



## 2016 MoTA Events

### **SuperTech Competition**

**April 13, 2016**  
Columbia, MO

### **Safety Conference & Expo**

**April 13-14, 2016**  
Columbia, MO

### **Truck Driving Championships**

**June 3-5, 2016**  
Springfield, MO

### **Sitton-Babcock PAC Golf Tournament**

**June 28, 2016**  
Camdenton, MO

### **Annual Convention**

**September 21-23, 2016**  
Branson, MO



### **New Member**

#### **Midwest Railroad Maintenance & Construction**

15785 Seminole Drive  
New London, MO 63459  
Ms. Debbie Adair  
(573) 719-2276

*Welcome  
New Member!*

### **In This Issue**



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## ATA Members Helping to Deliver Capitol Christmas Tree

The Capitol Christmas Tree began its 4,000 mile journey to the U.S. Capitol in Seward, Alaska on Oct. 27. The Lutz Spruce is being delivered by ATA Member Lynden Transport using a 105-foot trailer pulled by a Kenworth tractor. On November 16, the tree stopped in Findlay, Ohio at Garner Transportation. Each stop of the tour is accompanied by education sessions about national parks and forestry. The 70-foot tall tree is being delivered by John Schank, the 2014 Alaska Trucking Association Driver of the Year. ATA is one of the sponsors of the effort. To learn more, visit the official US Capitol Christmas Tree website at <http://www.capitolchristmastree.com/>. ▲



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## Member Cancellations November 2015

Name of Company	Class	Dues
Central States Trailways	Motor Coach	\$350
ERB Cape LLC	Private	\$350
MGi Transport Inc	For Hire	\$350
Pulse Transportation Services	For Hire	\$403
Transportation Safety Consultants	Allied	\$350

## MISSOURIMemo

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### FMCSA Publishes Driver Coercion Rule

On November 30, FMCSA published its final rule prohibiting motor carriers, shippers, receivers, and transportation intermediaries from coercing drivers to violate certain FMCSA regulations. The rule broadly defines coercion to include threats of or actually withholding business, employment, or work opportunities, or taking or permitting any adverse employment action. The final rule clarifies that the driver must give notice that he or she cannot provide the requested service without violating the applicable rules, and that a receiver who simply forces a driver to leave its premises is not threatening the driver with an adverse employment action. The rule requires drivers to file complaints within 90 days of the alleged coercion, and allows for civil penalties up to \$16,000 per violation, with willful violations potentially a ground for revocation of operating authority. The final rule is available at <https://www.federalregister.gov/articles/2015/11/30/2015-30237/prohibiting-coercion-of-commercial-motor-vehicle-drivers>. ▲

### Final Rule to Mandate Electronic Logging Devices Clears Final Hurdle

The final rule mandating the use of Electronic Logging Devices has cleared the White House Office of Management and Budget, one of the final steps before publication in the Federal Register. Given the rule's significance and remaining procedural steps required, ATA believes the rule will probably be published early December. At that time, ATA will quickly review the rule and provide a summary for its members. Regarding implementation, carriers will have up to two years from the effective date to adopt and use the devices. For carriers using existing devices that don't meet the rule's new technical requirements, additional time will be given to comply. ▲

### EPA Finalizes National Renewable Fuel Volume

EPA announced final volume requirements under the Renewable Fuel Standard program yesterday for the years 2014, 2015 and 2016, and final volume requirements for biodiesel from years 2014 to 2017. Under the rule U.S. fuel blenders will be required to mix a total of 16.93 billion gallons of biofuels into fossil fuels in 2015 and 18.11 billion gallons in 2016, a 4% increase from the amounts in the proposed rule issued in May, but less than what Congress intended when it expanded the RFS program eight years ago. Domestic biodiesel annual volumes are required to steadily increase with volumes being set at 1.63, 1.73, 1.90, and 2.00 billion gallons in 2014, 2015, 2016 and 2017 respectively. The RFS, established by Congress, requires EPA to set annual volume requirements for different categories of biofuels. ▲

### Requirements for Medical Examiners to Use Revised Medical Exam Form to Be Delayed

American Trucking Associations expects the Federal Motor Carrier Safety Administration to extend its deadline by which certified medical examiners must transition to newly revised driver examination forms. As part of the 2015 Medical Examiner's Certification Integration Final Rule, medical examiners are required to use the revised Medical Long Form (MCSA-5875) and Medical Examination Certification (med card) (MCSA-5876) beginning December 22, 2015. Due to technical difficulties in creating the form however, FMCSA is expected to announce an extension of the deadline soon. ATA will notify members once a new deadline has been formally announced. In addition to the anticipated extension, ATA also expects FMCSA to release a frequently asked questions document addressing some concerns raised by ATA and others about changes to the forms and their impacts. ATA will distribute a summary to members shortly thereafter. ▲

### House Passes Long-Term Highway Bill

On November 5, 2015, the highway bill passed the House by a 363-64 vote.

The bill, which includes provisions including dedicated funding for freight programs, CSA reforms, a requirement that standards be set for hair testing and a pilot program for graduated commercial licensing, now must be reconciled with similar legislation that passed the Senate earlier this fall.

