



New Members

A & K Trucking

10351 Whippet Road
Mineral Point, MO 63660
Ms. Kellie Thomure
(573) 760-2970

B & Z Logistics Inc.

1008 Liberty Industrial Drive
O'Fallon, MO 63366
Mr. Ed Cromer
(636) 281-8856

Jemmco Inc.

1839 North Barnes
Springfield, MO 65803
Ms. Linda Rouse
(866) 312-7919

M & L Trucking Services Inc.

1 Revere Park
Rome, NY 13442
Ms. Debra Cunningham
(800) 756-1331

Mark your calendar . . .

- March 30-31 ~ Spring Safety Conference
- March 31 ~ Board Meeting
- June 10-11 ~ Truck Driving Championships
- June 21 ~ Sitton-Babcock Golf Tournament
- June 21 ~ Board Meeting
- Sept. 28-30 ~ Annual Convention
- Sept. 29 ~ Board Meeting

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President's Message

When I was growing up and learning to drive, my dad gave me some advice that I still remember to this day: during bad weather, follow the truckers.

Now before anyone responds, he wasn't telling me to tailgate! My dad would expand on his statement by explaining, "If the semis are getting off the road, you get off the road. If they slow down, you slow down. Don't follow the "renegade" out there going different than the majority, and give yourself and the truckers plenty of room to maneuver." Simple advice and words of wisdom that I continue to pass on to my beginning drivers as well.

A series of incidents during the recent blizzard reminded me of this advice and how unique it is among the general population. For those of us involved with the trucking industry, we are proud of the skill and professionalism shown day in and day out by the men and women driving the big rigs.

Not so for the general public. I offer these two comments as exhibit "A" in how the public views us:

- (1) Spoken by a news reporter while making small talk during the live broadcast of the blizzard: "I was scared to death by the speeding truckers on I-70 on my way home. I was barely going 50 mph and they sped by me going at least 70." A similar version of this comment was repeated multiple times during the two-day blizzard coverage on this station.
- (2) Spoken to me by state officials and law enforcement: "Get your truckers off the road."

To me, these comments mean we have work to do. Underlying both of these comments is an attitude that fails to realize truckers are on the road because we (the public) need them to be on the road. It struck me as ironic that the story immediately preceding the reporter's comments was about local stores running out of certain essentials during the weekend prior to the blizzard! We as an industry must do better at telling our story. If we don't, it is obvious no one else will.

Which leads me to my annual push to get you to come to Jefferson City for 24 Hours. Our first two years of this program have been an overwhelming success and have yielded tremendous results. Legislators, like the trucking industry, are always changing. The November elections brought us the 2nd largest freshman class of legislators in the state's history. This is the session to really make a difference and solidify your relationship with your legislator.

For those who have participated in the past two years, I don't have to explain to you the benefits of participation. Thank you and we look forward to seeing you back this year!

If you have "been meaning to" but not yet gotten around to it, this is the year to JUST DO IT (hat tip to Nike)! We have many new faces to educate on trucking and transportation issues and we need your help. If you are interested, we promise to make it easy: (1) contact us; (2) schedule your visit; (3) show up, talk up, eat up, and pay up. It literally is as simple as that. ▲

Truckers Volunteer to Honor Veterans with 200,000 Wreaths at Cemeteries

What started in 1992 as a project to honor veterans by laying 5,000 holiday wreaths at Arlington National Cemetery has grown to more than 200,000 wreaths and 100,000 volunteers, including a convoy of tractor-trailers that carried donated wreaths in December to more than 500 burial sites for veterans in every state, Puerto Rico and 24 cemeteries on foreign soil.

More than a dozen trucking companies provided equipment and volunteer drivers to make the special deliveries and commemorate the lives of fallen soldiers. Among Missouri Trucking Association members that took part in this honor were Earl L. Henderson Trucking, Federal Express, Prime, Inc., Ryder Systems, U P S, Inc., Witte Bros Exchange, Inc. and Walmart Transportation. MoTA members delivered wreaths to 13 sites in Missouri. Below is a picture of the National Cemetery at St. James.



In Memoriam: Stan Lewis

Stan Lewis died on January 15 in Naples, Florida at the age of 86. Mr. Lewis was president and later chairman of the board of Commercial Cartage Company in St. Louis and Chairman of the Missouri Trucking Association in 1983. He was preceded in death by his wife, Shirley, and is survived by daughter Vicki, son Larry and grandchildren Kathryn and David. In lieu of flowers, donations may be made to Avow Hospice, 1095 Whippoorwill Lane, Naples, FL 34105.

MoTA Members Urged to Comment on HOS Proposal

MoTA is working with the American Trucking Associations (ATA) to campaign against the proposed Hours of Service rules, which would have a significant impact on the productivity of the trucking industry.

The current Hours of Service rules have been proven to reduce accidents, and are workable for the trucking industry. The proposal is unproven, complex, will be difficult to implement and difficult to enforce. Most important, the proposal is not based on a safety need, as the trucking industry's safety record has continued to improve under the current hours of service.

