

TRANSTRENDS

THE TRANSLAW GROUP, INC.

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ELEVEN INDICTED FOR HAZMAT EXPLOSION IN CALIFORNIA



Nine individuals and two companies in California were indicted on Wednesday, Aug. 19, for numerous charges ranging from conspiracy to dispose of hazardous waste to causing great bodily injury or death by emitting an air contaminant, according to U.S. Department of Transportation's Office of Inspector General.

Green Compass Environmental Solutions LLC (Green Compass), Santa Clara Waster Water Company (SCWWC) and nine SCWWC officials and employees were investigated after an explosion of a vacuum cargo tank trailer containing hazardous waste last November. More than 1,000 gallons of chemicals spilled, caused a fire and resulted in several explosions.

Investigators found that SCWWC stored more hazardous materials than it was permitted. SCWWC officials tried to hide the excess material by relocating it to an off-site, unsecured truck just before an inspection. Hazardous materials were also disposed of through a wastewater pipeline to the city's sewage plant and by trailers to a landfill.

The nine SCWWC executives and managers who were indicted were Douglas Edwards, chairman of the board; William Mitzel, chief executive officer; Charles Mundy, vice president-environmental health safety and facility operations; Dean Poe, vice president-oil and gas sales; Brock Gustin William Baker, operations manager; Marlene Faltelier, human resources manager; David Wirsing, transportation manager; Mark Avila, supervisor, and Kenneth Griffin, shift supervisor.

Charges filed under the indictment include:

- Conspiracy to dispose of hazardous waste;
- Impeding enforcement;
- Failure to warn of a serious concealed danger;
- Disposal of hazardous waste;
- Handling a hazardous waste with a reckless disregard;
- Withholding information regarding a substantial danger to public safety;
- Filing a false or forged instrument;
- Causing great bodily injury or death by emitting an air contaminant; and
- Dissuading a witness from reporting a crime.

The FEDS will go after individuals as well as corporations for violations. It makes breaking the law a bit more personal.

CALIFORNIA BILL WOULD TRIPLE DIESEL SALES TAX



A California bill to increase the state's diesel sales tax by 300 percent has drawn the ire of truckers.

Assemblymen David Chiu, D-San Francisco, and Richard Bloom, D-Santa Monica, and Sen. Ben Allen, D-Santa Monica, are behind an effort to triple the diesel sales tax from 1.75 percent to 5.25 percent. The estimated \$288 million each year in new revenue would be

used to help maintain transit systems throughout the state.

The reason behind the proposed increase is the same old story, more money for freeways, roads and bridges. If the legislature is successful, you can expect other states to follow suit with increased fuel taxes. The sales tax on fuel sales is way down due to the fact that the price of diesel has dropped.

CAUTIONARY TALE FOR FIKES TECHNOLOGY MAY HAVE DONE THEM IN



A recent article in LANDLINE magazine presents the possible reasons that Fikes Truck Line of Hope, AR ceased operations.

Gary Salisbury, chairman and chief executive officer at Fikes, says a skeleton crew of around six employees remains behind sorting out who is still owed money.

Salisbury indicated that it might be as long as a year before they sort out their finances and pay those still owed

money. It was not clear why the company did not have a better handle on who they owed money and who owed them money.

The death knell came in late 2014 and early 2015 when Salisbury said an Arkansas bank cut off the company's line of credit without warning a day after hundreds of payroll checks had been mailed. It does not seem realistic that Fikes had little warning of the bank's position.

After experiencing tremendous profits in 2007, Salisbury described what happened next as "the perfect storm." Salisbury blames the company's downward spiral, starting in 2008, on bad financial moves; the housing bubble that burst; and attempts to get in front of impending federal safety regulations by transitioning the flatbed fleet of owner-operators to electronic logs and satellite tracking systems as key reasons the company failed.

Then around 2010, Salisbury said the Fikes safety team turned its sights on its CSA score, and pushed satellite tracking systems and electronic logs – a move that proved detrimental to the 74-year-old truck line.

Along with the recession, and the announcement that Fikes was going to start using satellites in their trucks and transitioning over to e-logs, Fikes lost 40 percent of its fleet in a blink of an eye," he said. Salisbury said that he was not prepared for the loss of 25- and 30-year owner-operators who made it clear they weren't going to run e-logs. We went from having about 550 owner-operators to about 300 trucks and we never really recovered from that."

Salisbury made arrangement with Blair Logistics to take over the owner operators and to assume the Fikes traffic. The transition was not smooth. Many owner operator decided to go elsewhere. Some of the other signs of trouble at Fikes were the factoring of freight bills. However, Salisbury felt that the transitioning to satellites and e-logs and other technology that may or may not be mandated in the months to come was an important factor.

Salisbury had been building the truck line since he was 21 years old and now will have to start all over.

THE LESSON: Technology may not be the answer. Certainly, some technological advances are important and worthy of implementation but be careful. Make sure the technology you purchase will be compliant with the rules and regulations that will eventually be issued. Best to wait and see what the FEDS are going to demand if anything and make a decision at that point.

