to the carrier, FMCSA issued new guidance allowing this practice for all motor carriers.

Effective immediately, drivers may scan and transmit an electronic copy of each log to the motor carrier and retain the original log – thus creating two copies. Drivers must still retain their logs for the current and previous seven days when on-duty; motor carriers relying on this guidance must retain electronic copies of the logs and supporting documents for six months.

Question: Are drivers who electronically scan a copy of their original record of duty status (RODS) for subsequent submission to the motor carrier required to prepare the RODS in duplicate?

Guidance: No. Although 49 CFR 395.8(a)(1) states, "Every driver who operates a commercial motor vehicle [in interstate commerce] shall record his/her duty status, in duplicate, for each 24 hour period," the intent of the requirement may be fulfilled through image of the original handwritten RODS to the regular employing motor carrier within 13 days following the completion of the form, while the driver retains the original records for the current day and the previous seven consecutive days.

Because existing regulations concerning the preservation of records (49 CFR 390.31) allow motor carriers to store electronically a scanned image of the original handwritten RODS submitted by drivers and essentially dispose of the original paper document, there is no adverse impact on the enforcement of the HOS regulations, and subsequently no compromise on the application of the safety requirement by allowing the driver to submit a scanned image of the original signed RODS to the regular employing motor carrier within 13 days of the completion of the record.

Motor carriers must maintain the scanned image of the signed RODS and all supporting documents for each driver for a period of six months from the date of receipt (49 CFR 395.8(k)). ▲

Bill to Beef Up Broker Regulation Introduced

Legislation to increase the regulatory oversight of brokers and freight forwarders was introduced in the U.S. Senate last month. The bill, introduced by Sen. Olympia Snowe (R-Maine) and Sen. Amy Klobuchar (D-Minn.), is aimed at brokering practices said to take advantage of small business truckers.

The Motor Carrier Protection Act of 2010 would increase the broker bond from \$10,000 to \$100,000 and expand that bond requirement to freight forwarders. It would also increase disclosure requirements and establish penalties for violations of broker regulations. Under the bill, brokers and freight forwarders would be required to renew their operating authority annually. The FMCSA would be required to revoke operating authority for entities that do not renew their authority.

Trucking companies that arrange freight for another carrier for compensation would have to obtain a broker's or freight forwarder's license in addition to their motor carrier authority. ▲



UCR Enforcement began July 15

The Commercial Vehicle Safety Alliance (CVSA) recently sent out an Inspection Bulletin that superseded the Inspection Bulletin that was issued on December 23, 2009. The December 23, 2009 CVSA Inspection Bulletin stated there will be an Enforcement Moratorium for 2010 UCR Registration Year until further notice. The most recent Inspection Bulletin is the further notice!

UCR enforcement for 2010 fees began July 15.

The 2010 Unified Carrier Registration (UCR) fees were approved by federal regulation on April 27, 2010, and increased significantly from \$39 to \$76 for the lowest category. Specifically the new fees are as follows:

2010 UNIFIED CARRIER REGISTRATION PLAN FEES			
Number of Power Units	2009 Fees	2010 Fees	Increase
0-2	\$ 39	\$ 76	\$ 37
3-5	116	227	111
6-20	231	452	221
21-100	806	1,576	770
101-1,000	3,840	7,511	3,671
1,001 and above	37,500	73,346	35,846

UCRA Board Meeting Reviewed

The Board of Directors of the Unified Carrier Registration Agreement met by conference call on August 12, 2010. The major item of business was action on a report of the UCRA fees subcommittee, which recommended that the Board not seek an increase in UCRA fees for the year 2011. The Board agreed with this recommendation, given that 2010 UCRA collections are still proceeding and there is as yet no solid information on how much the states may eventually bring in from the program this year. So the UCRA fees will stay the same for 2011 as they are for 2010. The Board may consider at its September meeting when to begin collections of next year's fees. We anticipate that may be about the first of the year.