It is important that our members get involved. It is your comments that can make a difference. The Federal Motor Carrier Safety Administration (FMCSA) needs to hear how the proposed rules will impact your operations. They need to understand why the proposed changes are impractical, overly restrictive, and will lead to compliance, enforcement and safety problems. FMCSA also needs data on your safety record. If you have the ability to show how safety in your company has improved under the current hours of service rule, it is critical that this be included in your comments.

MoTA has posted to the member section of our website a Powerpoint Presentation from ATA that helps explain the changes being proposed by FMCSA. This presentation will be helpful for the drivers to see the importance of their comments on this proposal.

To assist carriers, drivers and shippers with submitting comments, ATA has developed a website, www.SafeDriverHours.com, to provide information on the proposal, talking points to assist in drafting your letter and directions on how to submit your comments to the Hours of Service docket. Comments must be submitted by February 28, 2011.

If you have questions on the HOS proposal, please contact the Association office at 573-634-3388. You can also contact the ATA experts directly: Dave Osiecki, Rob Abbott or Bob Digges at dosiecki@trucking.org, rabbott@trucking.org, or rdigges@trucking.org. ▲

HOS Webcast and Live Listening Session

The Federal Motor Carrier Safety Administration will hold a public listening session on the proposed hours-of-service requirements on February 17, 2011, at the Crowne Plaza Washington National Airport Hotel, 1480 Crystal Drive, in Arlington, Virginia. The 9 a.m. - 5 p.m. (Eastern Time) session will be webcast live at www.fmcsa.dot.gov. FMCSA officials will also take online comments and questions from the public starting at 12 noon until 12 midnight (Eastern Time). ▲

Member Cancellations January 2011

Name of Company	Class	Dues
Delta Companies Inc.	Private	\$588.00
Gooch Brake & Equipment Co.	Allied	\$200.00
Graham Ship-by-Truck Co.	For Hire	\$300.00
Northland Insurance Co.	Allied	\$350.00
Rogers Trucking Inc.	For Hire	\$300.00
Ross Farms Trucking Inc.	For Hire	\$372.00
S E T Environmental Corp. Inc.	Allied	\$350.00
Sodrel Truck Lines Inc.	For Hire	\$300.00

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US DOT Proposes Rule to Ban Hand-Held Cell Phone Use for Commercial Truck and Bus Drivers

On December 17, 2010 the U.S. Department of Transportation proposed a new safety regulation that would specifically prohibit interstate commercial truck and bus drivers from using hand-held cell phones while operating a commercial motor vehicle (CMV). Approximately four million interstate commercial drivers would be affected by this proposal.

The proposed rule would prohibit commercial drivers from reaching for, holding or dialing a cell phone while operating a CMV. Drivers who violate these restrictions would face federal civil penalties of up to \$2,750 for each offense and disqualification of their commercial driver's license (CDL) for multiple offenses. Motor carriers that allow their drivers to use hand-held cell phones while driving would face a maximum penalty of \$11,000. Additionally, states would suspend a driver's CDL after two or more violations of any state law on hand-held cell phone use.

FMCSA research shows that using a hand-held cell phone while driving requires a commercial driver to take several risky steps. In particular, commercial drivers reaching for an object, such as a cell phone, while driving are three times more likely to be involved in a crash or other safety-critical event. Drivers dialing a hand-held cell phone while driving increase their risk by six times. In September 2010, FMCSA issued a regulation banning text messaging while operating a commercial motor vehicle.

FMCSA is providing 60 days for the public to comment on this rulemaking. The comment period begins once the proposed rule is published in the Federal Register. The proposal and information about how to submit comments is here: http://www.fmcsa.dot.gov/documents/Mobile_phone_NPRM_12-7-10.pdf.

To learn more about the U.S. Department of Transportation's efforts to stop distracted driving, please visit <http://www.distraction.gov>. ▲

IRS Announces Delays

The Internal Revenue Service has announced that the deadline for filing federal personal income tax returns for 2010 will be April 18, 2011, instead of the usual April 15. Perhaps that's just as well, since IRS also says that individual taxpayers who want to itemize deductions on their 2010 returns, or who, without itemizing, want to claim certain credits affected by Congress' last-minute extension of the Bush tax cuts will have to wait to file until some time in mid to late February, due to the changes IRS will need to make in its processing systems and to Form 1040, Schedule A. For more details, go here: www.irs.gov/newsroom. ▲

~ State Laws Newsletter ~

IRS Issues Priority Guidance Plan

The federal Internal Revenue Service has published its Priority Guidance Plan for July 2010 through June 2011. The document indicates where IRS will put its resources this year toward the issuance of regulations and other guidance for taxpayers. Some 310 projects, some of them routine, are included, presumably making for a busy year for the Service. Among the projects is guidance on vehicles subject to the 12 percent federal excise tax. U.S. Dept. of the Treasury, 2010-2011 Priority Guidance Plan, issued December 7, 2010, and available here: http://www.irs.gov/pub/irs-utl/2010-2011_pgp.pdf. ▲

Federal Tax Bill Positive for Motor Carriers

The tax-cut bill signed into law by the President on Friday, Dec. 17, contains some good things for the trucking industry, although many of the changes it makes are only temporary. The bill, the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (H.R. 4853), includes tax relief for individuals and businesses, extends many energy and other tax credits, and alters the estate tax.

