



# ROCK TALK

KENTUCKY CRUSHED STONE ASSOCIATION NEWSLETTER

- May 2010 -

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## **KCSA Summer Meeting Set for July 15 – 18<sup>th</sup>**

After major flooding in Nashville, Tennessee closed our original Summer Meeting location (Opryland Resort), KCSA has secured an alternative location (and date) for the Summer Meeting. The meeting will now be held at the **Nashville Airport Marriott, June 15 – 18, 2010.**

We have also learned that the problem of no double/double rooms being available has been resolved. If you need a double/double room, just make that clear when making your room reservations with the hotel.

Thursday night's welcome reception includes time to renew acquaintances and activities for the children. The golf tournament will be Friday morning at the beautiful Hermitage Golf Course. The first business session on Friday afternoon will feature a special presentation by Jerry Geraghty, President and CEO of Rogers Group, representing NSSGA. Lauri Chaudoin, Nashville attorney and Mike Davis, MSHA's Southeast District Manager will also speak. Friday night features a dinner cruise aboard the Music City Queen. The Saturday morning session will include our safety awards presentations and Saturday evening includes a reception, followed by dinner on your own.

We have reserved a block of rooms at the Nashville Airport Marriott for our meeting **at a rate of \$129 per night. YOU ARE RESPONSIBLE FOR MAKING YOUR OWN ROOM RESERVATIONS!** We urge you to make your reservations as soon as possible by contacting the Nashville Airport Marriott at 800-770-0555 and asking for the Kentucky Crushed Stone Association room rate. The deadline for reserving a room is **June 23, 2010.** It is always easier to cancel a room than not to have one. **Rooms for this meeting will be at a premium. MAKE YOUR ROOM RESERVATION TODAY.**

Please make your plans now to join us at the convention. Any questions or suggestions just call Ron or Gaye at 888-234-5272. We look forward to seeing you at the Nashville Airport Marriott.

[Click Here to Download Registration Form.](#)

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## **Meeting with Joe Main - June 24th**

The meeting with Joe Main, Assistant Secretary of Labor for MSHA, (originally scheduled for April 22<sup>nd</sup>) has been rescheduled for Thursday, June 24<sup>th</sup>. The meeting will be held at the Holiday Inn Cincinnati Airport.

Seven states are invited to attend the meeting (Kentucky, Indiana, Ohio, Tennessee, Illinois, Iowa and Missouri). Incidence Rates in Kentucky, Separation of Metal/Non-Metal from Coal, and Consistency of Enforcement are topics that will be covered at the meeting. If you have issues you would like to have addressed at the meeting, please email those issues to Ron Gray at [ron@kycsa.org](mailto:ron@kycsa.org).

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## **AGC/SIF Safety Seminar**

A **Loss Control Seminar** is being sponsored by J.V. Resources on Tuesday, June 22, 2010 from 1:00 p.m. to 3:00 p.m. The seminar will be held at the Holiday Inn Riverfront located at 600 West Third Street, Covington, KY 41011.

The topics for the seminar will be: TRENCH SAFETY, LADDER SAFETY, AND FALL PROTECTION, as well as other safety areas of interest. If you are interested in attending the safety seminar, contact J.V. Resources, Inc. at 502-245-8485.

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## **MSHA TRAINING SEMINAR JULY 8, 2010 MARRIOTT'S GRIFFIN GATE RESORT**

*PRESENTED BY: ADELE L. ABRAMS, ESQ., CMSP*

Adele L. Abrams is an attorney, Certified Mine Safety Professional, and trained mediator who is president of the Law Office of Adele L. Abrams P.C. in Beltsville, MD, a seven-attorney firm focusing on employment and occupational/mine safety and health law. Ms. Abrams represents companies in OSHA/MSHA litigation, and also provides safety training, auditing and consultation services.

Ms. Abrams is a regular columnist for numerous magazines on legal, employment, mine and occupational safety/health issues, and is co-author of several books related to mining, construction and occupational safety and health.