At the UCRA Board meeting, the Federal Motor Carrier Safety Administration, which oversees the program, announced that the U.S. Secretary of Transportation has made several appointments of Board members. New industry Board members are Woody Chambers, representing the Owner Operator Independent Drivers Association, who replaces former OOIDA representative Rick Craig; and Jay Gingerich, fleet safety director with private carrier C.H.I. Overhead Doors of Arthur, Illinois, who replaces Craig Sharkey of Wal-Mart. Rick Schweitzer, counsel to the National Private Truck Council; Bob Voltmann of the Transportation Intermediaries Association; and Bob Pitcher of ATA were reappointed as Board members; and the last named will continue to serve as the Board's vice chairman. New state members of the Board are Gene Eckhardt of the Washington State Utilities and Transportation Commission and Scott Morris of the Alabama Public Service Commission. They take the places of Barbara Hague of Missouri and Terry Willert of Colorado, who are retiring. Avelino Gutierrez of New Mexico continues as UCRA Board chairman. ▲ ~ *State Laws Newsletter*~

Bill includes Tax Benefits for Trucking

The Small Business Jobs Act now before Congress includes tax provisions that would benefit motor carriers. Among them

are extensions and expansions of the existing provisions that allow smaller carriers to (1) immediately expense certain capital expenditures that would otherwise have to be depreciated and (2) take a 50 percent bonus depreciation on such expenditures as are not written off.

As to the first provision, the bill would increase from \$250,000 to \$500,000 the amount that a business can expense in tax years beginning in 2010 and 2011. As to the second, the existing bonus depreciation is extended through 2010 tax years. Finally, a third provision, not in current law, would allow business owners to deduct in calculating self-employment tax the cost of health care they incur in 2010 to insure themselves and their families.

The Act (H.R. 5297) has passed the House of Representatives and is currently before the Senate, where it is expected to be voted. ATA is working to ensure the bill's passage. ▲

HIRE Act could help Carriers

The newly enacted federal HIRE (Hiring Incentives to Restore Employment) Act contains a couple of potentially large tax benefits for at least some motor carriers that are hiring employee drivers.

The Act allows the employer of a "qualified employee" to not pay the 6.2 percent employer's Social Security employment tax (FICA) contribution for wages paid to the employee between March 19, 2010, and the end of this calendar year.

A qualified employee must: be hired between February 3, 2010 and January 1, 2011; not have been employed for more than 40 hours during the 60 days before hiring; not be hired to replace another worker, except one who left voluntarily or was fired for cause (and this includes one let go in downsizing); not be related to the employer.

The employee must also sign an affidavit that he meets these criteria. IRS has already released the affidavit form; it can be found at <http://www.irs.gov/pub/irs-pdf/fw11.pdf>. This benefit does not affect either the employee or the employee's eventual Social Security benefits.

The second tax benefit may be claimed by employers on their 2011 income tax returns. The benefit is a tax credit of 6.2 percent of the wages paid to a qualified employee, or \$1,000, whichever is less, for each qualified employee that the employer has retained for at least 52 weeks. The criteria for a qualified employee are the same as for the first benefit.

More information can be found at www.hireact.org. ▲

ATA Tells Senate to Say NO to LCFS

On July 23, ATA President and CEO Bill Graves wrote a letter to each Senator outlining the trucking industry's concerns with a low carbon fuel standard (LCFS). The letter points out that an LCFS will not reduce carbon emissions, but will increase the price of diesel fuel, adversely impact truck operability and jeopardize U.S. energy security.

The letter reiterates ATA's support for reasonable carbon control measures, such as those outlined in ATA's Sustainability Plan, and expresses the industry's preference for addressing carbon emissions through cost effective national fuel economy standards that are being developed jointly by the Environmental Protection Agency and the Department of Transportation.

While there is not enough support in the Senate to pass an energy bill with greenhouse gas control initiatives, ATA remains concerned that more narrow initiatives, such as an LCFS, could be added to a scaled down energy bill later this year. ▲



Senate Bill Would Allow Heavier Trucks

A trio of senators introduced a bill that would allow states to increase the maximum weight for trucks operating on their interstates beyond the federal limit of 80,000 pounds.

Sens. Mike Crapo (R-Idaho), Susan Collins (R-Maine) and Herb Kohl (D-Wis.) said in introducing the Safe Efficient Transportation Act that states would be allowed to “opt in” and increase their weight limits to 97,000 pounds.

The legislation is identical to a bill introduced in the House last March by Reps. Michael Michaud (D-Maine) and Jean Schmidt (R-Ohio) and would require the new, heavier trucks to have six axles in order to diffuse the added weight.