On the business side, the key change may be allowance of a write-off of investment in equipment placed in service between Sept. 8, 2010, and the end of calendar 2011. This applies to all investments eligible for 50 percent bonus depreciation treatment under prior law. Several energy tax credits, including those for biodiesel and ethanol, were also extended for 2010 and 2011, effective back to the beginning of this year. The alternative fuels tax credit was also extended, and seems to apply to propane used in forklifts. (The application of the alternative fuels credit depends on guidance to be issued by the Internal Revenue Service.)

The federal estate tax expired at the end of 2009, and would have come back at very high rates in 2011 if Congress had not acted. The new law brings the tax back at a rate of 35 percent and with a \$5 million deduction of the value of an estate. These rates will be in effect through 2012.

IRS has already issued new withholding tables reflecting the changes made by the new law, and will require employers to make the necessary adjustments in withholding by the end of January 2011 at the latest. The new tables may be found at www.irs.gov. Contact: Bob Pitcher at bpitcher@trucking.org ▲

Payroll Tax Cut to Boost Take-Home Pay

The Internal Revenue Service released instructions to help employers implement the 2011 cut in payroll taxes, along with new income-tax withholding tables that employers will use during 2011.

Millions of workers will see their take-home pay rise during 2011 because the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 provides a two percentage point payroll tax cut for employees, reducing their Social Security tax withholding rate from 6.2 percent to 4.2 percent of wages paid. This reduced Social Security withholding will have no effect on the employee's future Social Security benefits. The new law also maintains the income-tax rates that have been in effect in recent years.

Employers should start using the new withholding tables and reducing the amount of Social Security tax withheld as soon as possible in 2011 but not later than Jan. 31, 2011. Notice 1036, released December 18, 2010, contains the percentage method income tax withholding tables, the lower Social Security withholding rate, and related information that most employers need to implement these changes. Publication 15, (Circular E), Employer's Tax Guide, containing the extensive wage bracket tables that some employers use, will be available on IRS.gov.

The IRS recognizes that the late enactment of these changes makes it difficult for many employers to quickly update their withholding systems. For that reason, the agency asks employers to adjust their payroll systems as soon as possible, but not later than Jan. 31, 2011. ▲



FMCSA Issues Proposed Rule on Hours-of-Service Requirements for Commercial Truck Drivers

The U.S. Department of Transportation's Federal Motor Carrier Safety Administration (FMCSA) today issued a regulatory proposal that would revise hours-of-service (HOS) requirements for commercial truck drivers.

The publication of this proposed rule coincides with the timeframe established in a court settlement agreement that requires FMCSA to publish a final HOS rule by July 26, 2011.

This new HOS proposal would retain the "34-hour restart" provision allowing drivers to restart the clock on their weekly 60 or 70 hours by taking at least 34 consecutive hours off-duty. However, the restart period would have to include two consecutive off-duty periods from midnight to 6:00 a.m. Drivers would be allowed to use this restart only once during a seven-day period.

Additionally the proposal would require commercial truck drivers to complete all driving within a 14-hour workday, and to complete all on-duty work-related activities within 13 hours to allow for at least a one hour break. It also leaves open for comment whether drivers should be limited to 10 or 11 hours of daily driving time, although FMCSA currently favors a 10-hour limit.

"In January, we began this rulemaking process by hosting five public listening sessions with stakeholders across the country," said FMCSA Administrator Anne S. Ferro. "This proposed rule provides another opportunity for the public to weigh in on a safety issue that impacts everyone on our roadways."

Driving hours are regulated by federal HOS rules, which are designed to prevent commercial vehicle-related crashes and fatalities by prescribing on-duty and rest periods for drivers.

Commercial truck drivers who violate this proposed rule would face civil penalties of up to \$2,750 for each offense. Trucking companies that allow their drivers to violate the proposal's driving limits would face penalties of up to \$11,000 for each offense.

Other key provisions include the option of extending a driver's daily shift to 16 hours twice a week to accommodate for issues such as loading and unloading at terminals or ports, and allowing drivers to count some time spent parked in their trucks toward off-duty hours.

A copy of the rulemaking proposal is available on FMCSA's Web site at <http://www.fmcsa.dot.gov/HOS>. The rulemaking will be published in the Federal Register on December 29 and the public will then have 60 days to comment. Information on how to submit comments and evidentiary material is available at <http://www.fmcsa.dot.gov/HOS>. ▲

HMSP Petition

On December 21, the National Tank Truck Carriers, along with four other industry trade associations filed a petition for rulemaking with the Pipeline and Hazardous Materials Safety Administration to modify the regulations governing the hazardous materials safety permit (HMSP). An HMSP is required for carriers that transport certain explosives, poison by inhalation materials, highway route controlled quantities of radioactive materials, and liquefied natural gas. The petition seeks to modify the HMSP eligibility requirements, which currently preclude more than half of the registered hazardous materials carriers from obtaining the HMSP. ▲

Cargo Tanks: ANPRM - ASME Pressure Vessel Code

The Pipeline and Hazardous Materials Safety Administration (PHMSA) is considering amending the Hazardous Materials Regulations to incorporate the most recent edition of the American Society of Mechanical Engineers' *Boiler and Pressure Vessel Code, Section XII* for the design, construction, and certification of cargo tank motor vehicles, cryogenic portable tanks and multi-unit-tank car tanks (ton tanks). PHMSA is also considering incorporating by reference the National Board of Boiler and Pressure Vessel Inspectors' *National Board Inspection Code* as it applies to the continuing qualification and maintenance of ASME stamped cargo tank motor vehicles, portable tanks, and multi-unit-tank car tanks (ton tanks) constructed to standards in ASME Section VIII or ASME Section XII. ATA and NTTC have previously voiced concerns to PHMSA staff over these types of proposals and the establishment of a pay-to-play regulatory system.

