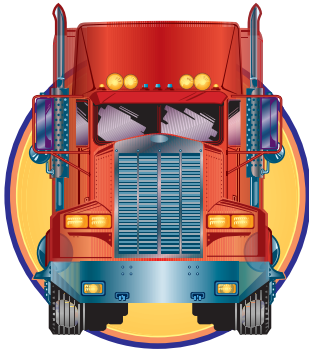


# Hi-Way Hi-Lites

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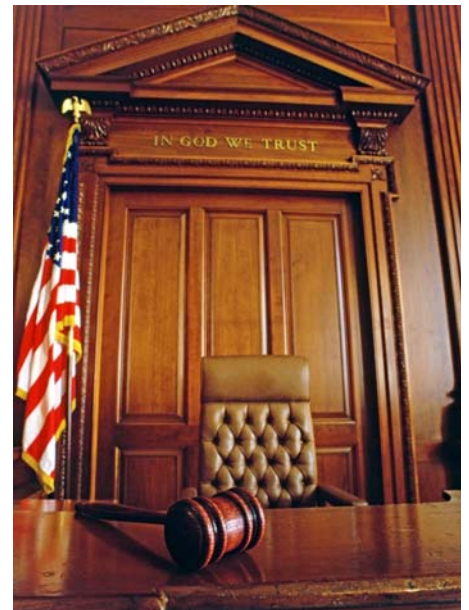


## FMCSA's AGENDA FOR 2009-2010

**T**he DOT each month publishes a monthly report on significant department rule makings. When the Obama administration took office, all DOT rulemakings were in essence put on hold. Therefore, the congressionally mandated rulemaking process, which is already time-consuming, has slowed to a crawl during this transition as the new administration put new leadership in place and accessed the standing of the rulemakings.

The much-debated EOBR rule, which had made it all the way to the Office of Management and Budget, the last step before being published as a Final Rule status, was pulled back. The EOBR rulemaking, officially called the Electronic on-Board Recorders for Hours-of-Service Compliance, was on April 28 resubmitted to the Office of the Secretary of Transportation. It was one of the rules on the June report, which says the rule was scheduled to go back to the OMB in late June and be published in the fall.

Certain sources have indicated that the rule now under consideration is essentially the same rule that was withdrawn, but that the scope of companies that would be required to install EOBRs based on safety performance ratings has been significantly expanded.



The rulemaking would amend the Federal Motor Carrier Safety Regulations (FMCSRs) to incorporate new performance standards for electronic on-board recorders (EOBRs) installed in commercial motor vehicles (CMVs) manufactured two (2) years after the effective date of a final rule. On-board hours-of-service recording devices meeting FMCSAs current requirements and voluntarily installed in CMVs manufactured before that date could continue to be used for the remainder of the service life of those CMVs. Motor carriers that have demonstrated a history of

*continued on page 3*

### IN THIS ISSUE

HAZMAT SHIPPING PAPER  
RETENTION REQUIREMENTS .....3

DIRECT OBSERVATION STAY  
LIFTED - EFFECTIVE DATE TBD .....4

CANADA TO DEVELOP  
"EOBR" STANDARDS .....5

STEEL COIL TRAINING IN ALABAMA  
NOW MANDATORY .....5

A NEW TWIST ON AN OLD IDEA .....7

NEW MEMBERS .....8

Sustaining Member



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Shippers must retain a copy of the shipping papers for a period of two years after the material is accepted by the initial carrier. The hazmat shipping paper can be retained as a paper copy or an electronic image of the shipping paper. The date of acceptance by the initial carrier must be included on the shipping paper copy or electronic image.

Hazardous waste shipping papers (waste manifests) must be retained for three years. The shipper, initial carrier, and each subsequent carrier must retain a copy for three years after the material is accepted by the initial carrier. Each copy must bear all the required signatures and dates up to and



including those entered by the next person who received the waste.

The retained shipping papers must be accessible at or through the principal place of business. The papers must be available, upon request, to an authorized official of a federal, state, or local government agency at reasonable times and locations.

Don't forget the latest Hazardous Materials courses can be found at the NTA On-Line Institute for Motor Carriers, where when you pass, you will be issued a Certificate of Completion issued by the U.S. Department of Transportation's Transportation Safety Institute. ■

## REGULATIONS CALENDAR

### 12/16/2009 New-Entrant Audits

- Compliance with December 16, 2008, "New Entrant Safety Assurance Process" final rule is required beginning December 16, 2009. DOT auditors who conduct a new-entrant safety audit on motor carriers after that date will review the carriers' records back to February 16, 2009 under the new standards.