“This bipartisan legislation strikes the right balance between productivity and safety,” Kohl said in a statement.

The bill is backed by American Trucking Associations and the Coalition for Transportation Productivity, a shippers’ group.

“ATA supports a number of reforms to federal truck size and weight regulations as part of our Sustainability Initiative,” said ATA President Bill Graves.

“More efficient trucks, like those allowed under this legislation, will significantly reduce the trucking industry’s carbon output,” he said in a statement. ▲

FMCSA Provides Motor Carriers an Early Look at Safety Rankings

On August 16, the Federal Motor Carrier Safety Administration (FMCSA) started providing individual commercial motor carrier companies a preview of their safety rankings under the agency’s new enforcement and compliance program, the Comprehensive Safety Analysis (CSA) 2010. This gives carriers a clear assessment of their over-the-road performance through the seven CSA 2010 Behavior Analysis and Safety Improvement Categories (BASICS).

The BASICS are: Unsafe Driving, Fatigued Driving (Hours-of-Service), Driver Fitness, Controlled Substances/Alcohol, Vehicle Maintenance, Cargo-Related and Crash Indicator. In December 2010 FMCSA plans to rollout to the public the motor carriers data contained in the system. Motor carriers should review their data to insure that it is correct and any incorrect data should be challenged by using the DATAQ system. When challenging a report it is recommended that all supporting information that will support that the report is incorrect should be attached.

MoTA has been providing the working group members from Missouri with recommendations that will improve the initiative. Among those changes we have recommended is a table of speeding violations in the severity weighting table rather than a one size fits all. The staff also recommended that the peer group methodology using vehicles needed to be changed to mileage which has been the measuring stick used by the industry for many years. The working group has recommended that a hybrid methodology that includes vehicles and mileage is fair for all motor carriers. The working group has also eliminated the size and weight issues in the cargo related Basic. The industry is still requesting that Non-Preventable crashes be removed from the data but has not received a response. Motor Carriers transporting hazardous materials should review the cargo related basic because there has been substantial changes in the severity weighting table. ▲

FMCSA to Drop Registrant-Only Numbers

By a notice in the August 9, 2010, *Federal Register*, the Federal Motor Carrier Safety Administration has announced that as of September 1, 2011, it will eliminate the requirement under the federal Performance and Registration Information Systems Management (PRISM) program that a party other than a motor carrier that registers a vehicle under the International Registration Plan in a state that participates in PRISM must have or be issued a DOT number. This is a longstanding PRISM requirement, and several hundred thousand such “registrant-only” numbers have been issued since 1999. The only function of the number is to tie the vehicle’s registration in the PRISM system to the vehicle’s owner. By definition, some other party – that is, a motor carrier that has a real DOT number – will be responsible for the vehicle’s safe operation, and that party, not the non-carrier registrant, will be liable under PRISM for a poor safety record. This mechanism has caused problems, since registrant-only numbers are sometimes viewed by those to whom they have been issued as an indication that they have federal authority to operate as a carrier, when they have in fact no such authority. In addition, enforcement personnel conducting safety inspections or investigating accidents frequently tie violations or accident data to a registrant-only number rather than to a valid carrier DOT number. FMCSA says that nearly 20% of the registrant-only numbers in its database – more than 35,000 of them – have accumulated such indications of accident or inspection activity, when in fact none should have been attributed to any of those numbers. ATA and other industry groups have long urged FMCSA to eliminate registrant-only numbers. The further year’s delay in the elimination will allow PRISM states to adjust their registration systems to accommodate the change. For more information, contact FMCSA’s Tom Lawler at tom.lawler@dot.gov or 202-366-3866. The *Register* notice is here: <http://edocket.access.gpo.gov/2010/2010-19593.htm>. ▲

ATA Letter seeks Timeline for CSA 2010 Crash Accountability Determination Process

On Monday, August 16, the Federal Motor Carrier Safety Administration’s (FMCSA) changes to its CSA 2010 methodology were made available to the industry and the public. The number and type of changes are significant, and some of these modifications are the result of ATA’s advocacy efforts. ATA has already received initial reports from its membership indicating that these changes seem to be having mainly a positive impact on ATA member carrier scores. However, these methodology changes did not include a new process for the Agency to make crash accountability determinations before crashes are entered and used in the CSA 2010 safety measurement system. As such, yesterday ATA sent a letter to Administrator Ferro asking for FMCSA’s timeline to establish such a process. ATA’s letter also requests that four specific types of crashes be excluded from CSA (via a DATAQs request) until the larger accountability determination process is established. ▲