A copy of the ANPRM is available through the following link: <http://edocket.access.gpo.gov/2010/pdf/2010-32231.pdf>.

Comments are due March 23, 2011. ▲

DOT Proposes Wetlines Regulation

On Jan. 27, the Pipeline and Hazardous Materials Safety Administration published a proposed rule to prohibit cargo tank operators from transporting flammable liquids in unprotected external product piping (wetlines). The proposed rule would allow operators to install purging systems, underdrive protection, or develop another solution that eliminates wetlines. If finalized as proposed, the wetlines restrictions would apply to new equipment within two years and require existing tanks to be retrofitted within 12 years. The proposed rule would exempt straight trucks and cargo tanks transporting combustible liquids. PHMSA's cost benefit analysis is suspect and ATA will file comments urging the agency to abandon this regulatory initiative. This is the agency's third attempt at a rulemaking, motivated by a single accident investigation in 1997. Comments are due March 28. Contact: Rich Moskowitz at rmoskowitz@trucking.org. ▲

DOT Revises Hazmat Special Permit Application

On Jan. 5, the Pipeline and Hazardous Materials Safety Administration (PHMSA) published a final rule revising the regulations governing special permit applications. Of particular interest to ATA members are new requirements to include the following information on the special permit application: the physical addresses of all known locations where the applicant will use the special permit, the name of the applicant's Chief Executive Officer and a Dun and Bradstreet number. PHMSA justified these new requirements by saying that the information was "necessary to ensure the proper identification and a thorough fitness evaluation of the location(s) where the special permit would be used." PHMSA also is adding requirements to estimate the number of shipments expected to be transported under the special permit. PHMSA disagreed with ATA's comment that it would be impossible to estimate the number of shipments offered by a motor carrier's customers and indicated that applicants should provide "an estimate of the number of shipments based on the best available knowledge." ▲



U.S. DOT Issues NAFTA Trucking “Concept Document”

On Jan. 6, 2011, U.S. Department of Transportation Secretary Ray LaHood released a two page “Concept Document” that outlines basic program elements the Obama Administration may implement to resolve the NAFTA cross-border trucking dispute between Mexico and the U.S. The program elements in the concept document are very similar to those in the program established under the 2007 NAFTA Demonstration Program. The document does not provide information about timeframes for implementing NAFTA’s trucking provisions, nor does it describe if the provisions will be implemented for a specific period, i.e., 12 months, 3 years or permanently. However, the document begins a consultation process by DOT to work with Mexico and the U.S. Congress to implement NAFTA trucking. To view a copy of the concept document, go to <http://www.fmcsa.dot.gov/documents/cross-border/Concept-Trucks-English.pdf>. ▲

FMCSA Issues Proposed Electronic Logging and Supporting Documents Rule

On Monday, Jan. 31, 2011, the Federal Motor Carrier Safety Administration (FMCSA) issued a rule to mandate the installation and use of electronic logging devices for hours of service compliance by all drivers who are currently required to keep paper logs. Compliance would be required three years after the date the rule is eventually finalized. The proposed rule also addresses ATA’s long standing objection that the agency needs to better specify the number, type and frequency of supporting documents that must be maintained. In particular, the proposal relieves carriers from the need to retain supporting documents to verify driving time, and further defines/limits those that would be needed to verify on-duty/not driving time. FMCSA will be accepting comments through April 4, 2011 and ATA will be filing the trucking industry’s response to the proposal by that date. For more information, contact Rob Abbott at rabbott@trucking.org or Boyd Stephenson at bstephenson@trucking.org. ▲

Proposed EOBR Mandate Published

The Federal Motor Carrier Safety Administration has issued the regulatory proposal that would require interstate commercial truck and bus companies to install electronic on-board recorders (EOBRs) to monitor their drivers’ hours-of-service compliance.

The proposed rule would also relieve interstate motor carriers from retaining certain supporting documents, such as delivery and toll receipts. It makes an exception to the EOBR requirement for short-haul carriers currently allowed to use time cards to record driver hours.

The proposal would require compliance three years after the effective date of the final rule. The agency estimates the final rule will be published in June of 2012, so compliance likely would be required sometime in 2015.

