



## New Member

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78<sup>th</sup>

## Missouri Trucking Association Annual Convention

October 7 - 9, 2015

Mark your calendars and make plans to attend the annual MoTA Convention. It will be held at the Chateau on the Lake in Branson, MO.

Registration forms, sponsorship details and the agenda will be available soon - watch for email.



## President's Message

*Champions are not the ones who always win races – champions are the ones who get out there and try. And try harder the next time. And even harder the next time. "Champion" is a state of mind. They are devoted. They compete to best themselves as much if not more than they compete to best others. Champions are not just athletes.*

Simon Sinek

In a few weeks, over 400 Professional Drivers from all 50 states will gather in St Louis, Missouri to decide who will be the "Grand Champion" in the "Super Bowl of Safety" known as the 2015 National Truck Driving Championships.

These professional drivers are all Champions already, having won one of the nine class competitions in their respective State Truck Driving Championships. To win their class, drivers undergo a written exam, pre-trip inspection and a skills test.

To even get to compete in the Championships, drivers must be accident-free for at least one year prior to the competition. As you can imagine, many of the competitors have millions of accident-free driving miles to their credit.

When asked, professional drivers will tell you they are drawn to the Championships by the spirit of competition and by the prestige of being named the best of the best. Drivers describe it as being like the Olympics, where they come to win but revel in the camaraderie and excitement.

As I mentioned in passing in the opening paragraph, the 2015 National Truck Driving Championships will be held August 11-15 in St Louis, Missouri at the America's Center, 701 Convention Plaza, St. Louis, MO 63101. Come out and catch some of the action in the Dome on your way to the Cardinals' games on Thursday and Friday evenings. You will definitely be impressed!

And to the Missouri Trucking Association 2015 State Truck Driving Champions competing in St Louis – *Good Luck & Bring it Home from the Dome!*

## In This Issue

- 3 Governmental & Regulatory News
- 6 News from the Industry
- 7 MoTA Photo Album
- 8 TDC Award Recipients



## National Truck Driving Championships Missouri Competitors

**Nick Frazier ~ FedEx Ground** (Step Van)

**Michael Millaway ~ UPS Freight** (Straight Truck)

**Barry Banzet ~ Old Dominion Freight Line** (Three Axle)

**Albert Hockett ~ Con-way Freight** (Four Axle)

**Joseph Hartsell ~ UPS Freight** (Five Axle)

**Guy Barber ~ Con-way Truckload** (Flatbed)

**Jack Lovan ~ Walmart Transportation** (Tank Truck)

**Bobby Chilcoat ~ Con-way Truckload** (Sleeper Berth)

**Regnald Ansbach ~ ABF Freight System** (Twin Trailers)

*Good Luck,  
Missouri Drivers!*

**2015 National  
Truck Driving Championships**  
August 11-15, 2015  
America's Center Convention Complex  
701 Convention Plaza / St Louis, MO 63101

*Free Admission!!*

**Make plans to attend this free event  
that will be held in St. Louis, Missouri this year!**

**Enjoy all the excitement of the competition  
while cheering on our Missouri drivers as they  
*Bring it Home, From the Dome!***



**ATA Invites Fleets to Participate In the  
2015 Safety Expenditure Study**

ATA invites all for-hire and private motor carriers to take part in the 2015 Safety Expenditure Study. The purpose of this project is to quantify the industry's annual investment in safety practices. The results of the study will also be used to develop a safety cost benchmark toolkit for carriers to evaluate company expenditures with their peer groups. Participants in the study will receive a complimentary copy of the benchmark toolkit and an invitation to a participant-only, free of charge webinar to discuss the results. To take part in the study or for more information, please see the Safety Expenditure Study webpage at <http://www.trucking.org/article.aspx?uid=63f1dcb9-716d-4174-8195-b89e4c9e255c>. **Participants will be accepted no later than July 31, 2015. ▲**

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PC 111585

**Member Cancellations July 2015**

Name of Company	Class	Dues
Beimdiek Insurance Agency Inc	Allied	\$350
Canal Insurance	Allied	\$350
Continental Western Insurance	Allied	\$350
Dresser-Rand Arrow Services	Private	\$350
Horton, Inc.	Allied	\$350
J & M Hauling Inc	For Hire	\$350
Pat Stuart & Son Trucking LLC	For Hire	\$350
PeopLease Corp	Allied	\$350
Premier Fuel Technology LLC	Allied	\$350
Tri-Lakes Petroleum	Private	\$350



## Federal Regulators Formally Publish Phase 2 GHG Emissions-Reduction Proposal

Federal regulators on July 13 formally published their proposal in the Federal Register that would tighten greenhouse-gas emissions for trucks, improve their fuel economy and regulate trailer efficiency for the first time.