Ms. Abrams is a member of the Maryland, PA and DC Bars, the U.S. District Courts of Maryland and DC, the U.S. Court of Appeals, DC Circuit, and the United States Supreme Court. She is a graduate of the George Washington University's National Law Center, and earned her B.S. from the University of Maryland, College Park. She is also on the adjunct faculty of the Catholic University of America.

SESSION 1  
FOR FOREMEN AND SUPERVISORS  
7:30 AM – 11:30 AM

SESSION 2  
FOR MINE MANAGERS AND SAFETY DIRECTORS  
1:00 PM – 4:00 PM

BOTH SESSIONS WILL INCLUDE:

WHAT TO SAY!

WHAT NOT TO SAY!

INSPECTION DOCUMENTATION

HOW DOES MSHA DETERMINE "NEGLIGENCE"

PERSONAL LIABILITY

RECORD KEEPING

SUBCONTRACTORS AND MORE!!

A REGISTRATION FEE OF \$75 WILL BE BILLED TO YOUR COMPANY:

Please register by downloading this REGISTRATION FORM and faxing to 502-223-2370.

If you have any questions, please contact Gaye Horton at [Gaye@kycsa.org](mailto:Gaye@kycsa.org).

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## **LaHood Proposes Tolls to Pay for Transportation Bill**

*Source: Andrea Bernstein, Transportation Nation, May 19, 2010*

Speaking at a community meeting in New York City's Chinatown, U.S. Transportation Secretary Ray LaHood said that tolls ought to be considered as an option to pay for the federal transportation bill. That bill has been stalled in a congress laden with (other) legislative priorities and a total non-desire to pursue any of the unpleasant options for paying for the \$600 billion bill (gas taxes, vehicle miles traveled taxes, oil taxes, stock taxes, etc.)

In a discussion about what locals would like to see in the bill, LaHood became animated as he said, "these are all good ideas." And then he added, "The only problem we have in Washington, believe it or not, is finding the \$600 billion to pay for it." Pressed on sources of funding *OTHER* than a gas tax, LaHood said, "Another way is – don't run me out, okay? Tolling. Some places in the country are talking about using tolls. You can raise a lot of money by tolling." The crowd, (a New York City Crowd) applauded.

"Oh good! You like that idea," LaHood said.

In early 2009, LaHood told the Associated Press that one funding mechanism could be taxing people based on the number of miles they drive.

“We should look at the vehicular miles program where people are actually clocked on the number of miles that they traveled,” the former Illinois lawmaker told the Associated Press in February 2009. The idea was immediately walked back by White House Spokesman Robert Gibbs. “It is not and will not be the policy of the Obama Administration,” Gibbs told reporters.

Will this?

Update: LaHood’s spokeswoman, Jull Zuckman clarifies in an email: “He’s not for tolling for existing roads already paid for by tax dollars. He’s open to tolling to add capacity, like a new lane, or a new road.”

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## **Key Health Care Reform Issues for Employers**

The federal health care reform law will have a substantial impact on employers. Here are the main issues that employers will want to be aware of:

### **1. Keeping the same coverage**

Employers will be able to avoid some of the law’s requirements by keeping their coverage the same after the law’s effective date (March 23, 2010). Unfortunately, it is very unclear at this time what kinds of minor changes will alter coverage, or keep it the same; this will be clarified in later regulation. Changes that must be made to all plans include:

- waiting periods for coverage must be less than 90 days;
- no lifetime benefit maximum limits;
- dependent coverage for adult children up to age 26; and
- no annual limits on certain types of benefits (unless permitted by later-issued regulation).

### **2. New benefit and other plan changes**

If an employer does not keep its coverage the same, employers will need to make additional changes such as:

- extending 100 percent coverage for preventive care;
- removing any prior authorization requirement or increased cost-sharing for emergency services (regardless of whether the services are provided in or out of network);
- no pre-existing limitation for children under age 19; and
- coverage of routine patient costs in clinical trials for life-threatening diseases.

