



# ASSOCIATION HIGHLIGHTS

**November-December 2015**

## **MOTOR-REGULATORY**

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### *NHTSA Proposes Mandatory Collision Avoidance Systems for CMVs*

The National Highway Traffic Safety Administration (NHTSA) has granted a petition for rulemaking that if adopted, would require automatic forward collision avoidance and mitigation systems on commercial motor vehicles weighing over 10,000 lbs. 80 Fed. Reg. 62487 (Oct. 16, 2015). NHTSA has been studying the systems for several years and will continue to conduct research and use the rulemaking proceeding to evaluate whether or not to issue such a rule. *Id.* at 62487. The petition for rulemaking was filed by the Truck Safety Coalition, the Center for Auto Safety, Advocates for Highway and Auto Safety and Road Safe America, and supported by the Commercial Vehicle Safety Alliance. *Id.* A 2012 European Union Commission Regulation made advanced emergency braking systems with forward collision warning mandatory in Europe on most new heavy vehicles. *Id.*

### *NHTSA Wants Access to Confidential Litigation Documents and Settlements*

NHTSA has proposed an Enforcement Guidance Bulletin containing "guiding principles and best practices to be utilized in the context of private litigation." 80 Fed. Reg. 57046 (Sept. 21, 2015). The bulletin states: "To the extent protective orders, settlement agreements, or other confidentiality provisions prohibit information obtained in private litigation from being transmitted to NHTSA, such limitations are contrary to Rule 26 of the Federal Rules of Civil Procedure, its state corollaries, and sound principles of public policy. Although such restrictions are generally prohibited by applicable rules and law, the Agency recommends that litigants include a specific provision in any protective order or settlement agreement that provides for disclosure of relevant motor vehicle safety information to NHTSA, regardless of any other restrictions on the disclosure or dissemination of such information." *Id.* at 57046.

### *FMCSA Eases Restrictions on Electronic Log Revisions*

The Federal Motor Carrier Safety Administration (FMCSA) will now allow additional editing of hours of service entries made in automatic on-board recording devices (AOBRDs). 80 Fed. Reg. 59664 (Oct. 2, 2015). Edits may be made so long as the record shows the original entry and revised entry, as well as who made the revision, when

and why. However, driving time still may not be edited "except in the case of unidentified or team drivers, and when driving time was assigned to the wrong driver or no driver." *Id.* at 59665.

*FMCSA Revises Implementation Dates for its Unified Registration System*

Following its earlier announcement that there would be a delay, the FMCSA has announced the new effective and compliance dates of the Unified Registration System (URS) final rule, issued on August 23, 2013. The table below, listed in 80 Fed. Reg. 63695 (Oct. 21, 2015), provides each of the new dates:

<i>URS Effective Dates</i>		
<b>URS final rule major provision</b>	<b>(Existing) effective/ compliance date</b>	<b>(New) effective/ compliance date</b>
Registration Application Process using the MCSA-1 online application for New Applicants	10/23/2015	12/12/2015
Use of MCSA-1 online application for all new and existing entities for all reasons to file	10/23/2015	9/30/2016
USDOT Number as sole identifier (discontinuing issuance of docket numbers)	10/23/2015	9/30/2016
New Fees Schedule	10/23/2015	9/30/2016
Evidence of Financial Responsibility (Insurance Filings and Surety Bonds/Trusts) for New Private HM and New Exempt For Hire Carriers	10/23/2015	9/30/2016
Evidence of Financial Responsibility (Insurance Filings and Surety Bonds/Trusts) for Existing Private HM and Exempt For Hire Carriers	10/23/2015	12/31/2016
Process Agent Designation (BOC-3) for All New Motor Carriers (including Private and Exempt For Hire Carriers)	10/23/2015	9/30/2016
Process Agent Designation (BOC-3) for All Existing Motor Carriers (including Private and Exempt For Hire Carriers)	4/25/2016	12/31/2016

*FMCSA Proposes Revisions to Inspection and Parts Regulations*

The FMCSA issued a notice of proposed rulemaking in order to make several assorted revisions to its regulations regarding "Parts and Accessories Necessary for Safe Operation" and "Inspection, Repair and Maintenance." 80 Fed. Reg. 60592 (Oct. 7, 2015). The revisions would: (1) define "major tread groove"; (2) not require a rear license plate lamp for tractors registered in states that do not require rear license plates; (3) make more explicit that violations or defects noted on a roadside inspection report must be corrected before a driver can operate the vehicle again; (4) delete the introductory text from Appendix G of the FMCSA regulations (Minimum Periodic Inspection Standards) and amend Appendix G to require "the inspection of antilock braking systems (ABS), automatic brake adjusters, and brake adjustment indicators, speed-restricted tires, and motorcoach passenger seat mounting anchorages"; and (5) no longer allow motor carriers to use a roadside inspection report as proof of completing a comprehensive inspection. *Id.* at 60592. The notice of proposed rulemaking comes in response to petitions from the Commercial Vehicle Safety Alliance and the American Trucking Associations, as well as two safety recommendations from the National Transportation Safety Board (NTSB).

*FMCSA Continues to Allow Drivers to Count Time Attending Vehicle as Off-Duty Time*

In an extension of a policy that the FMCSA announced in August, under which drivers of security-sensitive materials are permitted to count the time spent attending their vehicle (as they are required to do by Pipeline and Hazardous Materials Safety Administration (PHMSA) regulation) toward their mandatory break time, the FMCSA granted an exemption to R&R Transportation Group for drivers engaged in the transportation of materials that by their nature must be attended, such as radioactive materials, pharmaceuticals and ammunition. 80 Fed. Reg. 59848 (Oct. 2, 2015).