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Legislative & Regulatory News

U.S. seeks EOBR mandate; FMCSA wants HOS devices for 500,000 carriers

The Federal Motor Carrier Safety Administration (FMCSA) has proposed requiring nearly all interstate commercial motor carriers to install electronic data recorders to monitor their drivers' hours-of-service compliance. The proposed rule, would dramatically expand the EOBR mandate to roughly 500,000 from an estimated 5,700 carriers, FMCSA said.

The plan would also ease the current requirement that fleets keep paperwork to document drivers' hours-of-

"This proposal is an important step in our efforts to raise the safety bar for commercial carriers and drivers," FMCSA Administrator Anne Ferro said in a statement.

Industry reaction to the proposal was mixed, based at least in part by fleet size. Many of the larger fleets have already backed EOBRs while smaller ones, and some driver groups, have expressed opposition.

The agency said it expected to have a final rule in place by June 2012, and that motor carriers would have three years after the effective date of the final rule to comply. Officials said they will accept comments on the proposal until April 4

The proposal calls for interstate carriers that currently use paper logbooks to document drivers' hours of service to install electronic onboard recorders to "systematically and effectively" monitor their drivers compliance with HOS requirements. Short-haul interstate carriers that use timecards to document drivers' hours would be exempt from the requirement.

Carriers that violate the EOBR requirement would face civil penalties of up to \$11,000 for each offense. Noncompliance also would negatively affect a carrier's safety fitness rating and Department of Transportation operating authority, FMCSA officials said.

The proposal would be an upgrade to the agency's April 2010 proposed "remedial" rule that EOBRs be required for carriers that have a higher violation rate in their hours for rule noncompliance and driver-log noncompliance.

FMCSA said the cost of purchasing and installing EOBRs would range from \$1,500 to \$2,000 per truck, plus several hundred dollars annually in service fees for each unit. The rule would require that carriers still retain hours-of-service records for six months.

The proposal said the annualized cost for a motor carrier that does not currently use a fleet management system or other "EOBR-ready" system ranges from \$525 to \$785 per power unit. For a motor carrier that uses an "EOBR-ready" system, the annualized cost is \$92 per power unit, the agency said.

"Considering that the estimated annual revenue per power unit (on an industry-wide basis) is approximately \$172,000, the annual cost of an EOBR is between 0.3 percent and 0.5 percent of operating revenue," the

But the agency also estimated that motor carriers would save an estimated \$688 per driver annually in recordkeeping costs.

While the proposal would relieve interstate motor carriers from keeping hours-of-service supporting documents such as delivery and toll receipts, it would still require that supporting documents contain such required elements as personal identification, date, time, and location, either in an individual document or in specified combination

The supporting documents provision in the EOBR proposal was required by the U.S. District Court in Washington, D.C., in connection with a lawsuit filed last year by American Trucking Associations.

David Osiecki, ATA's senior vice president for policy and regulatory affairs, said he was not surprised by the scope of the proposal, but that the supporting documents provision "appears to represent an improvement over the agency's existing guidance."

"Over the coming days, ATA will be carefully evaluating the proposal, especially with respect to the agency's explanations for expanding its scope, and the accompanying analyses," Osiecki said.

Meanwhile, the Owner-Operator Independent Drivers Association harshly criticized the proposal. "EOBRs are nothing more than over-priced record keepers," said Todd Spencer, its executive vice president.

"This proposal is actually another example of the administration's determination to wipe out small businesses by continuing to crank out overly burdensome regulations that simply run up costs," Spencer said.

But several larger carriers, including Schneider National, Maverick USA, J.B. Hunt Transport, Knight Transportation and U.S. Xpress Enterprises, already have installed EOBRs on many of their trucks. The five carriers are pushing EOBR legislation and have banded together to form the Alliance for Driver Safety and

Alliance spokesman Bill Vickery said that despite the FMCSA announcement, the group is still planning to push for EOBR legislation in Congress.



CEO Blog

"Laissez les bons temps rouler!" February 2011

February is Mardi Gras time in New Orleans. All around the French Quarter you can hear the phrase "Laissez les bons temps rouler" ("Let the good times roll").

Well, there are a lot of people in the agricultural sector that contend the socalled good times of the past several years will end soon. Based on the history over the past 30 years or more, their prediction might have merit. But based on recent facts, figures and logic, this may instead be the beginning of a rapid growth phase for agriculture.