Details of the Phase 2 joint proposed rule were first announced June 19 by the U.S. Environmental Protection Agency and National Highway Traffic Safety Administration.

The proposal would phase in more stringent standards for heavy- and medium-duty trucks from 2021 through 2027. The more than 1,000-page main proposal includes separate standards for engines and vehicles. The trailer regulation would kick in Jan. 1, 2018, and then tighten in 2021 and 2024 before reaching its most stringent level in 2027.

The two agencies will accept comment on the proposal through Sept. 11. ▲

~ Transport Topics ~

## FMCSA Rule Seeks to Assure Carriers that Proprietary Records Stay Private

The Federal Motor Carrier Safety Administration has issued a final rule designed to reassure motor carriers that their confidential business information voluntarily given to the government for use in the federal rulemaking process will be protected from public disclosure.

FMCSA said the “rule enhances the agency’s ability to issue regulations that are data-driven and evidence-based.”

The timing of the rule’s release last month coincides with a push by the agency to persuade motor carriers to volunteer proprietary data that can be used to document a cost and safety-benefit analysis for a new entry-level driver training proposed rule, expected as soon as October.

Agency researchers have acknowledged that, so far, they lack sufficient data to make a strong statistical case that federal standards for academic and on-road driver training would produce safer drivers.

The agency’s current dearth of data was a hot topic for a specially appointed committee of truck and bus industry leaders who, in late May, finished their work on the essential ingredients of a “negotiated” proposed rule that would withstand a rigorous review by the White House Office of Management and Budget.

To gain OMB approval, FMCSA officials have said, they will need to show the benefits of a driver training proposal by establishing a statistical link between training for new drivers and their safe-driving record after going to work for a carrier.

To move forward on a new regulation without data would signal a “kiss of death” for a proposed rule, Alan Strasser, an FMCSA regulatory attorney, said recently.

Attempts since the 1980s by federal regulators to come up with a new driver rule have failed to gain support of industry stakeholders.

Officials hope that the confidential business information final rule, issued without seeking public comment, will give motor carriers the assurance they need to open some of their driver data to the government.

Although the concept has been supported in past federal court rulings, the agency’s confidential business information rule establishes formal procedures to protect trade secrets and commercial or financial information voluntarily given to the

government.

Such confidential information is one of nine exemptions that Congress included in its Freedom of Information Act. Challenges to the exemption were rejected in a 1992 appeals court decision that the Supreme Court declined to review.

FMCSA’s new regulation requires that a business giving the government information that remains private first fill out an affidavit attesting that it is being offered voluntarily and is the type of information customarily not released to the public.

FMCSA said the rule will assist it in promulgating regulations that are “evidence-based, take into account the operational and financial realities of regulated parties and result in improved safety for motor carriers, drivers and the general public.”

The rule streamlines the procedure for protecting private information, said Rich Pianka, deputy general counsel for American Trucking Associations. “If the government is seeking private information for whatever reason that private entities are not obliged to provide, it is not subject to disclosure under FOIA,” Pianka said.

Don Lefevre, CEO of the Commercial Vehicle Training Association, said he is seeking information from FMCSA to ensure that any data provided by CVTA members will not be made public by the agency.

“We would like to be helpful where we can be,” Lefevre said, “but I want to ensure that if we submit information on their behalf, it will be protected. I have a litany of questions I want to ask FMCSA.”

“The Confidential Business Information Final Rule is expected to be of benefit to many FMCSA rulemaking proposals,” said agency spokesman Duane DeBruyne. ▲

~ Transport Topics ~

## House Passed Transportation Bill Includes Provision to Correct Liquefied Natural Gas Tax Inequity

On July 15, the U.S. House of Representatives passed the Highway and Transportation Funding Act of 2015 (H.R. 3038) to fund and extend the authorization for America’s highway and transit programs through the end of 2015. The bill includes language to correct a longstanding inequity in how liquefied natural gas is taxed as an alternative fuel. The legislation specifies LNG be taxed on a diesel gallon energy equivalent basis as opposed to a per gallon basis. LNG is currently taxed at a rate that is 70% higher than diesel fuel creating an unfair penalty on those using LNG in their fleets. The authorization for federal transportation funding expires at the end of July necessitating the passage of an extension by Congress. The Senate must still consider H.R. 3038 or their own transportation funding legislation. ▲

## MISSOURIMemo

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## New Tank Endorsement Requirement Took Effect