### **3. FSA/HRA/HAS changes**

The law also will require changes to these types of accounts. In 2011, employees will no longer be able to receive pre-tax reimbursements from their FSA, HRA or HAS for non-prescribed over-the-counter medications, and the excise tax for nonqualified HAS withdrawals will increase from 10 percent to 20 percent. In 2013, employee contributions to FSAs will be capped at \$2,500 annually, with the cap adjusted annually to the Consumer Price Index.

### **4. Employee notification of value of coverage and exchange information**

Effective in 2011, employers will need to start reporting the value of the employer-sponsored coverage to employees on their W-2s. And in March 2013, employers will need to begin notifying employees about state exchanges and the availability of premium subsidies and free choice vouchers, all of which will be available beginning in 2014.

## 5. Fees and penalties imposed on employer plans

Under the law, employers will be subject to a number of fees and exposed to penalties for certain behaviors. Among them are the following:

- Effective in 2013, a fee will be assessed on employers with self-funded health plans to fund a comparative effectiveness research agency. (For employers with fully insured health plans, the health insurer will be assessed the fee.) In 2013, this fee will be \$1 times the average number of lives covered under the plan; for 2014 to 2019, the fee will be \$2 times the average number of covered lives. The fee will end on September 30, 2019.
- Effective in 2014, if an employer has 50 or more full-time employees, then the employer may be subject to penalties under the law if it provides either *no* health coverage to full-time employees, or provides coverage to full-time employees that is *not affordable*. Penalties vary from \$2,000 to \$3,000 per employee.
- Effective in 2018, a 40 percent excise tax on high-cost plans will be applied to plans costing more than \$10,200 for individual coverage, or \$27,500 for family coverage.

## 6. Employer administrative reporting duties

The law will require employers to annually report to the IRS a number of pieces of data, including:

- Whether the employer offers minimum essential coverage to full-time employees;
- Any waiting period for health coverage;
- The monthly premium for the lowest cost option in each enrollment category under the plan;
- The employer's share of the total allowed cost of benefits provided under the plan;
- The number of full-time employees during each month;
- The name, address and taxpayer identification number (or Social Security number) of each full-time employee, and the months each employee was covered under the employer's plan and
- "Such other information as the [Health and Human Services (HHS)] Secretary may require." This requirement will likely be further refined in later regulations.

## 7. Changes to employee wellness programs

- Effective in 2010, wellness programs may not require disclosure or collection of any information relating to the presence of firearms, and may not base premiums, discounts, rebates or rewards on the basis of firearm or ammunition ownership.
- Effective in 2014, the law codifies the HIPAA nondiscrimination rules on wellness programs and increases the incentive cap of 20 percent of premium to 30 percent. The HHS Secretary has the discretion to increase the incentives cap to 50 percent.

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# Transportation Groups Insist on Greater Share of Revenue in Climate Bill

*Source: Congressional Quarterly*

A coalition of transportation groups said Wednesday that it will work to defeat a Senate climate change bill unless it is changed to steer more of the new revenue to road and transit infrastructure.

“Frankly, they need our support to get this done,” Pete Ruane, president and chief executive officer of the American Road and Transportation Builders Association, said in a reference to sponsors of the legislation. “And in fact we’re committed to ensuring that this doesn’t happen the way they’ve proposed it.”

The coalition – which includes trade groups for state transportation departments, road builders, contractors, engineers, transit and other interests – wants the Highway Trust Fund to get all of the estimated \$19.5 billion in revenue that would be raised from selling pollution credits to refined-petroleum producers and fuel sellers.

The current draft legislation would dedicate a little more than \$6 billion for transportation purposes – with only \$2.5 billion of that flowing to the Highway Trust Fund, the coalition said in a May 19 letter to the bill’s main authors, Democrat John Kerry of Massachusetts and Independent Joseph Lieberman of Connecticut. The group said the spending on transportation infrastructure falls “far below the amount the bill raises from system users.”