Between 1970 and 2000, agricultural commodity prices tended downward, according to Dr. Bruce Scherr, Chairman and CEO of Informa Economics, Memphis, Tenn. During that time, the only aberration in prices came as a result of supply disruptions. If there was bad weather or a crop failure somewhere in the world, prices would spike temporarily and then fall back to the declining trend. Thus, everyone joked about hoping for two good years out of every five to survive until the next "spike."

However, since 2000 (and especially over the last five years) something remarkable has occurred: We're experiencing a "demand expansion." This expansion, driven in part by historically low interest rates and changing global economic structures, is fueling what many believe to be the start of a long-term expansion that will fuel agriculture for decades to come.

Consider the rate of economic growth in China and India. Many experts suggest such growth is sustainable for quite some time. I find it amazing that during the last decade, more than 1.5 billion people around the globe have entered into what many economists refer to as the "middle class." This means there is now a greater demand for food, fiber and protein because people who couldn't afford it before now can

When people move from subsistence to "middle class," they quickly begin to spend more money to improve their diet. Think what this means for a country like China! Then imagine what a simple change like the introduction of in-home refrigeration means in keeping the expansion going. Such growing countries have to expand their electric grid, add grocery stores, etc. Consider this amazing fact: China is growing so fast it is using enough concrete to build another Los Angeles 11/2 times each vear.

Population experts predict the globe will grow from roughly 6 billion to nearly 9 billion people by 2050, which explains why economists like J.B. Penn, chief economist at Deere, suggest we need to double agricultural output by 2050 to 14 billion tons. Imagine it: Double production in 40 years!

The question we need to ask is how. How do we double agricultural output in 40 years? Sure, there will be opportunities to expand production in certain geographic areas like Brazil and Argentina or to boost vields in areas like China and Africa, But most expansion will come from technological improvements such as biotechnology, robotics, intelligent solutions, better packaging and handling, mapping, etc. That means farmers will be using even

"We can't wait around for the bureaucratic process," Vickery told TT. He said a legislative mandate could be in place quicker than an agency regulation, which would not likely go into effect until 2015.

Patrick Quinn, co-chairman and president of U.S. Xpress, said his company has equipped 3,100 trucks with EOBRs, more than a third of the company's 8,000-truck fleet.

"You put your head in the sand if you don't think this is coming," Quinn told TT.

In addition to helping monitor the hours rule. EOBRs help make company trucks more productive. Quinn said.

The electronic data recorders also "level the playing field with those people in our industry that have been less than honest with their hours," Quinn said.

But for some small carriers the extra expense would be unsettling, said Patsy Moore, president of F.L. Moore and Sons Inc., a Concord, Va., truckload carrier that owns 46 power units.

"That would put a really hard burden on us," Moore told TT. Right now the way fuel is, we're doing good just to pay for that each day.

Source: Transport Topics Eric Miller, Staff Reporter

Former Ag secretaries to Congress: We support Korea-U.S. free trade agreement

In an open letter to the U.S. House and Senate, former secretaries of Agriculture have said, "We strongly support the Korea-U.S. Free Trade Agreement (KORUS FTA) and urge you to vote in favor of its implementation. U.S. farmers and ranchers and the businesses that support them will benefit.

The letter continued, "As former secretaries of Agriculture, we fully understand the importance of this and other trade agreements to the economic health of American agriculture. Our farmers and ranchers produce more than domestic consumption, and international trade has been crucial to the prosperity of rural America for several decades. Our food and agricultural exports have grown to all-time records in recent years, made possible through the market access achievements of prior trade agreements. It is difficult to name an agricultural product our farmers sell in the world market that has not benefited from trade agreements."

According to the former secretaries, the KORUS FTA will offer enormous new opportunities for our products in a market that is large and growing.

Currently, only about \$14 million in U.S. agricultural goods enter Korea duty-free. The KORUS FTA would immediately increase that to \$3 billion, and as a result, U.S. exports to Korea will increase rapidly. "Our exports will continue to benefit from staged tariff reductions and duty-free tariff rate quotas. The products that will benefit are too numerous to list, but they include most of our agricultural sector from virtually every state, according to the letter.