FMCSA's new definition for a tank vehicle, and requirements for which drivers need tank endorsements, went into effect on July 8, 2015. Under the new rule, any vehicle transporting bulk tanks with 1,000 or more gallons of total capacity is designated as a tank vehicle. To determine whether or not a vehicle qualifies, carriers should add up the total capacity of all bulk tanks on the vehicle. Bulk tanks are defined as those holding more than 119 gallons. These include portable tanks, intermediate bulk containers, cylinders, and other portable tanks that traditionally did not require a tank endorsement. Empty tanks and those containing only residue can be ignored. If the total capacity is 1,000 gallons or more, the vehicle is a tank vehicle and can be operated only by a driver with a tank endorsement. Although some states started enforcing this new definition as early as July 2011, all states must adhere to the new definition on July 8. ATA petitioned FMCSA to adopt a definition that would not cover portable tanks and FMCSA has an open rulemaking considering ATA's proposal. ▲

## DOT Releases Third Party Report on Enforcement Programs – ATA Responds

Recently, the Department of Transportation (DOT) released a report - <http://www.fmcsa.dot.gov/newsroom/independent-review-team-irt-final-report> - identifying problems with FMCSA's enforcement programs and recommending improvements.

ATA issued a [press release](#) calling on FMCSA to embrace the report's recommendation that the agency become more risk-focused than compliance-focused and pointing out that DOT withheld the report for a year after receiving it. Go to <http://www.trucking.org/article.aspx?uid=ec8df94b-1363-42ee-8c23-16170f735c4c> to review the press release.

The report was written by an independent review team appointed by the Secretary of Transportation in response to a National Transportation Safety Board (NTSB) recommendation. NTSB had discovered that FMCSA failed to flag safety problems during safety audits of several carriers that - just a short time later - were involved in fatal crashes. ▲

## DOL Issues Guidance on Misclassification under the FLSA

On July 14, the Administrator of the Wage and Hour Division of the U.S. Department of Labor issued interpretive guidance on how workers are to be classified as employees or independent contractors under the Fair Labor Standards Act. The guidance recognizes the multifactor "economic realities" test that courts have used to determine whether a worker is an employee or independent contractor but further suggests that FLSA's broad definition of "employ" results in most workers being employees. While the guidance is not legally binding and may not be adhered to by the courts, it is a clear statement that the USDOL will portray most factors as weighing toward an employee relationship and is another indicator of USDOL's increased attention to its misclassification initiative. ▲

## EPA Issues Final Rule to Phase-Out Use of Certain Refrigerants, Coolants, and Insulation Foams

EPA has finalized a rule to phase-out the use of hydrofluorocarbons for air conditioning and refrigeration, including the use of certain foam insulates for refrigerated trailers. The rule, undertaken as part of the President's Climate Action Plan, is directed at reducing greenhouse gas emissions and the use of other climate-forcing chemicals within the cooling sector. At the strong urging of ATA and other industry stakeholders, the agency afforded a 3-year time extension until January 2020 to phase-out a popularly-used polyurethane foam typically blown with HFC 245fa to insulate refrigerated trailers. In discussions with EPA, ATA argued that foam alternatives will not likely be widely available to the foaming industry as a whole by 2017 and that trailer manufacturers need sufficient time to conduct practical, real-world product evaluation of viable alternatives. To view a list of products impacted under this rule, go to [www.epa.gov/ozone/snap](http://www.epa.gov/ozone/snap). ▲

## U.S. Appeals Court Overrules Tax Court

The U.S. Court of Appeals, Seventh Circuit, has held that the U.S. Tax Court erred when it entered a judgment without trial in a case that still involved unsettled issues between the Internal Revenue Service and the taxpayers. The taxpayers here, husband and wife, were representing themselves in the case, and had appealed to the Tax Court. They continued, however, to engage for some time in negotiations with IRS over various issues, with both sides indicating that more was still to be done. At some point, however, IRS, on the ground that the taxpayers' latest proposals for agreement were overdue, asked the Tax Court to enter judgment in its favor, which the court did. But this was wrong, said the appeals court. There had clearly been unagreed issues, on which the Tax Court should have held a trial. Nothing indicated that there had been a meeting of the minds on a final tax deficiency. *Shah, et ux. v. Comm'r*, docket no. 14-2903, decided June 24, 2015 A minor case, maybe, but a good reminder that procedure matters in tax disputes – to both sides. ▲

~ State Laws Newsletter ~

## FMCSA to Adjust CSA Methodology

The Federal Motor Carrier Safety Administration published a Federal Register notice (<http://www.gpo.gov/fdsys/pkg/FR-2015-06-29/html/2015-15907.htm>) seeking comments on proposed changes to the Compliance, Safety, Accountability program's methodology.