### 12/17/2009 Intermodal

**Roadability** - Those who provide intermodal equipment (IME) for transport in interstate commerce will have to mark their equipment and establish a systemic inspection, maintenance, and repair program by December 17, 2009, and those who operate such equipment will be expected to perform pre-trip inspections and report any defects.

serious noncompliance with the hours-of-service (HOS) rules would be subject to mandatory installation of EOBRs meeting the new performance standards (a remedial directive). The motor carrier would then be required to install EOBRs in all of its CMVs regardless of their date of manufacture and to use the devices for HOS recordkeeping for a period of two (2) years, unless the carrier already had equipped the vehicles with automatic on-board recording devices (AOBRDs) meeting the Agency's current requirements under 49 CFR 395.15 and could demonstrate to FMCSA that its drivers understand how to use the devices. FMCSA would encourage industry-wide use of EOBRs by providing the following incentives for motor carriers to voluntarily use EOBRs in their CMV: Revising the Agency's compliance review procedures to permit examination of a random sample of drivers' records of duty status and providing partial relief from HOS supporting documents requirements, if certain conditions are satisfied.

There are also other rulemakings on the table dealing with the Unified Registration System, Mexico-Domiciled Carriers, Household Brokers, Railroad Grade Crossings, and Carriers Safety Fitness,

Here are just some of the rules coming in the future:

**The National Registry of Certified Medical Examiners** – This rulemaking would establish training, testing and certification standards for medical examiners responsible for certifying that interstate commercial motor vehicle drivers meet established

physical qualification standards, provide a database (or National Registry) of medical examiners that meet the prescribed standards for use by motor carriers, drivers, and Federal and State enforcement personnel in deterring whether a medical examiner is qualified to conduct examinations of interstate truck and bus drivers and require medical examiners to transmit electronically to FMCSA the name of the driver and a numerical identifier for each driver that is examined. The rulemaking would also establish the process by which medical examiners that fail to meet or maintain the minimum standards would be removed from the National Registry.

In California, where you can get a class A license at eighteen in Spanish, is a key example of miscommunication between the driver and the medical examiner. There are too many cases of Class A drivers receiving a medical card on an intrastate form. So either the medical examiner is not asking the right questions or the drivers haven't the foggiest idea of what mode they are driving in.

**Certification of Safety Auditors, Safety Investigators, and Safety Inspectors** – This rulemaking would require ANY safety inspection, safety audit, or compliance review be conducted by a certified inspector, auditor, or investigator. It is required by section 211 of the Motor Carrier Safety Improvement Act. Based on comments to the Interim Final Rule (IFR), the agency will issue a NPRM that addressed issues not clarified in the IFR.

**Minimum Training Requirements for Entry Level Commercial Motor Vehicle Operations** – This rulemaking would require behind-the wheel and classroom training for persons who must hold a commercial driver's license to operate commercial motor vehicles.

**Limitations on the Issuance of Commercial Driver License with a Hazardous Materials Endorsement** – This rulemaking would prohibit States from issuing, renewing, transferring or upgrading a commercial driver's license (CDL) with a hazardous materials endorsement, unless the Transportation Security Administration (TSA) has first conducted a background check on the applicant and determined the applicant does not pose a security risk warranting denial of the hazardous materials endorsement. FMCSA has published another IFR corresponding to TSA's extension of compliance date. Since this rulemaking conforms to TSA's rulemaking, the rulemaking is dependent upon TSA action. This action is considered significant because of substantial public and congressional interest, and national security. ■

# DIRECT OBSERVATION STAY LIFTED - EFFECTIVE DATE TBD

The Department of Transportation (DOT) announced that on July 1, 2009, the United States Court of Appeal for the District of Columbia Circuit issued its Mandate in *BNSF Railway Company v. Department of Transportation* (U.S. Court of Appeals for the D.C. Circuit, Docket No. 08-1264).

Now that the court decision is final, the stay has been lifted on direct observation drug testing rules applicable to return-to-duty and

safety-sensitive transportation industry employees who have already failed or refused to take a prior drug test.

The Department of Transportation will issue a Final Rule in the Federal Register soon providing a start date for mandatory direct observation collections for all follow-up and return-to-duty tests.

Until that date has been determined, direct observation for these tests



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### YOU CAN NOT AFFORD NOT TO USE IT!

# CANADA To DEVELOP “EOBR” STANDARDS

**Y**es, our northern neighbors are poised on the brink of developing a national safety standard for electronic on-board recorders (EOBRs) and some stakeholders there say that instead of trying to prevent the inevitable, why not use it as a catalyst to bring real issues to the table such as unpaid time that the driver is expected to “eat”, when waiting at the loading dock, or encountering unexpected traffic and the like.

FMCSA submitted a final EOBR rule to the Office of Management and budget in late 2008, but when the new Obama administration took over the rulemaking was stalled. The rulemaking according to federal documents was under discussion in U.S. DOT Secretary Ray LaHood’s office at press time.