“It’s been a tough situation to watch this all happen,” Salisbury said. “I have worked hard building this truck line since I was 21 years old.”

ILLINOIS LAW SETS NEW RULES ON TRUCK TOWS



There is no question that the vehicle to the left will be towed from the scene, however, it is not uncommon for tow truck operators to take advantage of the public and “sneak” a tow without authorization.

The above statement certainly does not pertain to any client of the Translaw Group. However, Illinois Gov. Bruce Rauner signed into law a bill to prohibit towers from removing a commercial vehicle under the vehicle’s own power without authorization

from law enforcement. It takes effect Jan. 1, 2016.

SB1441 forbids “towing” a truck by operating the vehicle under its own power as opposed to physically hauling the vehicle away unless police authorize moving the vehicle.

Sen. John Sullivan, D-Rushville, has called for the protection to address use of a master key to start up and move vehicles without authorization from the truck driver, or company. Tow operators that are present at the scene of a vehicle incident or disablement that were not requested by law enforcement, or the owner or operator of the vehicle would be told to leave the scene.

Towers found to be soliciting business at wreck or disablement scenes would face fines between \$500 and \$1,000. Offenders would also face three months suspension. In addition, truck drivers arriving on the scene while a tow is in progress must be able to get the truck and/or trailer disconnected as long as they pay up to one-half of the posted rates of the towing service for each vehicle.

This type of legislative action should protect motor carriers to some degree when it comes to unscrupulous towing companies.

FEDS TO CHARGE FOR DOT NUMBERS OCTOBER 23, 2015

DOT Numbers will now cost \$300 commencing with October 23 that is part of a new website effort by the US DOT FMCSA to keep better track of carriers and to prevent carriers from forming duplicate or chameleon carriers to avoid regulatory overview.

The change in how an applicant is vetted should not deter any reputable carrier from forming a new carrier entity. There was always a disclosure statement that had to be completed at application time, however, under the new Unified Registration System additional data must be presented that will enable the FEDS to do a better job of keeping track of all carrier entities. In fact, the new system will require private carriers and other previously exempt carriers to register with DOT with biennial updates just like currently regulated carriers.

The following item was presented in the August Newsletter, however, it is being issued again due to the importance of the new changes. Please feel free to call the office if you have any specific concerns.

RENEWAL TIME

TIME FOR CHANGES!



Beginning with September we will be entering the renewal period for IFTA, UCR and NYHUT. When you receive your notice simply email it to jburns@transregs.com and we will process accordingly.

There are some rather big changes happening with the MCS-150 and Federal Motor Carrier Safety Administration filings, which will fall under the new program that will commence with October 23, 2015.

What is the URS?: The Unified Registration System (URS) is a new electronic on-line registration system that will streamline and simplify the Federal Motor Carrier Safety Administration's (FMCSA) registration process and serve as a clearinghouse and depository of information on all entities regulated by the Agency, including motor carriers, brokers, freight forwarders, intermodal equipment providers (IEPs), hazardous materials safety permit (HMSP) applicants/holders, and cargo tank manufacturing and repair facilities. The URS will combine multiple registration processes, information technology systems and forms into a single, electronic online registration process.

UCR: The Unified Carrier Registration (UCR) is a separate and distinct program. Please do not confuse the two regulatory items.

Who is required to comply with the URS rule?: This rule applies to all interstate motor carriers (private and for-hire motor carriers of passengers and freight), freight forwarders, brokers, IEPs, HMSP applicants/holders, and cargo tank manufacturing and repair facilities under FMCSA jurisdiction.

Effective Dates: There are two effective dates for this rule:

- On November 1, 2013, (1) the new enforcement provisions for failing to file biennial updates according to the schedule in 49 CFR 390.19(b)(2), and (2) a prohibition on operating with an inactive USDOT Number will take effect.
- On October 23, 2015, the Agency will require all entities registering or providing information to the Agency to do so through the URS electronic online registration process.

November 1, 2013: FMCSA set November 1, 2013 as the compliance date for the biennial update requirements because motor carriers are already required to update their registration information biennially under 49 CFR 390.19 and the information is very valuable to the Agency in carrying out its safety mission.

URS: The October 23, 2015 effective date to comply with the remaining URS requirements is to provide sufficient time for the Agency to launch the new URS website. Time will tell if the website is up and ready to go. There has been no indication from the FEDS that this part of the program is even ready for public view.

Benefits of the new URS rule: The new rule will streamline manual processes and combine several forms regulated entities are required to submit into one unified online registration process, thereby saving time and money for the industry and FMCSA. The Agency estimates that industry will see total savings of almost \$9 million from time and fees over a ten year period.

This rule will also improve the ability for FMCSA to locate small and medium-sized private and exempt for-hire motor carriers for enforcement action, because investigators will be able to work with designated process agents to locate and/or serve documents on hard-to-find motor carriers.

The bottom line is that the FEDS will have more control over regulated entities and this process will also help to eliminate reincarnated carriers or chameleon carriers as they are often called.

What it will mean to the average carrier, simply more paperwork!

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