FMCSA proposed splitting carriers measured in the Hazardous Materials Compliance BASIC into two groups and making their scores publicly available. The plan calls for separating carriers that primarily operate tank trucks from those that do not.

Other proposed changes include adjusting the intervention thresholds for some BASICs based on association with future crash risk and counting all violations for jumping an out-of-service order in the Unsafe Driving BASIC regardless of why the driver or vehicle was placed out of service. FMCSA also proposed modifying the "utilization factor" used to calculate scores in the Unsafe Driving and Crash Indicator BASICs by allowing additional credit for fleets averaging more than 200,000 miles per power unit. ▲



## Governor Signs Senate Bill 456

During the Missouri 2015 Legislative Session Senate Bill 456 passed. Governor Jay Nixon signed it on July 13<sup>th</sup>.

Sponsored by Senator Mike Kehoe (R-Jefferson City) and Rep. T.J. Berry (R-Kearney), this bill allows a dealer to sell a vehicle (for up to sixty days) without a title. Currently, motor vehicle dealers are authorized to purchase or accept in trade any motor vehicle for which there has been issued a certificate of title. This act modifies this to any vehicle for which there has been issued a certificate of ownership. Once the vehicle has been delivered to the dealer, the prior owners' insurable interest in such vehicle ceases. The act specifies that such dealers provide to the Department of Revenue a surety bond or irrevocable letter of credit in an amount not less than \$100,000 in lieu of the \$25,000 bond otherwise required for licensure as a motor vehicle dealer. If a dealer receives certain items, they may sell such vehicle prior to receiving and assigning to the purchaser a certificate of ownership. In order to do so, they have to have prepared and delivered to the purchaser an application for title for the vehicle in the purchaser's name, and have entered into a written agreement for the subsequent assignment and delivery of the certificate of ownership within 60 days after delivery of the motor vehicle to the purchaser. The agreement requires the purchaser to provide to the dealer proof of financial responsibility and proof of insurance. The dealer must maintain a copy of the agreement, and has to deliver a form to the Department of Revenue showing that the purchaser has purchased the vehicle without contemporaneous delivery of the title. If these requirements are met, among others, they shall constitute evidence of an ownership interest in the vehicle.

This bill was signed by Governor Jay Nixon today; **HOWEVER, this WILL NOT BECOME LAW UNTIL AUGUST 28, 2015!** Until that time, **YOU MUST ADHERE TO THE CURRENT LAW REGARDING DELIVERY OF TITLE AT THE TIME OF SALE.** ▲

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## FMCSA Renews Trailways Hours-of-Service Exemption

On May 31, FMCSA announced its decision to grant all regular-route passenger carriers and their drivers a renewal of their exemption from the hours-of-service record of duty status requirement to enter a change in duty status on the daily log for breaks in driving time of ten minutes or less, for the limited purpose of picking up or dropping off passengers, baggage, or small express packages. FMCSA extended the exemption to all regular-route passenger carriers and their drivers rather than limiting it to specific carriers. The renewal of the exemption will allow these drivers to perform their daily duties without having to record entries in the daily log for breaks in driving time of ten minutes or less. Such activity will not be considered a change of duty status for the purposes of 49 CFR 395.8(c). ▲

## FMCSA Renews Metal Coils Exemption

On June 4, FMCSA renewed the Flatbed Carrier Safety Group's exemption which allows that securement of metal coils on a flatbed vehicle, in a sided vehicle, or in an intermodal container loaded with eyes crosswise, grouped in rows, in which the coils are loaded to contact each other in the longitudinal direction.

Motor carriers may continue to use the pre-January 1, 2004, cargo securement regulations for the transportation of groups of metal coils with eyes crosswise, as this loading configuration is not currently covered under FMCSA's commodity specific rules for securing metal coils in 49 CFR 393.120. FMCSA has concluded that granting this exemption renewal will maintain a level of safety that is equivalent to, or greater than, the level of safety achieved without the exemption. ▲

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## FMCSA Grants Exemption from 30-Minute Rest Break for Livestock Transporters

FMCSA recently announced its decision to renew an exemption from the 30-minute rest break provision of the Agency's hours-of-service regulations for commercial motor vehicle drivers transporting livestock.

The Agricultural and Food Transporters Conference of the American Trucking Associations requested that the exemption, granted on behalf of several associations of agricultural transporters, be renewed to enable these drivers to continue to safeguard the health of certain livestock during long-haul deliveries by not having to take the rest break.