Behind-the-Wheel Training Programs

Crowder College, Neosho, Missouri is one of seven community and technical colleges and two state government training facilities who received a share of \$1 million in Federal Motor Carrier Safety Administration grants to enhance behind-the-wheel safety training courses for students enrolled in commercial driver's license (CDL) training programs, U.S. Transportation Secretary Ray LaHood announced on July 26th.

"Our roads and highways are safer when we have highly-trained drivers behind the wheels of large commercial trucks and buses," LaHood said. "Expanding the ranks of safety-conscious commercial drivers is critical to improving road safety and saving lives."

"We depend on professional truck and bus drivers to safely move our economy," FMCSA Administrator Anne S. Ferro said.

"This grant program makes an investment in our workforce, while ensuring that new commercial drivers are well-trained and focused on safety."

The goals of the Commercial Motor Vehicle Operator Training Grant Program are to make the roadways safer by increasing the number of CDL holders with enhanced safety training. In addition, the program seeks to assist economically-distressed regions of the United States by providing workforce training opportunities for qualified individuals to become commercial motor vehicle operators, Ferro said.

Those eligible for the grant program include accredited public and private institutions of higher education, federally recognized Native American Tribal Governments and city, county and state governments.

The Commercial Motor Vehicle Operator Training Grant Program was established by Congress in 2005 through the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU).

Schools wishing to apply for the fiscal year 2011 CMV Operator Training Grant Program need to visit <http://www.fmcsa.dot.gov/safety-security/grants/grants.aspx>. ▲

OSHA Head Urges Criminal Penalties

In a presentation to the American Society of Safety Engineers in Baltimore on June 14, Dr. David Michaels, Assistant Secretary of Labor for Occupational Safety and Health, called for aggressive enforcement for flagrant violators of federal safety and health regulations. "It's an unfortunate fact that monetary penalties just aren't enough," he said. "We believe that nothing focuses the mind like the treat of doing time in prison, which is why we need criminal penalties for employers who are determined to gamble with their workers' life and consider it merely a cost of doing business when a worker dies on the job." ▲

Passenger Air Cargo Rules Took Effect August 1

On Aug. 1, the Transportation Security Administration's (TSA) Passenger Air Cargo 100% Screening rules took effect. From now on, no cargo will be allowed to fly on a passenger flight without having been screened at the piece level before loading.

In an effort to ease the flow of commerce, TSA has allowed cargo to be screened at off-airport sites under the Indirect Air Carrier (IAC) and Certified Cargo Screening Programs (CCSP). After screening, IACs and CCSP facilities must ensure that certain chain of custody regulations are followed when moving the screened cargo to the airport.

Carriers transporting loads destined for a passenger plane may be asked to join the CCSP or agree to chain of custody requirements imposed on the IACs and screening sites by TSA. These regulations include ensuring that the driver moving the freight holds a credential with a TSA-approved background check such as a TWIC, a FAST card or a HazMat Endorsement on their CDL and other handling requirements.

Carriers already moving freight for an IAC or CCSP and following those regulations will not need to change their procedures. ▲

Trucking Associations and Government Safety Groups Release Tank Truck Safety Video

The National Tank Truck Carriers (NTTC) and the American Trucking Associations (ATA) are proud to announce the release of the "Cargo Tank Driver Rollover Prevention Video" that reaches out to truck drivers in an effort to reduce rollover incidents.

"Although rollovers are rare, we recognize that they can be serious," said NTTC President John Conley. "This outreach video is part of our proactive commitment to work with the government or anyone else in improving truck safety and minimizing the risk of such incidents."

The video, produced in collaboration with the U.S. Department of Transportation, features several experienced tank truck drivers educating other drivers about the contributing factors of rollovers and steps drivers can take to prevent future incidents. Research shows that driver action plays a role in the majority of rollovers, so properly educating drivers has the potential to reduce the occurrence of those incidents.