The proposal also establishes a carrier’s duty to maintain an hours-of-service management system, defined as “the controls, policies, programs, practices and procedures used by a motor carrier to systematically and effectively monitor driver compliance.” Failure to have all the working parts of such a system will result in acute or critical violations during a safety fitness rating procedure. ▲

IFTA Adopts Interest Amendment

In a ballot period that ended December 20, the states and provinces that are members of the International Fuel Tax Agreement approved a proposed amendment to the Agreement that will reduce the rate of interest charged motor carriers who are assessed for underpayments of fuel taxes. The vote was 45 to 13. For more than twenty years, IFTA’s interest rate has been a flat 1 percent per month, which now far exceeds the market rate. The new rate will be tied to the rate the Internal Revenue Service charges on delinquent taxes, and will be much lower. In order to give states time to change their systems, the amendment does not take effect until July 2013. Acceptance of this proposal by the states represents a real victory for the trucking industry. ▲

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CSA (SMS) Website Updated

The CSA Safety Measurement System (SMS) website has been updated with the December 17, 2010 snapshot. Check your safety assessment now at: <http://ai.fmcsa.dot.gov/sr/>.

Motor carriers may login into the SMS website and see all of their safety data, but will need an FMCSA-issued U.S. DOT Number Personal Identification Number (PIN) (NOT a Docket Number PIN). Carriers that do not know or have forgotten their PIN, can request one via <http://safer.fmcsa.dot.gov/>. Select ‘Click here to request your Docket Number PIN and/or USDOT Number PIN.’ Be sure to request a U.S. DOT Number PIN, NOT a Docket Number PIN. ▲

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 Measurement System that the Federal Motor Carrier Safety Administration made public for the first time on Sunday, Dec. 12, according to an analysis by *Commercial Carrier Journal*. 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. ▲



UCR Enforcement began February 1

Reminder: Roadside enforcement officers began verifying if interstate truck operators have 2011 registration with the Unified Carrier Registration on Tuesday, February 1. ▲

ATA Launches New Hours-of-Service Website

The American Trucking Associations (ATA) recently launched www.SafeDriverHours.com – a new website designed to serve two purposes.

First, the new site is intended to educate the press and the public on the remarkable highway safety performance of the trucking industry over the last seven years—the same period trucking has operated under the revised HOS rules. The site includes safety facts and statistics, much of it in easy to read charts and graphs, showing the industry's dramatic safety improvement since 2004 when the revised HOS rules first became effective.

The second purpose of the site is to provide easy-to-use tools and resources for the trucking and transportation industries (i.e., drivers, carriers, shippers, etc.) to help the industry actively engage in the upcoming HOS rulemaking process. In the face of trucking's remarkable safety progress since 2004, the Obama Administration will be proposing politically-motivated changes to the HOS rules that will in some way reduce driver and industry productivity. Details of the Obama Administration's proposed changes will be uploaded on www.SafeDriverHours.com shortly after they become available – which should be in the next few weeks. ▲

New Alcohol Test Form

A reminder that beginning January 1, 2011, persons who conduct alcohol tests under Department of Transportation rules must use the new alcohol test form. The new custody-and-control form for drug testing must be used beginning October 1, 2011. ▲

Lease Reporting Requirements to Change

The Financial Accounting Standards Board (FASB) and the International Accounting Standards Board (IASB) have developed new lease accounting guidelines and accepted comments on the proposal through mid-December 2010. The final guidelines, expected out this summer, will require truck fleets to start reporting operating leases as an asset on their balance sheets. Under existing rules, these leases are off the balance sheets, except for footnotes. The change is driven by the Sarbanes-Oxley Act, which called for enhanced financial disclosures of off-balance-sheet transactions. A PriceWaterhouseCooper study of 3,000 companies found that 93 percent would report lower lease liabilities under the proposed standard, and the change is not expected to change leasing practices among fleets. ▲

Cell Phone and Texting Laws

The Governors Highway Safety Association has issued a compilation of state laws that limit or prohibit drivers' use of cell phones or texting. Ten US jurisdictions now ban the use of handheld cell phones by drivers. No state bans all cell-phone use by all drivers, but in many places broader restrictions apply to new drivers and certain others. State texting prohibitions are much more common. Visit www.ghsa.org for more detailed information. ▲

“Roadability” Chassis Marking-Identification

On Friday, December 17, the last major compliance date for Roadability implementation covering chassis numbering/identification was triggered. Recall that as originally promulgated and later amended the Roadability regulations call for intermodal chassis equipment providers (IEPs) to mark their chassis with assigned DOT numbers or any of the four other alternative marking procedures specified in the regulations. ATA's Intermodal Conference (IMCC) supported the Intermodal Association of North America led developed of a Global Intermodal Equipment Registry (GIER) as the preferred industry-sponsored virtual technology alternative to the intermodal equipment marking options. Using existing unique alpha-numeric control numbers currently appearing on intermodal chassis, GIER is able to match equipment to now federally registered IEPs, thereby facilitating the assignment of equipment deficiencies during roadside inspections to the responsible equipment provider, not the motor carrier. Almost 650,000 intermodal chassis have been registered in the GIER system. For more information, contact IMCC Executive Director Curtis Whalen at: cwhalen@trucking.org. ▲

OSHA withdraws Proposed MSD Column

On Jan. 25, the Occupational Safety and Health Administration (OSHA) announced that it had “temporarily withdrawn” its proposal to add a column for work-related musculoskeletal disorders (MSD) to the employer injury and illness logs (OSHA 300 Logs). OSHA's proposal was undergoing review at the White House Office of Management and Budget and was opposed by numerous industry groups and the U.S. Small Business Administration on the grounds that OSHA understated the costs associated with the proposed rule. In withdrawing the rule from OMB, OSHA reiterated its belief that MSDs are the leading cause of workplace injury and announced its plans to hold a joint meeting with the Small Business Administration to obtain additional feedback on its MSD recordkeeping proposal. Details on the proposed meeting will be announced shortly. ▲

House Republicans Target Federal Regulations

House Republicans are seeking businesses' input in an effort to cut back on regulations deemed too onerous to business, the Washington Post reported recently.