ATA praised the House in a press release, but called for Congress to quickly send a final bill to the White House. The current highway bill extension expired November 21, 2015. ▲

### FAAA Preemption Amendment Included in House Highway Bill

On November 4, 2015, the U.S. House of Representatives voted in favor of an amendment to clarify the preemption provision of the Federal Aviation Administration Authorization Act of 1994 prohibits states from imposing meal and rest break requirements on interstate motor carriers, or from prohibiting carriers from paying drivers by the load.

The amendment passed with a bipartisan vote of 248-180. The amendment repudiates the Ninth Circuit's constricted view of FAAAA preemption in last year's *Penske v. Dilts* decision, which held that states could impose meal and rest break requirements on drivers that go far beyond the nationally uniform requirements of the federal hours-of-service regulations. ▲



## ATA, NTTC & PMAA File Petition to Fix Gasoline & Diesel Label Requirements

On Nov. 24, ATA, along with the National Tank Truck Carriers and the Petroleum Marketers Association of America, petitioned the Pipeline & Hazardous Materials Safety Administration to change their regulations regarding the labeling of cargo tank trucks transporting petroleum products.

In June, PHMSA issued an interpretation letter that restricted carriers to labeling multi-unit tanks transporting petroleum-based product with information for the lowest flash point product that was actually present on the vehicle. That interpretation assumes that petroleum-based products that are blended with ethanol have a different emergency response protocol than traditional petroleum-based products. But, emergency responders have adopted a single method to treat all petroleum-based incident emergency responses, both pure and blended with ethanol. Consequently, ATA, NTTC, and PMAA have petitioned to allow trucks to display placards for any petroleum distillate with a lower flashpoint than those on the vehicle. ▲

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## November 2015 Owner-Operator Alert Available

The November 2015 Owner-Operator Classification Alert is now available to ATA members on the ATA website. The Alert provides an overview of federal and state legislative and administrative proposals that would impact independent contractor classification if enacted. Highlights in this Alert include a California law that creates personal liability for employers who violate minimum wage laws; an Ohio bill that would create a uniform definition of employment for unemployment, workers' comp, and other purposes; and the federal "Fair Playing Field Act of 2015", which would allow the Treasury Dept. to provide guidance on IC status and modify the current safe harbor regulations. ▲

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## New ATRI Research Quantifies Impact of Non-Preventable Crashes on CSA Scores

Today, ATRI released its latest CSA research, "Assessing the Impact of Non-Preventable Crashes on CSA Scores" investigating the impact that excluding non-preventable crashes would have on motor carrier CSA Crash Indicator BASIC measures. Among the more than one dozen carriers in ATRI's analysis, the Crash Indicator BASIC decreased nearly 15 percent once the non-preventable crashes were removed.

"ATRI's latest analysis, using a very conservative definition of non-preventable crashes, demonstrates just how skewed FMCSA's BASIC calculations can be," said Scott Mugno, a member of ATRI's Research Advisory Committee as well as Vice President of Safety and Maintenance for FedEx Ground.

A copy of this report is available at <http://atri-online.org/>. ▲

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## ATA Seeks Extension of Tax Credits for Natural Gas Use in Trucking

ATA joined six other organizations calling for a three-year extension of the expired natural gas Alternative Fuel Excise Tax Credit and the Alternative Fuel Vehicle Refueling Property Credit. The provisions, which expired at the end of 2014, afforded tax credits of up to 30 percent of the cost of natural gas refueling equipment up to \$30,000 and tax credits of \$.50/gallon for both LNG and CNG. In a letter sent to the Finance and Ways and Means Committees, ATA and the other organizations seek retroactive tax credits for 2015 and an extension of the credits through 2017. In addition, ATA requested an adjustment of the LNG fuel tax credit so that it is based on a diesel gallon equivalent basis as opposed to a volumetric gallon basis. ▲

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## ATA Issues Guidance on PSP for Audit Readiness

ATA has prepared a guidance document on compliance with the Pre-Employment Screening Program requirements, to help fleets prepare for PSP compliance audits. The third party administrator of the PSP program conducts these audits of participating fleets to ensure compliance with contract conditions, especially the requirements to obtain written driver consent for access to roadside inspection records and crash data through PSP. ATA specifically reminds carriers that the driver consent form must contain specific language mandated by FMCSA. In addition, motor carriers are required to retain all driver consent forms for at least three years. Audited carriers may be subject to penalties for non-compliance. ▲

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## ATA to Participate In C-TPAT Audit

Congress' watchdog agency, the Government Accountability Office is currently auditing U.S. Customs & Border Protection's Customs-Trade Partnership Against Terrorism program. C-TPAT is a program that grants importers, carriers, manufacturers, and others involved in the international supply chain preferential treatment at the border in exchange for undertaking significant security improvements and opening themselves to audits by Customs security staff. The GAO is investigating C-TPAT benefits and costs; certification, validation, and revalidation requirements; and areas of success as well as room for improvement. C-TPAT member carriers interested in being connected with the GAO auditors should contact Boyd Stephenson at [bstephenson@trucking.org](mailto:bstephenson@trucking.org). ▲