The video can be viewed at <http://www.fmcsa.dot.gov/about/outreach/cargo-tank-video.aspx> and DVD copies are available upon request. ▲



Arizona Begins Reopening Rest Areas

The Arizona Department of Transportation has reopened three rest areas along I-10 and I-19, which were among 13 areas temporarily closed last fall to address a \$100 million budget shortfall. Sacaton, along Interstate 10, southbound Canoa Ranch, along I-19 and Ehrenberg, on I-10 are now open for travelers.

The northbound side of Canoa Ranch also reopened, in addition to Meteor Crater along I-40 and San Simon along I-10, as repairs and maintenance issues are being finalized. Four more rest areas are expected to reopen this fall.

Four additional rest areas - Mazatzal (SR 87), Mohawk (I-8), Parks (I-40) and Salt River Canyon (U.S. 60) - will remain closed due to serious repair issues. ▲

CARB Rules

The California Air Resources Board (ARB) has adopted several rules that may impact our membership. As part of our outreach efforts to the trucking industry, ARB will be providing training for those people who sell and/or lease trucks, tractors and 53-foot or longer box-type trailers (affected trucks and trailers) that operate in California. ARB is inviting truck and trailer dealers to be a part of our informational network. Training sessions may be scheduled upon request. This training will benefit dealers both inside and outside of California that sell and/or lease affected trucks and trailers and will assist dealers in better serving their customers that operate in California.

If you have questions about how to become involved in ARB's informational network or this training, please contact Ms. Kathleen Mead at (916) 324-9550, or by email at kmead@arb.ca.gov. ▲



CARB Enforcement

The California Air Resources Board (CARB) recently reached a \$2 million settlement with a Pennsylvania manufacturer for selling uncertified catalytic converters to customers in California. The case illustrates that CARB doesn't hesitate to reach across state lines for equipment dealers violating air quality rules within California through the sale of non-compliant products. If you are a truck or equipment dealer serving customers who haul to or from California, please note that CARB is offering free web-based training during August for those who sell and/or lease trucks, tractors and 53-foot or longer box-type trailers that will operate in California. For information on setting up an interactive, online training, contact Ms. Jackie Johnson at 916-323-2750 or jjohnson@arb.ca.gov. CARB is encouraging dealers to distribute a revised regulatory fact sheet to customers, and to sign up to be included in the dealer information network. To get on the information network list, contact Danielle Chambers at 916-324-2352 or dchamber@arb.ca.gov. ▲

Transportation Legislation signed in Florida

Florida's Governor recently signed into law comprehensive transportation legislation that includes a 400-pound weight allowance for trucks equipped with Auxiliary Power Units which would make Florida the 41st state to allow for the weight allowance.

The new law also creates an anti-indemnification statute that prohibits shippers from forcing motor carriers to indemnify them for all liability, including for the negligence of the shipper itself. ▲

Illinois Expands Truck Access

Effective July 28, the Illinois Vehicle Code has been amended to allow certain combination vehicles over 65 feet in length transporting household goods, unlimited access to points of loading and unloading. Additionally, trucks up to 65 feet in length can access local roads to points of delivery for food, fuel, rest and repair.

If the truck measures less than 65 feet, vehicles are allowed access for five highway miles from a state designated highway onto any county, township or municipal highway, for the purposes of loading and unloading. For food, fuel, repairs and rest, vehicles have access from a designated state highway onto a county or township road for a distance of five miles or onto a municipal road for a distance of one mile.

If the truck measures over 65 feet, vehicles are allowed access from a Class I highway for one highway mile onto any street or highway for loading, unloading, food, fuel, repairs and rest, provided there is no sign prohibiting that access. Vehicles are allowed access from a Class I or Class II highway onto any state highway or any locally-designated highway for a distance of five highway miles for the purposes of loading, unloading, food, fuel, repairs and rest.