In addition to the money for the trust fund, the bill would allocate \$1.9 billion for the Transportation Department to dole out as competitive discretionary grants, to be modeled after the popular TIGER grant program created by the 2009 stimulus law (PL 111-5), and another \$1.9 billion to states and localities for transportation programs that reduce greenhouse gas emissions.

According to the groups, the Senate bill would apply 77 percent of revenue derived from motor fuels to non-transportation initiatives in the first year. This could eventually rise to 91 percent of motor fuel revenues diverted from transportation uses, the group said.

Opponents of the current bill, including some Republicans in Congress, say companies will pass the price of the allowances on to consumers in the form of increased gas prices at the pump. They argue that this will make it virtually impossible to increase gas taxes to fund all the country’s transportation needs.

Efforts to move a new highway bill in Congress are largely stalled because there is no agreement on how to raise new revenue for transportation programs. John Horsley, executive director of the American Association of State Highway and Transportation Officials, said because of this, it will make enacting a new highway bill “virtually impossible.”

Ruane didn’t go that far, saying only that it will be much tougher to get a highway bill enacted, but that “it’s our job to make it happen.”

“This is the shadowboxing phase of this fight,” Ruane said. “The first punch hasn’t even been thrown.

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## **Transportation Groups Urge Changes to Bill**

*Source: The National Journal*

Major transportation industry groups have “grave concerns” about a draft Senate climate and energy plan because it imposes new fees on the industry and diverts too much of that revenue elsewhere.

“This significantly undermines the user-fee principle for financing federal transportation improvements that has served our nation and our economy well for more than 50 years,” wrote the coalition of 28 groups to Senators John Kerry, D-Massachusetts, and Joe Lieberman, I-Connecticut. “Our organizations have grave concerns that this proposal would dilute the integrity of the Federal Highway Trust Fund and significantly

harm efforts to rehabilitate and improve our nation's transportation infrastructure under a new surface transportation bill.”

The groups – including the American Association of State Highway and Transportation Officials, American Highway Users Alliance, American Public Transportation Association, American Public Works Association and the Associated General Contractors of American – say the Kerry-Lieberman draft also would “greatly impair the ability of states, counties, cities and transit systems to reduce our dependence on foreign oil and reduce transportation-related emissions.”

According to a preliminary industry analysis, fees in 2013 from on-road fuel consumption would generate at least \$19.5 billion. But the bill diverts 77 percent of those funds away from transportation infrastructure investment, the groups say, rising to 91 percent of fuel revenue as the price of carbon increases. Of particular concern to the industry is that new federal highway and transit investment would be topped out at \$2.5 billion annually, “far below the amount the bill raises from system users,” the groups wrote.

Kerry spokeswoman Whitney Smith said the bill invests more than \$6 billion annual in transportation infrastructure, “which is more than any other comprehensive energy and climate bill and more than twice what's claimed in this letter.”

The draft bill, she said, would likely reduce oil imports up to 40 percent while giving two-thirds of revenues back to consumers, ramping up to all revenues by 2035 outside of those needed for deficit reduction. Some of the \$6 billion for infrastructure is specifically for the highway trust fund, while about \$4 billion of it goes to state and local projects that reduce oil consumption and greenhouse gas emissions. Some of that \$4 billion is also intended for Transportation Department TIGER grants, which go to projects deemed to have a significant economic and environmental benefit.

The draft has received accolades from Transportation for America, a broad coalition of public transit, consumer and environmental advocates.

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## Kentucky Child Labor Law Update

*Source: FundScripts, Kentucky AGC/SIF*

It's that time of year again...school is out!!! Over the next couple of months, high school students around the state will be available to join Kentucky's workforce. Some will no doubt choose the construction industry, thereby affording many Kentucky AGC/SIF members the opportunity to temporarily employ some labor-oriented help at a more economical price.