The Obama administration has proposed regulations on everything from greenhouse gas standards to financial markets, and business groups have asked Congress to roll back or preempt more than 150 such rules, the Post reported in a front-page story.

Business groups are responding to solicitations from Rep. Darrell Issa (R-Calif.) and in some cases are seeking to reopen regulatory debates that they previously lost, the Post said.

Issa, the new chairman of the House Committee on Oversight and Government Reform, has begun a series of hearings in line with the new Republican majority's goal of making federal regulations friendlier to business.

The trucking industry has opposed the Federal Motor Carrier Safety Administration's proposed changes to federal hours-of-service regulations, and FMCSA has agreed to host a public “listening session” February 17 outside of Washington to hear the industry's concerns.

The Post article did not mention the trucking rule, but did mention airline pilots' hours of service, in a rule being considered by the Federal Aviation Administration.

Obama said in his recent State of the Union address that he would seek to trim overlapping or confusing federal regulations. ▲



Shippers Share Load Responsibility

Normally, a carrier and its drivers are held responsible for making sure a load is secure, but in *Spence v. ESAB Group Inc.*, the U.S. Court of Appeals for the 3rd Circuit rejected both the argument that federal regulations impose a safety obligation only on the carriers, and also that Pennsylvania law cannot impose the same duty on the shipper. It can in this Appeals Court's October 18th opinion.

Driver Charles Spence was injured in a May 2005 accident when his tractor-trailer, hauling "palletized" welding supplies, overturned in Hanover, PA, a short distance from where the cargo was put on board by the shipper. Testimony showed that Spence used shipper-furnished load stars, or metal cleats, to help secure the load. This ill-fated transport of cargo had not been blocked or braced by the shipper, a customary practice for shippers to perform and not drivers, an expert witness testified in District Court for the Middle District of Pennsylvania in 2007. Testimony also showed that Spence had complained about the first load he was given by the shipper and was assured by the shipper "that they never had a problem with any of their loads, so I took it that they knew better than I did and hauled the load," he said.

The District Court awarded summary judgment to the shipper, concluding that Pennsylvania law did not impose on the shipper a duty of due care to "safely secure the goods the shipper has located in a third-party carrier's tractor-trailer."

The Appeals Court found otherwise, ruling that a shipper "also bears an obligation to exercise reasonable care" when evidence indicates that the shipper "undertook to load and secure the cargo being transported by a third-party carrier."

The U.S. Court of Appeals is required to apply the substantive law of the state whose law governs the action, and both parties agreed that Pennsylvania law governs the case.

State Supreme Court decisions are considered authoritative and the Appeals Court found that in the case of *Kunkle v. Continental Transportation Lines Inc.* that "shippers are not exempt from the general duty the law imposes upon all persons who undertake to perform a particular service not to expose others to risk of injury which are reasonably foreseeable."

In its conclusion, the court said, in part, that "the primary duty to assure that a load does not shift in transit generally rests with the carrier and its driver. Spence does not dispute this general rule. But where there is evidence that a shipper undertook to load and secure the cargo being transported by a third party carrier, the shipper also bears an obligation to exercise reasonable care," said the Court of Appeals. ▲

CMV Drivers' Buckle Up Rate is Up

The results of the 2010 Missouri Commercial Motor Vehicle Safety Belt Survey are in. Overall safety belt usage rose among commercial motor vehicle drivers from 73.4 percent in 2008 to 80.6 percent during last year's study.

Double Trailer, Bus and Box Trailer drivers showed the most improvement and Double Trailer drivers were most often buckled up.

While the news is encouraging, it is also confusing. Federal motor carrier regulations make failure to use a safety belt a primary enforcement offense – meaning that an officer can pull a driver over for no other reason than the lack of belt use. It's a rare driver who enjoys the roadside enforcement experience.

It is also important to note that safety belt violations are counted in the Unsafe Driving BASIC of CSA.

That's something that dump truck operators might consider. The buckle rate for both straight frame or combination dump trucks is the lowest for all categories at 57.5 percent.

Missouri Truck Driving Championship participants interviewed for MoDOT's "Driver in the Street" YouTube video segments reported several reasons for using safety belts. They included:

- Safety belts are proven to save lives.
- Belts keep drivers in their seat, so they aren't thrown around the cab and to the floor.
- They keep drivers from going out the window.
- When you think about your family and friends, it's just the right thing to do.

It wasn't until the very last interview of the day that law enforcement was even implied. That driver said, "Besides, 'they' want you to (wear a safety belt)."