FMCSA has determined that it is appropriate to renew this exemption for a period of two years to ensure the wellbeing of the nation's livestock during interstate transportation by CMV. ▲

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## Next Category of Heavy-Duty Oil Could Hit Market December 2016

During Shell's annual global media event, Dan Arcy, head of the development team for the next-gen engine oil and OEM Technical Manager for Shell Lubricants, stated that next-gen oil could hit the market as early as December 2016.

The oil, named PC-11, wasn't set to begin until 2017, but engine makers asked the development committee to make an effort for an early drop date since the engines that would need the oil are starting to be produced in 2017.

The push for new oil started when in response to the mandate to reduce greenhouse gas emissions and lower fuel consumption. So, the key PC-11 goals include increasing the engine's ability to handle higher temperatures, reducing aeration, providing scuffing and adhesive wear protection and improving shear stability.

Currently, PC-11 has two subcategories: PC-11A and PC-11B.

PC-11A will include the previously mentioned improvements and also retain the viscosity level of CJ-4. It will be backwards compatible with all year-model engines.

PC-11B will also include the improvements as well as increased fuel economy and lower greenhouse gas emissions. As of now, it is uncertain whether or not this type will be backwards compatible and may only be recommended by manufacturers for year-model 2017 and newer engines. ▲

## TSC Launches Members-Only Cargo Incident Reporting System

The ATA's Transportation Security Council has launched the council's members-only on-line cargo incident reporting system. Cargo Incident Flash allows TSC members to quickly, privately and anonymously communicate incidents of facility break-ins, cargo theft, violence, surveillance and other suspicious activities amongst themselves in real time.

Incidents submitted through this system allow TSC's staff to deliver aggregated and anonymous monthly reports to members facilitating analysis of trends involving cargo thefts, break-ins and other incidents by multiple criteria.

Trucking security professionals interested in participating in Cargo Incident Flash should contact Brian Lagana at (703) 838-1703 or at [blagana@trucking.org](mailto:blagana@trucking.org). ▲

## IRS Changes Form 2290

The federal Internal Revenue Service has slightly increased the information required for a taxpayer to claim a credit or refund for a vehicle for which the federal heavy vehicle use tax has been paid is sold, stolen, or destroyed. The change was made when IRS issued the instructions for this year's Form 2290, on which the HVUT is reported, and which is due at the end of August 2015. In the past, for a credit or refund, IRS has required the vehicle's identification number (VIN), the weight category it's in for the HVUT, the date the vehicle was sold (or stolen or destroyed), and a copy of the IRS worksheet on which the taxpayer calculated the credit. To this list is now added, for any vehicle sold after the end of June 2015, the name and address of the purchaser. To see all the Form 2290 instructions, go to <http://www.irs.gov/instructions/i2290/ch02.html#d0e1061>. ▲

~ State Laws Newsletter ~

## Driver Turnover Falls in First Quarter of 2015

Annualized turnover rates at large and small truckload fleets each fell 12 percentage points in the first quarter of the year, according to American Trucking Associations' Chief Economist Bob Costello.

"Clearly, the decline in driver turnover in the first quarter was significant," Costello said, "but what is less clear is why it dropped so much and whether turnover will continue to remain low."

In the first quarter, annualized turnover at truckload fleets with more than \$30 million in revenue fell to 84%, the lowest it has been since the second quarter of 2011 and marks the first time the rate fell below 90% since 2011. For fleets with less than \$30 million revenue, the turnover rate dipped to 83%.

"Drivers continue to be in high demand, so we still see the risks posed to the economy and our industry by the shortage of drivers," Costello said. "The drop in turnover was likely, at least partially, connected to a temporary slowdown in freight movements in the quarter, as well as improved retention efforts of fleets across the board. But I would not be surprised if turnover edges higher in the quarters ahead."

During the quarter, turnover at less-than-truckload fleets fell one percentage point to 9%, its lowest level since the second quarter of 2013. ▲

## New TSA Administrator Peter Neffenger Sworn In

On July 6, Homeland Security Secretary Jeh Johnson officially swore in new Transportation Security Administrator Peter Neffenger. Neffenger, a former uniformed member of the U.S. Coast Guard, served as the Deputy Commander of the Coast Guard's Deepwater Horizon oil spill response team in 2010. Very little of Neffenger's background focuses on trucking or ground transportation in general. Neffenger was speedily confirmed with bipartisan support after a May 6 DHS Inspector General Report highlighted glaring holes in the TSA's airport security practices. Given the report's findings, TSA is likely to remain focused on aviation issues for the near term. Even so, ATA will reach out to Neffenger's team to offer our support to aiding in highway security. ▲

# MoTA Photo Album



*Check back . . .  
you could be in  
our next album!*





*Award Recipients*