"American farmers can compete with anyone in the world on a level playing field," the letter continues, "but they will not be able to compete in Korea in the future without the KORUS FTA. The playing field will favor the many countries that have completed or are negotiating free trade deals of their own with Korea. These include Chile, India, the 10-country ASEAN group, the 27 nations of the European Union, Canada, Australia, New Zealand and China. We have already seen our market share in Korea decline.

According to USDA, the U.S. currently accounts for 30 percent of Korea's agricultural imports, but that is down from almost 45 percent in the mid-1990s. That trend can be reversed and, indeed, can only be reversed, through the KORUS FTA.

"As former cabinet members," the letter continued, "we recognize the larger economic and geopolitical issues at stake for our nation. The United States must not turn its back on the global market. Trade liberalization is taking place worldwide through the hundreds of bilateral and regional agreements recently negotiated or under way. The question is whether our nation will participate in that growth in trade or whether we will continue to sit on the sidelines.

In conclusion, the letter stated, "We applauded the president's call to double U.S. exports in five years. Achieving that goal would create many thousands of U.S. jobs. It is an enormous challenge, but it is doable. However, if we fail to negotiate the removal of continued high – and increasingly discriminatory – trade barriers, it will certainly be impossible. For these reasons, we believe it is imperative that the KORUS FTA be implemented as soon as possible and urge you to vote to approve the enabling legislation.

The former secretaries of Agriculture who signed the letter were Bob Bergland, John Block, Mike Espy, Dan Glickman, Mike Johanns, John Knebel, Ed Schafer, and Clayton Yeutter.

Florida U.S. district court: Health care law's individual mandate, PPACA unconstitutional

The U.S. District Court for the Northern District of Florida handed down a judgment in response to a lawsuit filed by Florida's former Attorney General Bill McCollum against the health care reform law.

The lawsuit was filed on behalf of the State of Florida and 25 other states, two private citizens and the National Federation of Independent Business. In Florida v. Department of Health and Human Services, the district court ruled that the Patient Protection and Affordable Care Act (PPACA) is unconstitutional in its entirety because PPACA's requirement that everyone (with certain exceptions) purchase federally-approved health insurance (the individual mandate) is unconstitutional and cannot be severed from the remaining PPACA provisions. The Federal government has indicated that it will continue to move forward with implementing the law as the ruling is appealed.

Previously, in Virginia v. Sebelius, the U.S. District Court for the Eastern District of Virginia ruled on December 12, 2010 that the individual mandate exceeds the authority granted to Congress under the Commerce Clause of the Constitution. The lawsuit was filed by the Attorney General for Virginia, Ken Cuccinelli, on behalf of the Commonwealth of Virginia. The U.S. District Court for the Eastern District of Virginia ruled that although the individual mandate is unconstitutional the law is severable and therefore the entire law was not deemed to be unconstitutional.

Two other lawsuits, one filed in Michigan by the Thomas More Law Center and four individuals (Thomas More Law Center v. Obama) and the other filed in Virginia by Liberty University and five individuals (Liberty University v. Geithner), were previously dismissed last year when the U.S. District Court for the Eastern District of Michigan and the U.S. District Court for the Western District of Virginia each ruled that Congress acted within the scope of its authority under the Constitution when enacting the individual mandate.

As a result of the differing opinions, it appears likely that the U.S. Supreme Court will be the final decision maker of whether PPACA, or any portion of it, is unconstitutional.

Source: ADP

Wells Fargo to increase agriculture lending in 2011 www.sltrib.com/sltrib/money/51176047-79/agriculture-lending-2011-fargo.html.csp more sophisticated equipment and different types of equipment than is on the market today.

When I read about such predictions, it is nearly impossible for me to believe the good times will end any time soon.

I am not naive enough to believe there won't be challenges along the way. I also know that forces exist, like terrorism, which could sidetrack or derail this economic freight train. Having enough quality fresh water in some areas will also be an issue.

I predict the expansion will not be smooth. .. but rather downright jerky, which will lead to more volatility, which in turn will require greater management capabilities. However, my optimistic side always gets the better of me. In the final analysis, I agree with the experts who see the glass half full. We are at the beginning of a new era in agriculture. Of course, I am aware some sectors aren't experiencing upward trends, dairy being the most notable example; however I believe such trends will be a temporary aberration.

