



## **AFTC - 2009 YEAR IN REVIEW**

The ongoing economic recession made 2009 a very challenging business environment for many trucking companies. Some AFTC members enjoyed a more stable business situation due to the essentiality of agricultural commodities and the resilience of the agricultural economy relative to other sectors but most trucking companies certainly were not immune to the difficult times. These difficult economic conditions had negative repercussions on AFTC by reducing the membership total to around 450 from the previous level of around 500.

The officers serving AFTC for 2009 were: Rick Yost, Chairman, Bill Patterson, First Vice Chairman, John Whittington, Second Vice Chairman, and Tom Lee, Secretary.

In 2009 the AFTC Board of Directors was joined by four new members: Dick Coyle of Devine Intermodal in California, Larry Miller of LW Miller Companies in Utah, and Leanne Scannavino of Cherokee Lines in California.

Board Members At Large were Joe Antonini, Dennis Berryhill, Bob Chituras, Albert Eiden, Ted Fick, Freddie Hill, Brian Hitchcock, Bill Jayne, Stephen Johnson, Bob Kulick, Tom Lee, Mike Miller, Al Nunes, Greg Owen, Dave Regnery, Chuck Segrest, Rob Spear, John Teresi, Bud Wallace, Shorty Whittington, and Ed Rocha.

In 2009 AFTC members were also proud to have their former AFTC Chairman, Shorty Whittington, serving as Chairman of ATA.

Following is a summary of the year's activities and issues addressed:

### **AGRICULTURAL HOURS OF SERVICE EXEMPTION**

AFTC worked hard in 2009 to defend flexible work hours during agricultural seasons.

The agricultural exemption to hours of service (Ag HOS) was made statutory language in the last highway reauthorization bill so it would require an amendment during the highway bill debate to abolish it. This means that the critical time for debate is when the bill moves through Congress. That was expected to occur during 2009 but Congress did not make much progress, instead debating the timeline for completing the bill and approving short term extensions.

Building A Coalition Of Support

AFTC spent a lot of effort educating farm organizations about the importance of the Ag HOS exemption leading up to the transportation reauthorization bill debate so that they can help us defend it. That effort really paid off in the form of a letter of support sent to Congress in May, cosigned by a total of 50 agricultural organizations. That letter showed substantial support and a strong signal to any member of Congress considering an amendment to abolish the exemption that they would face a very tough fight.

### Promoting Safety

In April AFTC rolled out an effort to educate the agricultural industry about the importance of safe trucking operations during busy seasons. AFTC published the “Manager’s Guide to Safe Trucking During Agricultural Planting and Harvest Season.” This guide is designed to help the agricultural industry maintain safe operations under challenging operating conditions.

The guide has been widely promoted in the agricultural industry and is available free for anyone to download and print on AFTC’s website:

<http://www.truckline.com/Federation/Conferences/AFTC>.

AFTC made a substantial effort to spread the message about our safety promotion effort in the agricultural industry. We worked with a coalition of over 30 different agricultural organizations and asked them to promote it in their communications vehicles, such as newsletters to their membership in the case of organizations or back through supplier networks, in the case of private companies.

### Defending the Record on Safety Issues

Following the release of a study by the Commercial Vehicle Safety Alliance (CVSA) alleging safety issues in agricultural trucking operations ATA hired an independent consultant to write a good critique pointing out the fallacies of CVSA’s arguments. This report was provided to the members of Congress on the Transportation and Infrastructure Committee as well as allied agricultural organizations. This critique pointed out many shortcomings and inadequacies of the CVSA study and concluded that “it seems unwise to base a regulatory and economic decision as significant as revocation of the short-haul agricultural HOS exemption solely on [inadequate] statistics . . . “ Further, that “imposing new HOS regulations would likely have little measureable effect on short-haul trucking safety.”

This critique was written by Dr. Ron Knipling who is an independent consultant with 30 years of experience in traffic and motor carrier safety. He is the author of the first and only comprehensive textbook on large truck safety, *Safety for the Long Haul; Large Truck Crash Risk, Causation, & Prevention* and has held senior government, university, and consulting positions including 12 years with the U.S. DOT.

### Regulatory Disqualification Of Farm Supplies For The Ag HOS Exemption

Citing previous internal guidance, FMCSA ruled during an audit of a carrier in Missouri that movements of farm supplies from a port or pipeline terminal to a local farm supplier do not qualify for the Ag HOS exemption. The agency termed these moves as wholesale and disqualified them based on their belief that Congress intended to strictly limit the agricultural HOS exemption to transportation of agricultural commodities from a retail distribution point of the farm supply to a farm or other location where the farm supply product would be used. However, the language of the agency's interpretation appears nowhere in statute or in congressional proceedings.

AFTC worked with two members of Congress from Missouri, Representative Blaine Luetkemeyer and Representative Sam Graves, to request that the agency correct this error. AFTC met with the agency shortly before the Christmas holidays and argued that congressional intent in creating the agricultural exemption to hours of service was to cover critical moves of agricultural commodities and farm supplies that are essential to the timely planting and harvesting of crops. AFTC also explained to the agency that the real world transportation of farm supplies during planting season is designed as a tight supply chain which does not involve a separation between wholesale and retail moves. As the year came to a close an answer from the agency to the AFTC request for clarification on this issue remains pending so follow up will be required.

### **LIVESTOCK TRANSPORTATION:**

During 2009 AFTC continued to monitor the activity of animal rights activists which could lead to additional public scrutiny as well as regulation and/or legislation affecting livestock transportation. Fortunately, no additional regulation or legislation moved forward.