In the meantime, a regulatory guidance issued back on January 4, 2002 states that a driver may use a computer to generate the graph grid and entries for the record of duty status or log book, provided the computer-generated output includes the minimum information

required by §395.8 and is formatted in accordance with the rules.

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# STEEL COIL TRAINING IN ALABAMA NOW MANDATORY

**A**labama is now requiring metal coil haulers to complete a cargo Securement training course before initiating or terminating a metal coils shipment within the state. After completing the training course, drivers will have to pass a quiz before receiving a certificate, which must be carried in the vehicle when hauling metal coils. The driver also has to give a signed copy of the certificate to every motor carrier for which he/she hauls for or will haul for involving metal coils.

On the North American Transportation Association’s



website, one can find the **On-Line Institute for Motor Carriers**. This is the official US DOT/ Transportation Safety Institute training site. The metal coil training course meets the requirements of Section 393.120. The course is 30 minutes and it’s only \$24.95. Each person, upon completion, will receive a Certificate issued by the US DOT/ Transportation Safety Institute. ■

# VIDEO RECORDERS IN TRUCKS

The Federal Motor Carrier Safety Administration (FMCSA) has granted an exemption to allow video event recorders to be mounted on commercial motor vehicles lower in the windshield than is currently permitted by the agency's regulations.



DriveCam, Inc. based in San Diego, CA has been granted the exemption through April 15, 2011. In granting the exemption, the FMCSA said "It believes that the use of video event recorders by fleets to deter unsafe driving behavior is likely to improve the overall level of safety to the motoring public." Calling the recorders "innovative", the agency indicated that it intended to test the system itself during the exemption period.

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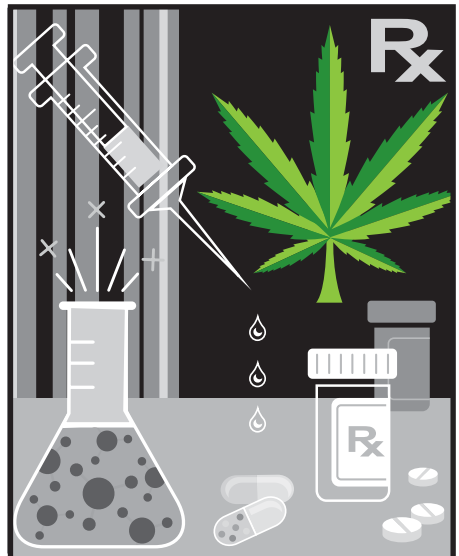
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From America's first successful cooperative – a mutual insurance company formed by Benjamin Franklin, to a group of west coast carriers in 2009.

Ten motor carriers serving the ports of Los Angeles and Long Beach, California are seeking approval from the Surface Transportation Board to pool some of their operations and purchases of fuel, equipment and materials to create their own form of a "cooperative".

The small to midsize carriers said they believe their proposed joint venture does not violate anti-trust laws and would allow them to compete better against larger operators.

By sharing freight and equipment opportunities among them to enhance these operations, the participating motor carriers expect to expand their own equipment utilization, load factors, operating efficiencies and related revenue within this market area, particularly when circumstances prevent or compel direct service by one or more of the applicants.

The operators, calling their "joint agreement" the Clean Truck Coalition LLC, said they would



accomplish their goals by combining their information technology, operations, leased equipment, vendor contacts and resources, maintenance facilities, vehicles and related administration.

The operators said the "preponderance" of clean trucks among the estimated 1,200 carriers serving the ports currently are owned by larger trucking companies. The pooling arrangement would allow the smaller and midsize applicants greater access to clean trucks.

The motor carriers include Green Fleet Systems LLC, California Intermodal Associates Inc, Fox Transportation Inc, Golden State Express, Harbor Division, Oversea Freight, Pacific 9 Transportation, Progressive Transportation

Services, South Counties Express and Total Transportation Services.

The pooling agreement calls for each of the carriers to have an equal ownership in the entity. In effect, the Clean Truck Coalition would operate as a joint venture with a limited liability company structure.

Together, the carriers say they have 625 trucks and pick up or deliver nearly 37,000 containers a month, which comes to approximately 2.96 moves per truck based on 20 working days in a month. This allegedly represents less than 10% of the overall monthly truck moves in the harbor. ■



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Krisda Inc	Carson, CA	Frank Santini Trucking	Phillipsburg, NJ
On-N-Off Transports LLC	Chino, CA	Xeon Transportation LLC	Richton Park, IL
New Star Freight Inc	Corona, CA	L J Transportation LLC	Rio Rico, AZ
L D M Express	Cumming, GA	Rotex Transportation Inc	Sacramento, CA
Hernandez Trucking	Downey, CA	Universal Steel Supply Inc	Savannah, GA
Michael John Engels	Escondido, CA	American Container Express	Signal Hill, CA
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