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## State & Local Business Taxes Compiled

The Council on State Taxation has released its thirteenth annual study of the burden on business of state and local taxes. This edition covers taxes paid during fiscal year 2014. The largest single tax paid by business continues to be the property tax, which makes up more than a third of the total. Property tax payments increased more than 3 percent in 2014, probably a good sign for local finances. Twenty percent of business taxes is made up of the sales and use tax levied, mostly by states, on business inputs. Theoretically and practically, this is an extraordinarily bad tax, since it leads to the pyramiding of tax as it gets passed on down the line to the final consumer. It also tends, of course, to make U.S. manufactures more expensive than they should be. The COST study includes state-by-state tabulations, with much detail, and presents many interesting comparisons. Ernst & Young, LLP, "Total State and Local Business Taxes: State-by-State Estimates for Fiscal Year 2014," COST, Washington, D.C., October 2015, available here: [www.cost.org](http://www.cost.org). ▲



## California's Truck Engine Deadline Approaches

California's five-year phase out schedule for most Class 7 & 8 trucks not equipped with diesel particulate filters will reach completion at year's end. After this time, only trucks with model-year 2007 or newer engines or retrofitted with diesel particulate filters can legally operate in the state. Fleets that elected to phase in DPF compliance under the state's optional reporting system also need to bring all of their affected trucks into compliance by year's end. Some exemptions remain, including provisions for 2 and 3 truck fleets, agricultural, logging, and work trucks, and fleets operating exclusively in the state's rural areas. The U.S. EPA recently announced its first federal enforcement action against a non-California-based carrier for operating trucks without DPFs in the state. Carriers who operate in California should ensure they meet the requirements of the regulation, perform due diligence when contracting for transportation services, and maintain compliance records in case of audit. ▲

## Court Dismisses Trucking Challenge to California Greenhouse Gas Rule

The U.S. Court of Appeals for the District of Columbia Circuit tossed out an industry group's bid to overturn California's greenhouse gas rule for heavy trucks. In its ruling the court found that the Owner-Operator Independent Drivers Association chose the wrong venue for challenging the state rule.

The trucking group sought to have the court reject the California rule that requires truckers to improve fuel economy to reduce the sector's greenhouse gas emissions. While the industry group didn't directly challenge EPA's actions in approving California's authority to implement the rule, it argued that the effect of EPA's approval was unconstitutional. The California rule, the association argued, discriminates against out-of-state carriers and violates the Constitution's Commerce Clause by reaching outside the state's boundaries to regulate interstate motor carriers.

The court, in its unanimous order, dismissed the petition noting that if petitioners have problems with the substance of California's regulation or the procedures used to enact them, they should challenge the rule in California's state courts. If the petitioners wish to challenge EPA's approval of California's rule or the rule's Constitutionality, such challenges are appropriate to be heard before the DC Circuit. ▲

## LA, MO Still Running Amnesties

With state budgets generally in relatively good shape of late, there haven't been as many tax amnesties as there were during the late Recession. From 2011 through last year, there were only two or three amnesties per year, and it looked for a while as if 2015 would follow the same pattern. Massachusetts ran an amnesty this spring, but then there was nothing for some months. As of September, however, suddenly there were half a dozen amnesties running at once, in Arizona, Indiana, Kansas, Maryland, Missouri, and Oklahoma. As usual, depending on the state, these programs covered different taxes, and those paying overdue taxes under them enjoyed somewhat different benefits – aside from the joy of coming clean, that is. Missouri's amnesty, longer than many, continues to run through the end of November. During that time, a delinquent taxpayer owing state income, sales and use, employment, and a few other taxes may pay them in full and escape any unpaid interest charges or penalties. Fuel taxes are not eligible under this program. For more, see <http://dor.mo.gov>. Louisiana's amnesty, which has been moved back a bit, is now on for the month of December. Evidently all state taxes are included in Louisiana's program, and if a delinquent pays his overdue taxes in full, a part of the interest and penalty otherwise owing will be waived. This is the third amnesty authorized by 2013 legislation in Louisiana, with successive programs offering slimmer benefits. For more on this one, see <http://ldrtaxamnesty.com>. ▲

## Northeastern States and DC Commit To Address Carbon Emissions from Transportation Sector

Five Northeastern states and the District of Columbia announced plans to collaborate on a regional market-based policy to cut carbon pollution from the transportation sector. The announcement by the District, along with Connecticut, Delaware, New York, Rhode Island, and Vermont aims to build on the success of the Regional Greenhouse Gas Initiative, an emissions budget and trading program currently being implemented for nine Northeast states' power sectors.

That program, along with zero-emissions vehicle initiatives, clean-energy policies, and market shifts away from coal, have already helped the region significantly cut its carbon emissions. Direct emissions from the transportation sector in the Northeast are the largest identified source of carbon pollution -- about 35% in 2011. The Northeast states note that clean transportation policies could reduce greenhouse gas emissions between 29-40% in the region by 2030. Market-based programs, carbon pricing, or mileage-based fees were also identified as potential revenue generators to pay for infrastructure upgrades. ▲

# MoTA Photo Album



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