If the truck is over 65 feet and is operated by a household goods carrier, vehicles have unlimited access to points of loading and unloading. ▲

Repairs to I-470 in Kansas City Already Under Way

Construction to fix pavement that collapsed on westbound I-470 in Kansas City is under way and scheduled to be finished no later than Sept. 15. MoDOT awarded a contract for the work to Pyramid Contractors, Inc. of Olathe, Kan. on July 22. To find alternate routes, go to http://www.modot.gov/kansascity/major_projects/trailsdetour.htm. ▲

Michigan provides Guidance on Parts Exemption

The Michigan Department of Treasury has released an internal policy directive that interprets the state's sales and use tax exemption for interstate motor carrier rolling stock, as this exemption applies to parts. The law exempts "parts affixed to rolling stock," but includes no definition of parts. The department directive limits this to replacement parts for items that were a part of the truck as originally purchased. The agency describes an internal policy directive as guidance for its staff. It therefore evidently falls short of regulation, but treasury staff will presumably adhere to it in conducting Michigan sales tax audits. *Michigan Department of Treasury, Internal Policy Directive 2010-1, issued June 28, 2010*, available here: http://www.michigan.gov/treasury/0,1607,7-121-44402_44419-240123--,00.html. ▲

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Missouri Slashes Highway Construction Funding

On July 1, the Missouri Highways and Transportation Commission approved a new five-year highway construction program that is only one-third the size of the 2009 program and includes barely enough funds to take care of the existing system. Expect to see very few new projects in Missouri during the next few years that expand the system and make it safer.

Stagnant state revenues, uncertain federal funding and no more money from Amendment 3 voter-required bonds is causing highway and bridge construction in Missouri to dramatically decrease, resulting in a program containing construction projects averaging only \$500 million per year.

To cope with this funding challenge, the Missouri Department of Transportation (MoDOT) has adopted a five-year direction to deliver commitments promised Missouri citizens. MoDOT will focus on keeping major highways in good condition, improving minor state roads and keeping pace with needed bridge repairs and maintenance.

"This five-year direction requires significant cost-saving strategies like reducing the number of MoDOT's salaried employees and operating expenditures for mowing and equipment," said Kevin Keith, interim Director of MoDOT. "These measures are estimated to save more than \$200 million that we'll use to keep our roads and bridges in good condition."

However, there are consequences to operating with insufficient funds. It means the department will not be able to address economic development opportunities, deliver corridor improvements or replace major bridges.

The 2011-2015 Statewide Transportation Improvement Program lists transportation projects planned by state and regional planning agencies for fiscal years 2011 through 2015 (July 1, 2010 - June 30, 2015). The program totals \$5.7 billion, with approximately \$4.07 billion going to highway and bridge projects, about \$970 million to other transportation modes and approximately \$680 million to local transportation programs. The complete list of transportation projects, as well as maps showing all highway and bridge projects and corridors to be completed, can be found at this www.modot.org. ▲



Traveling as a Commercial Driver in Missouri just got easier

MoDOT's Traveler Information Map was just upgraded to include a special Size & Weight view. To access the map, to go <http://maps.modot.mo.gov/tim/>. Enter the overall height of a load and click Set Minimum Clearance. Icons representing overhead structures lower than your minimum appear. Check the route you plan to use to see if the road is restricted or closed to oversized or overweight loads. Imagine the time you'll save when choosing a route to enter into the MoDOT Carrier Express online system!

Use the cursor to hover over an icon. When you see it begin to pulse, look to the lower left part of the screen. An explanation of the closure or structure height will appear, giving you location and dimension details.

Look to the tabs at the top. Whether you are on the standard travelers' map or the size and weight version, you can track storm movement by choosing Radar. By combining the road conditions and road closure information on the standard map with National Weather Service radar images, the map can help you make informed decisions about travel in winter weather or stormy conditions.

Use the Zoom tab to choose a detailed view of the city, county, MoDOT district or highway route you want to view up close. A magnifying glass icon near the bottom of the screen also helps enlarge a section. The icon with a magnifying glass over the globe returns you to the original view.

When you have some time, we invite you to explore all the map has to offer. We hope it helps you make sound safety and business decisions. ▲

I-49 Coming to Missouri

On August 11, 2010, the Missouri Highways and Transportation Commission (MHTC) approved highway construction resulting in the upgrading of the US 71 corridor between Kansas City and Joplin to interstate standards by the end of 2012.

"Improving US 71 between I-435 in Kansas City and I-44 near Joplin enhances economic development opportunities and freight movement," said Missouri Department of Transportation Interim Director Kevin Keith. "We are excited about getting closer to an I-49 designation in Missouri."

The original intent was to fund a four-lane bypass of Bella Vista, Arkansas, creating an interstate from Joplin to Fort Smith, Arkansas. However, recent correspondence from the Arkansas State Highway Commission indicates that due to funding shortfalls it intends to construct a two-lane Bella Vista bypass in phases over six years.