Call me Pollyanna or the eternal optimist, but I, for one, believe we should take a cue from New Orleans and "laissez les bons temps rouler!"... let the good times roll! And that's the way I see it.

Paul Kindinger is president/CEO of the North American Equipment Dealers Association. The association provides educational, legal, legislative, and financial services to approximately 5,500 retail agricultural, construction, large property/ rural lifestyle, and outdoor power equipment dealers in the United States and Canada.



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Construction dealer, contractor optimism rising according to Wells Fargo survey www.monitordaily.com/story_page.asp?News_id=27330&type=AlsoToday

AGCO to increase manufacturing in North America

www.globalatlanta.com/article/24544/

TYM Tractors partners with pro fisherman Jimmy Houston

www.tym-tractors.com/pressrelease.php

Buhler acquires Ezee-On seeding and tillage business for \$14.5 million

ca.finance.yahoo.com/news/Buhler-acquires-Ezee-On-capress-1911698066.html?x=0

Briggs & Stratton recalls model 40 V-Twin engine; used on Husqvarna, Bad Boy riding mowers

www.briggs and stratton.com/engines/support/recalls/detail.aspx?id=%7bDC8AD13E-9489-4A73-A04E-81E4F374D7CC%7d

Used equipment harder to find

deltafarmpress.com/equipment/used-equipment-harder-find



NAEDA, Association & Program Partner News

MAERA member Bane Equipment buys Heartland New Holland

www.pendleton-gazette.com/local/baneequipment.html

Spader Financial Trends show lower margins and lower turnover on used whole goods Each month, NAEDA preferred partner, Spader Business Management, compiles information from across the agricultural industry to help dealers make knowledgeable business decisions. These industry composites are

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To view the Spader Financial Trends, visit www.spader.com and then click the Login link (in the upper right hand corner) to log in to Online Services, where the newest Trends Watch data has been posted under My Reports / My Industry Reports / Industry. Please establish a log-in user name and password if you have not yet signed up for this free service. Once you register, you will receive monthly Spader Trends Watch notifications going forward. Visit http://portal.spader.com/portal to register and for more information.

Spader also publishes more detailed industry financial trends data for participating clients. Contact Spader for more information on the growing variety of industry aggregates available to dealers.

Titan Machinery opens new store in Williston, North Dakota

news.tradingcharts.com/futures/3/1/152638113.html

KPA covers electronic devices in EHS regulatory audits

As part of a facility inspection report, KPA engineers check for functionality and safety of standard electronic devices, which is instrumental in helping dealerships keep work environments clear of shock hazards to

construction, large property/rural lifestyle, and outdoor power equipment dealers in the United States and Canada.

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employees. This is helpful because electrical and wiring methods are number seven on the top ten most frequently cited on the top ten most frequently cited standards in workplace inspection.

Read more on the KPA blog.

Plan now to attend NAEDA Fly-In to D.C., March 30-31

The focus for this year's Fly-In will be on engaging legislators in pushing for dealer-friendly regulatory legislation regarding 1099, Mexican trucking tariffs, depreciation, and credit issues, among other concerns.

Please plan to attend the 2011 NAEDA Legislative Fly-In and make your voice heard in Washington, D.C.

Hotel information (within walking distance to Capitol Hill)
The Washington Court Hotel
525 New Jersey Avenue, N.W.
Washington, DC 20001-1527
202/628-2100

Room rate: \$289 (plus applicable tax)

The tentative Fly-In schedule includes a briefing/meeting the afternoon of March 30 followed by a reception and dinner. Attendees will meet again the morning of March 31 and then adjourn for visits on Capitol Hill.

Questions? Contact NAEDA by calling 636/349-5000 or e-mail naeda@naeda.com. Updated Fly-In information will be posted on www.naeda.com as it becomes available.



Canadian News

Canadian economy generates 69,200 new jobs

www.bloomberg.com/news/2011-02-04/canadian-economy-generates-69-200-new-jobs.html

Harper sets stage for Commons showdown on tax cuts

www.thestar.com/news/canada/article/931180--harper-sets-stage-for-commons-showdown

Canada's business confidence levels at highest point in six years

 $\underline{www.vancouversun.com/business/Canada+business+confidence+levels+highest+point+years/4204881/\underline{story.html}$

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