Vehicle Type Straight Frame	Percent Restrained 2010	Percent Restrained 2011	Change
Van	75.7	68.5	7.2
Tanker	85.5	76.5	9
Dump	57.5	53.3	4.2
Flat Bed	57.5	57.5	0
Bus	88.3	78.2	10.1
Other	69.5	62.7	6.8
Total	71.5	65.1	6.4

Vehicle Type Combination	Percent Restrained 2010	Percent Restrained 2011	Change
Box Trailer	85.2	75.9	9.3
Single Tanker	84.5	80.8	3.7
Double Trailer	94	80.1	13.9
Flat Trailer	80.2	74	6.2
Car Hauler	77.9	75.7	2.2
Bobtail	79.7	74	5.7
Dump	57.5	58.2	-0.7
Other	56.1	61.3	-5.2
Total	83.1	75.4	7.7



California Air Resources Board gives Green Light to California's Cap and Trade Program

Recently CARB endorsed the cap-and-trade regulation, marking a significant milestone toward reducing California's greenhouse gas emissions under its law.

The regulation is a key measure to achieve the greenhouse gas reduction goals of California's pioneering climate change law signed by Governor Schwarzenegger in 2006.

The regulation sets a statewide limit on the emissions from sources responsible for 80 percent of California's greenhouse gas emissions and establishes a price signal needed to drive long-term investment in cleaner fuels and more efficient use of energy. The program is designed to provide covered entities the flexibility to seek out and implement the lowest-cost options to reduce emissions. The cap-and-trade program also works in concert with other measures, such as standards for cleaner vehicles, low-carbon fuels, renewable electricity and energy efficiency, and complements and supports California's existing efforts to reduce smog-forming and toxic air pollutants.

The regulation has been in development for the past two years since the passage of the Scoping Plan in 2008. ARB staff held 40 public workshops on every aspect of the cap-and-trade program design, and hundreds of meetings with stakeholders.

More information is available at www.arb.ca.gov. ▲

CARB Votes to Amend Truck Regulations

On Friday, Dec. 17, the California Air Resources Board (CARB) voted to adopt changes to several truck regulations. Citing a reduction in truck activity and a need for economic relief, the Board agreed to delay the initial phase-in of the Truck and Bus (engine) Regulation until 2012 and provide compliance credits for fleets that have downsized or have already pursued truck purchases or retrofits in order to comply. The Board also amended its Tractor-Trailer Regulation by delaying until 2017 requirements to equip pre-2011 53-foot trailers with SmartWay verified tires and until 2013 for pre-2011 tractors. Revisions were also made to the Drayage Truck Regulation to include Class 7 trucks and prevent the circumvention of clean truck requirements. Several of the adopted changes were the direct result of input provided by ATA and California Trucking Association members. Thank you to those companies who provided input, met with Board members, submitted comments and those who testified before the Board. Contacts: Mike Tunnell at mtunnell@trucking.org or Eric Sauer, CTA, esauer@caltrux.org. ▲

California Delays Diesel Emission Rules

California Air Resources Board (CARB) voted unanimously to push back the implementation of stringent new diesel emissions regulations by four years to 2014. The rules require businesses to retrofit existing trucks, bulldozers, front loaders and other heavy equipment to lower diesel emissions.

The state decided to delay the new rules after it found that its original estimates on diesel emissions were too high. The downturn in the economy resulted in fewer diesel vehicles in the state, resulting in a sharp drop in diesel particulates, CARB said.

The board indicated that they wanted to provide "meaningful relief to an industry that has been hit hard" in explaining the delayed implementation timeline. The delay was opposed by environmental groups and clean-tech advocates, but the trucking and building industries applauded the board's decision.

The state said that even with the revised deadlines the rules will help prevent thousands of premature deaths a year while reducing diesel emissions. ▲

CARB Issues Penalties for Non-Compliance

The California Air Resources Board distributed over \$1 million to community colleges and a state clean air fund as a result of settlements with over 58 companies that violated clean air laws.

California law requires that companies doing business in the state meet clean air standards and routinely check to make sure their equipment complies with ARB rules.

The California Air Pollution Control Fund will receive just over \$1 million for projects and research to improve California's air quality. Over \$76,000 will go to the Peralta college district to fund emissions education classes conducted by participating California community colleges around the state.

Fifty-six companies settled for a total of \$629,306 for failure to:

- * Properly inspect their diesel vehicles, as required by California law; and/or,
- * Properly affix emissions labels on engines; and/or,
- * Register and submit transport refrigeration unit facility reports.

Diesel and gasoline-powered vehicles emit smog-forming pollutants, including nitrogen oxides. In 1998 the ARB listed diesel particulate matter as a toxic air contaminant in order to protect public health. Diesel exhaust contains a variety of harmful gases and over 40 other known cancer-causing compounds. These emissions are linked health problems and can exacerbate common respiratory conditions such as asthma.

The Air Resources Board is a department of the California Environmental Protection Agency. ARB's mission is to promote and protect public health, welfare, and ecological resources through effective reduction of air pollutants while recognizing and considering effects on the economy. The ARB oversees all air pollution control efforts in California to attain and maintain health based air quality standards. ▲

CA Institutes Collection Fee

Beginning in 2011, the California Board of Equalization, which administers most state taxes apart from the corporate and personal income tax, is required to impose a fee on amounts it collects in overdue taxes, supposedly to cover the state's costs of collection. For amounts up to \$2,000, the fee is \$185; for amounts to \$50,000, it's \$550; and for amounts over \$50,000, it's \$925.