One significant development in 2009 was a move by an animal welfare organization to promote a new trailer design for livestock hauling. The organization, American Humane Certified, describes themselves as the nation's leading animal-welfare monitoring and humane-labeling program for food products. A panel of experts was convened to discuss this issue and develop improved welfare standards for design of livestock trailers. The panel had one meeting which was attended by AFTC Chairman Rick Yost of livestock hauler VY Truckline.

The new trailer design being promoted was imported from Spain by a company called Advanced Livestock Transport (ALT). It incorporates many creature comforts which would add additional costs and have not been proven to be necessary. Livestock transporters have indicated that these additional costs could be very difficult to bear in today's economic environment. Meat industry representatives seemed reluctant to move forward with promotion of this new trailer design since they could be looked at to share in the cost. No further action has occurred on it to date.

### **FOOD SAFETY:**

Food safety reform has been a topic of much discussion in Washington, D.C. this past year after several incidents of food contamination. While most of the focus is on the production and processing of food, since these are areas of greater vulnerability to contamination, transportation is also part of the discussions as the effort is attempting to cover all aspects of food handling and potential sources of contamination.

Outbreaks of foodborne illness have occurred over the last few years with a variety of products; spinach, onions, peppers, and most recently peanuts and pistachios. Most seem to agree that past incidents have not highlighted the need for legislative action to provide additional legal authority but the latest incident with peanuts demonstrated a real need for some changes as it highlighted some obvious and avoidable breakdowns in the regulatory system.

The U.S. House of Representatives passed a bill at the end of July, H.R. 2749, the Food Safety Enhancement Act of 2009, to reform the nation's food safety regulatory system. Prior to the bill's passage hearings were held in the House Committees on Energy and Commerce, Agriculture, and the Appropriations Subcommittee on Agriculture. Some major agricultural and food production organizations endorsed bills and are generally supportive of action after food recalls have cost their industries and hurt their public image. A similar bill, the FDA Food Safety Modernization Act, S 510, was passed in the U.S. Senate, Health Education, Labor and Pensions Committee in November but has not yet received final approval by the full Senate. There has been no clear indication of how soon the Senate may act. However, considering the pace of the work in the House and the level of support among interest groups, it seems that there is a high likelihood of a bill actually being finished and signed into law sometime relatively soon.

Many provisions in the bills direct general outcomes but leave implementation to specific regulations issued by the U.S. Food and Drug Administration (FDA). It appears now that most of the requirements for food transportation contained in the various bills do not go beyond what reputable carriers are already doing as a normal part of business to meet requirements of their shippers. AFTC stayed engaged in this debate to protect the interests of the transportation industry and will continue to monitor the issue as this legislation is finalized.

One aspect of the bill advancing in the House as well as the Senate version is the inclusion of a **requirement for all entities handling food to develop a food safety risk assessment and implement a plan to prevent contamination.** The FDA will issue exact requirements for submitting the plan later. The bill allows for an explicit exemption from the food safety plan requirements for facilities that are solely engaged in the storage of packaged foods that are not exposed to the environment or raw agricultural commodities for further processing.

As this process moves forward AFTC will work to help our members better understand how to put together a good plan that, most importantly, addresses the issues to prevent contamination, but also satisfies the FDA requirements. It won't be known exactly how

to satisfy FDA requirements until the bill is actually passed and regulations are proposed. Most AFTC members report that they are already doing a lot to satisfy their shippers and they understand how to transport food in a professional manner without Congress or FDA telling them. This is evidenced by the good record of transportation not causing food contamination problems, other than very rare cases over the years. Therefore, presenting a plan to satisfy the FDA should not be difficult. AFTC will be diligent in working with FDA to ensure that this requirement is practical and not overly burdensome. However, any outbreak of a foodborne illness could have negative repercussions on the whole industry, so some knowledge-sharing among members regarding industry best practices could be helpful.

The bill will require a pilot project to test and evaluate new methods for rapidly and effectively tracking/tracing fruits and vegetables in the event of a food-borne illness outbreak. Again, the provision in the bill is very general so the actual implementation of it will be left up to FDA. This could have some effect on transportation since it is a critical link in the supply chain. A few meetings were held by the FDA in 2008 to discuss this issue. AFTC participated in these meetings to provide the perspective of the industry and will remain engaged as this process moves forward.

### **CARGO SECUREMENT:**

Most of the work on this issue occurred near the end of 2007 and into 2008. Testing was done which proved that methods being used for securing loads of fruits and vegetables and hay are safe and effective. FMCSA is preparing to issue a new regulation which would allow of the use to these securement methods on a long term basis but that seems to be on a slow track. During 2009 AFTC met with FMCSA to monitor their progress on making decisions regarding what future requirements would be put into place and assisted the efforts of the California Trucking Association (CTA) to maintain temporary industry exemptions from general cargo securement procedures. This allowed for the unique methods which are used by industry and have proven safe through testing to continue to be used. AFTC also kept in constant communication with CTA to assist in efforts to conduct research regarding typical loading levels of tomato tubs in anticipation of FMCSA action on the issue.

### **OBJECTIVES FOR 2010:**

- Highway Reauthorization bill – Protect the agricultural exemption to hours of service as well as build support among industry allies for other AFTC and ATA priorities.
- Ag HOS Exemption for Farm Supplies – Bring a solid resolution to the issue by achieving a clear statement from FMCSA ensuring that all of critical transportation segments of farm supplies from the source to the end consumer qualify for the exemption.

- Food Safety Issues – Protect the interests of the industry in debates over FDA regulations and legislation addressing food safety issues for the transportation of food.