Since a two-lane bypass would not be compatible with interstate standards, the MHTC was compelled to shift its priorities on US 71.

"We need to capitalize on the opportunity to bring I-49 to Missouri between Kansas City and Joplin," said Rudy Farber, Commission Chairman, "but still work with Arkansas toward progress on the Bella Vista Bypass."

Once improvements between Kansas City and Joplin are complete, any remaining funds will be used to begin construction of the Bella Vista Bypass in coordination with Arkansas. ▲

Montana trucker and ATA challenge FMCSA

Watkins Shepard Trucking of Montana and the American Trucking Associations have written letters challenging the Federal Motor Carrier Safety Administration's "crash indicator" methodology under the new CSA safety management program. Montana has been one of the CSA pilot states. Watkins Shepard contends that the FMCSA methodology must consider preventable versus non-preventable

accidents in order to accurately reflect a company's safety fitness. ATA followed that letter with a request that FMCSA remove certain types of crashes from the system until the agency can establish a more comprehensive crash accountability determination process. ▲

Watch for Expiring Exemption Certificates

A notice issued recently by the Nebraska Department of Revenue points out issues for motor carriers who may qualify for state sales tax exemptions. Sales tax on motor carrier purchases is a complicated area. From the inquiries we get, many carriers believe they're entitled to a sales tax exemption as a matter of federal law. This is certainly not the case; whether to grant an exemption, and, if one is granted, how broad it will be, are issues for each state to determine for itself. Nevertheless, state sales tax exemptions for motor carrier rolling stock are widespread, and exemptions for parts and repair labor purchased by carriers are also common. In most states, however, in order to claim an exemption, a carrier must first obtain a sales tax certificate of exemption from the state. This will involve an application to the state, and some delay. Unless the carrier presents an appropriate exemption certificate, a retailer is not supposed to sell an otherwise taxable item tax-free. What the Nebraska notice points out is that exemption certificates are often issued only for a certain term, and expire at the end of it. In Nebraska's case, all the certificates of exemption the state has issued for the past several years will expire October 31 this year, and carriers who want to keep their tax-free status in Nebraska must reapply for certification. Other states will of course have other rules on this, but it would be a good idea for carriers that expect to make tax-exempt purchases in several states to keep track of their status in this respect. For Nebraska's notice, see www.revenue.ne.gov/info/6-359.pdf, or call the Department at 402-471-5729. ▲

New Mexico Online Filing

Effective August 1, 2010, New Mexico will require carriers with more than one truck to file weight-distance returns online. However, the system does not require you to pay electronically. There is an option to file the return electronically and mail a check to New Mexico by the due date of payment, thus avoiding the transaction fees of electronic payment. ▲

NYS Rules on Vehicle Towing

In an advisory opinion, the New York State Department of Taxation and Finance has held that the service of towing and transporting motor vehicles is subject to the state's sales tax. The tax applies, says the department, whether or not the service provider goes on to repair the vehicle it has moved. Although the transportation of property is generally exempt in New York, the opinion goes on to say, moving a disabled vehicle is considered part of the taxable service of vehicle maintenance, even if the transportation is subject to a separate charge. There are some exceptions, however. The towing of a rental vehicle is exempt. So is a charge for simply moving a vehicle from place to place, when this is not connected to vehicle maintenance, and when it is not connected with the delivery of the vehicle from seller to buyer, which is considered part of the sales price. Most important for the trucking industry, of course, is the general New York State sales tax exemption for tractors and trailers, which includes charges for maintenance and delivery. The opinion cautions that no exemption will be available if the buyer of a service doesn't present the seller with a proper exemption certificate. *Advisory Opinion TSB-A-10(25)S, issued June 16, 2010* ▲

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North Carolina to Enforce Anti-Idling Rule

Heavy-duty trucks may not idle more than five consecutive minutes under a new law that went into effect this month in North Carolina.

Sleeper berths providing heat or air conditioning to a driver during his federally mandated rest period are exempt from the rule until May 1, 2011.

This state's Environmental Management Commission adopted the anti-idling rule in July 2009 but delayed implementation until this year.