Overdue amounts under \$250 are not subject to the fee. In addition, the Board is required to give taxpayers a final 90 days before levying the fee either to pay up what they owe or enter an installment plan to pay.

Carriers should be aware that the Board administers California's fuel tax and IFTA programs, among many others. California SBE, News Release 145-10-G, issued December 27, 2010. ▲

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Tractor-Trailer Greenhouse Gas Regulation Compliance and Reporting Training

On January 21, 2011, the California Air Resources (ARB) issued an email announcement informing stakeholders about upcoming Compliance and Reporting training classes for the Tractor-Trailer Greenhouse Gas Regulation (regulation). The training classes will focus on compliance planning and reporting for the regulation. Some of the training dates have changed. They apologize for any inconvenience this may have caused. For more information on the training classes please go to: <http://www.arb.ca.gov/cc/hdghg/hdghg.htm>. ▲

New Tiedown Rules Effective for Canada

As of January 1, 2011 all tiedowns or tiedown components (web straps, chain, wire rope, load binders, etc.) must be marked with the working load limit (WLL) of the tiedown or they will not be counted towards meeting the number of required tiedowns.

For more information, contact the Transport Compliance Branch inquiry line: 866-933-5290 in Saskatchewan, 306-933-5290 outside Saskatchewan. ▲

GA has New Trucking Portal

The Georgia Department of Revenue has a brand new Trucking Portal, through which carriers can register for the International Fuel Tax Agreement and file their IFTA returns on-line and register and pay fees under the Unified Carrier Registration Agreement. Carriers needing oversize permits, trip permits, or intrastate GA operating authority may also apply for those through the site. International Registration Plan transactions will soon be possible there as well. See www.cvisn.dor.ga.gov. After January, trip permits will only be available through the portal. ▲

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ATA Challenges MD, NJ ABC Credentials

ATA sent a letter to the Maryland Comptroller of the Treasury, challenging a Maryland credential requirement imposed on motor carriers who haul beer, wine, and liquor. This challenge follows one sent by ATA last month to the New Jersey Division of Alcoholic Beverage Control, concerning that state's requirement that interstate motor carrier vehicles hauling alcoholic beverages in New Jersey carry special credentials. ATA believes both requirements are preempted by federal law – 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 Maryland and New Jersey regulations. ATA has asked both states to stop enforcing their requirements immediately, and will follow up as necessary. Responding to ATA petitions, the Federal Motor Carrier Safety Administration recently held that credential requirements imposed by New Jersey (that one on petroleum haulers), New York City, and Cook County, Illinois, were preempted. ▲

~ State Laws Newsletter ~

Minnesota Fatigue Program violated Fourth Amendment

Friday, Jan. 28, 2011 – U.S. District Judge Donovan W. Frank ruled the Minnesota State Patrol's use of CVSA Level III inspections to determine fatigue violated truckers' Fourth Amendment rights.

OOIDA filed the lawsuit against the Minnesota State Patrol and individual officers on May 13, 2009, on behalf of truck drivers placed out of service after members of the patrol consulted a checklist and arrived at the conclusion the drivers were "fatigued."

Paul Cullen Sr., of The Cullen Law Firm, explained that Judge Frank ruled that, in order for Minnesota law enforcement to conduct a fatigue inspection, the officers are required to have "reasonable articulable suspicion."

"None of the observations made in House's inspections – which include neck size, urination habits, presence of Playboy magazines, TVs, and computers in the cab – none of those factors satisfy reasonable articulable suspicion," Cullen said.

"The judge's findings, if followed, will affect other states as well that are conducting fatigue inspections. Level III inspection procedures are not broad enough to allow officers to inspect for fatigue. This means that they will need to have reasonable articulable suspicion or probable cause in order to conduct such inspections," Cullen said. ▲

Tolls Increase at MTA Bridges and Tunnels

Tolls on the Metropolitan Transportation Authority's seven bridges and two tunnels went up at 2:00 a.m. on Thursday, December 30.

Visit: http://mta.info/mta/pdf/approved_bandt_tolls.pdf for the complete toll schedule.

E-ZPass and BESTPASS customers receive a discount of 33% at most crossings. ▲

Ohio Turnpike Raises Speed Limit

The speed limit for cars and trucks on the Ohio Turnpike will go from 65 to 70 miles an hour starting April 1, a change that the state's trucking industry opposes.

A letter objecting to the higher speeds was filed by the Ohio Trucking Association at the meeting Monday where turnpike commissioners voted 4-1 for the change.

The letter cited safety concerns presented by the higher speed, as well as environmental concerns because of increased fuel consumption at 70 mph and higher levels of greenhouse gas emissions.

Under a weight-based tolling system abandoned in 2008, trucks running empty paid much lower tolls than when they were loaded. But the new toll rates are based on the number of axles a truck has, meaning trucks pay the same rate to run the turnpike whether they are loaded or empty. ▲

~ Transport Topics ~

Virginia I-State Speeds Increased

686 of Virginia's 1,119 miles of the interstate will be posted with 70 mph signs with those in urban areas to remain as they are. Included in the 70 mph zone will be the rural sections of I-95 and I-64 and most of I-81 and I-66, said Virginia Department of Transportation. A section of I-295 was posted at 70 mph earlier in 2010 based on favorable safety stats. ▲