Hiring these high school employees will impose additional restrictions on employers. Kentucky's Child Labor Laws are applicable to all minors under the age of 18. There are both prohibited occupations and a limitation of hours worked that exist to protect both the safety and well being of these individuals.

***Construction related work, regardless of type of operation, is strictly prohibited for minors 14, but not yet 16 years of age.***

Violations of the child labor laws are subject to monetary fines. To help you avoid an unnecessary fine, please see information below. The Fund obtained the following information directly from the Kentucky Labor Cabinet.

The following is a list of **prohibited occupations** for all minors **under the age of 18:**

- Jobs in or around plants that make or store explosives or articles containing explosive components
- Motor vehicle driver and outside helper
- Coal mining operations
- Logging or saw milling operations
- Operation of power-driven woodworking machines
- Exposure of radioactive substances
- Operation of power-driven hoisting apparatus
- Operation of power-driven metal-forming, metal-punching & metal shearing machines
- Mining (other than coal)
- Slaughtering, meat packing or processing
- Operation of bakery machines
- Operation of paper product machines
- Manufacture of brick, tile and similar products
- Operation of circular saws, bank saws and guillotine shears
- Wrecking, demolition and shipwrecking operations
- Roofing
- Excavating operations
- Liquor operations
- Pool or billiard rooms

Minors that are **14 years of age**, but not yet 18, have **restrictions** regarding the hours they are permitted to work. These restrictions are as follows for the respective age group:

#### Ages 14 and 15

- May not work *before* 7:00 a.m.
- May not work *after* 7:00 p.m. (9:00 p.m. June 1 through Labor Day)
- Maximum hours when *school is in session*:
  - 3 hours per day on a school day
  - 8 hours per day on a non-school day
  - 18 hours per week
- Maximum hours when *school is not in session*:
  - 8 hours per day
  - 40 hours per week

#### Ages 16 and 17

- May not work *before* 6:00 a.m.
- May not work *after* 10:30 p.m. preceding a school day or 1:00 a.m. preceding a non-school day
- Maximum hours when *school is in session*:
  - 6 hours per day on a school day
  - 8 hours per day on a non-school day
  - 30 hours per week\*
- Maximum hours when *school is not in session*:
  - No restrictions

\*A minor that is 16 or 17 years of age may work up to 40 hours per week when school is in session if a parent or legal guardian gives permission in writing, and the principal or head of the school the minor attends certifies in writing that the minor has maintained at least a 2.0 grade point average in the most recent grading period. The school certification will remain valid for one (1) year unless revoked sooner by the school authority. Both the parental permission and the school certification shall remain at the employer's place of business.

Additionally, you should know that minors under eighteen (18) years of age shall **not** be permitted to work more than five (5) hours continuously without an interval of at least thirty (30) minutes for a lunch period. It should also be noted that proof of age is required for all minors fourteen (14), but not yet eighteen (18) years of age. This may include a driver's license, birth certificate or government document with date of birth.

Employers are also required to maintain the following information in their records for any minor that is employed: name, age, address, the time of the beginning and ending of each work shift and each meal period. A child labor poster, including prohibited duties is required to be posted by employers.

For additional information, you can contact the Kentucky Department of Labor at the following location:

Kentucky Department of Labor  
Division of Employment Standards, Apprenticeship and Mediation  
1047 US Highway 127 S, Suite 4  
Frankfort, KY 40601-4381  
Phone (502) 564-3070 Fax (502) 564-2248  
[www.labor.ky.gov](http://www.labor.ky.gov)

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## Meeting Information

2010 KCSA Summer Meeting

July 15-18, 2010

Nashville, TN

Nashville Airport Marriott

- If you would like for an employee to receive this newsletter, please forward the email address to [info@kycsa.org](mailto:info@kycsa.org).
- Let us know if your company has news to be included in the KCSA newsletter, [info@kycsa.org](mailto:info@kycsa.org).

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