The rule applies to diesel- and gasoline-powered motor vehicles with a loaded weight of more than 10,000 pounds.

To help the trucking industry comply with the new rule, the state has appropriated \$517,500 in rebate funds to help North Carolina truckers install auxiliary power units on their vehicles, or to help truckers buy new vehicles equipped with APUs.

For information about the rebates, which range from \$2,500 to \$5,000, visit: www.ncair.org/motor/Rebates.

The anti-idling rule will save an estimated 9 million gallons of fuel a year and reduce emissions of carbon dioxide by as much as 100,000 tons per year, the division said. ▲

~ Transport Topics ~

Ohio Visual Speeding Tickets

The Supreme Court of Ohio has ruled that police officers can issue speeding tickets based on visual estimates of speed and without any other form of proof such as radar, according to LandLine, a publication of the Owner-Operator Independent Driver Association (OOIDA).

The practice is allowed as long as an officer has been trained and certified in visual speed estimation by the Ohio Peace Officer Training Academy, a 5-1 majority of court justices ruled Wednesday, June 2. ▲

Ohio Trucking Association Lawsuit

The Ohio Trucking Association (OTA) has won round one in a lawsuit it and several other groups filed against the state of Ohio challenging the legislature's recent increase in MVR fees from \$2 each to \$5. Franklin County Common Pleas Judge Richard Frye agreed with OTA's position that increasing MVR fees to pay for governmental costs NOT associated with highways violates the Ohio Constitution. The Dept. of Public Safety will be reviewing his decision to determine if it will appeal. ▲

Tolls to Increase on Pennsylvania Turnpike

Effective January 2, 2011, E-ZPass customers will pay 3 percent more to drive most of Pennsylvania's toll roads next year under a new fare schedule approved last month by the Pennsylvania Turnpike Commission. Almost two-thirds of the turnpike users pay electronically via E-ZPass. The toll for cash-paying motorists will increase by 10 percent. The two new rates combine for an overall toll increase of approximately 5 percent, which is expected to generate an estimated \$35 million in new revenues. The new toll rates mark the first time E-ZPass users will pay lower tolls than cash customers on the Pennsylvania Turnpike since the electronic toll-collection system was begun in the Commonwealth a decade ago.

"We believe it's essential to encourage more consumers to get E-ZPass. Besides the enhanced convenience for motorists, it's four times more efficient, processing up to 1,200 vehicles per hour compared to 300 per hour in a cash lane," said Pennsylvania Turnpike CEO Joe Brimmeier. "Electronic toll collection is also more economical, allowing us to better manage traffic and increase capacity without adding toll-plaza lanes to accommodate growth. Plus, E-ZPass reduces idling at interchanges, which is better for the environment."

The lower tolls will apply to all commercial and private E-ZPass customers regardless of issuing agency or state in which their account was established. There are presently 24 E-ZPass agencies in 14 states, largely in the northeastern United States. The Pennsylvania Turnpike manages more than 850,000 active E-ZPass accounts (including trucks and passenger vehicles) with a total of over 1.2 million Pennsylvania Turnpike E-ZPass transponders in use. Nationally, there are more than 20 million transponders in use on E-ZPass toll roads and bridges today. ▲

RI Bridge Collects \$6.9 Million in Truck Fines

The I-95 bridge crossing the Pawtucket River in Rhode Island has brought in \$6.9 million in truck fines since 2007, according to the Rhode Island Department of Transportation.

Enforcement efforts on the bridge were stepped up after the state DOT set a weight limit on the bridge of 22 tons in November 2007. The weight limit was further reduced in 2008 to 18 tons.

While the number of trucks crossing the bridge has dropped, law enforcement still stops over 400 trucks per month. Most fines amount to \$85 for the truck driver and \$3,000 for the motor carrier for weight and axle violations. ▲

Text Messaging Law Passes in Vermont

On May 12, Vermont Governor Jim Douglas signed into law Senate Bill 280, legislation that bans anyone from text messaging while driving. Vermont joins 26 other states that have already enacted some form of a text messaging ban. The law also forbids all cell phone-use for drivers 18 and younger. The new Vermont law, which was effective June 1, imposes a \$100 penalty for the first violation and a \$250 penalty for repeat violations that occur within a two-year period. The law is primary, meaning police officers can stop motorists suspected of this offense alone. ▲