



DOT Update: FHWA, FMCSA, RSPA, TSA

International Telecommunications
Safety Conference

09/14/05

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DOT Update

- FHWA



- PHMSA



- FMCSA



- TSA



Federal Highway Administration

Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU)

- ✓ Signed by President Bush on August 10
- ✓ Provides funding for highways, highway safety, and public transportation totaling \$244.1 billion
- ✓ Represents the largest surface transportation investment in the nation's history.
- ✓ For more information see:
www.fhwa.dot.gov/reauthorization/conference.htm

Pipeline and Hazardous Materials Safety Administration

New definition for "person who offers or offeror" - effective 10/01/05

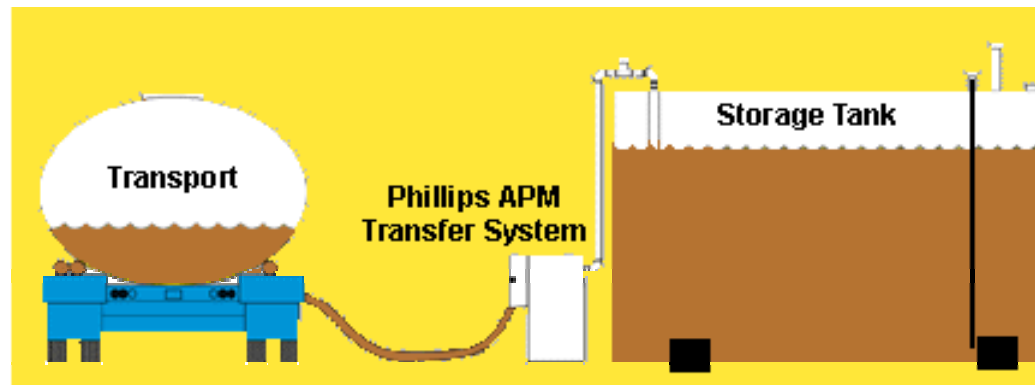
171.8 - (1) Any person who does either or both of the following:

- (i) Performs, or is responsible for performing, any pre-transportation function required under this subchapter for transportation of the hazardous material in commerce.
- (ii) Tenders or makes the hazardous material available to a carrier for transportation in commerce.

PHMSA (con't)

Amended rule - effective 06/01/05

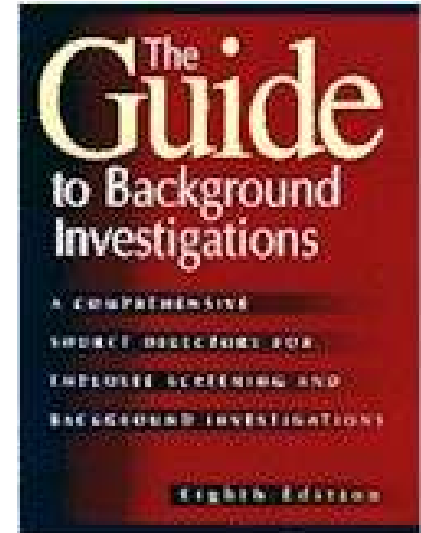
- ✓ Applicability of the hazardous materials regulations to loading, unloading, and storage



Transportation Security Administration (TSA)

Security Threat Assessment

- ✓ Individuals applying for a hazardous materials endorsement for a commercial drivers license
 - New CDL holders - 01/31/05
 - Renewing CDL holders - 05/31/05



Federal Motor Carrier Safety Administration (FMCSA)

Commercial Safety Inspections - RFI

- ✓ Request for Information directly supports the Agency's top priority initiative— Comprehensive Safety Analysis 2010.
- ✓ FMCSA invites comments, suggestions and creative ideas on new operational concepts.
- ✓ CMV roadside safety inspections an effective tool for monitoring and regulating the condition of the in-use commercial vehicle fleet.
- ✓ New technologies may improve the roadside CMV safety inspection process.

FMCSA (con't)

Unified Registration System

- ✓ FMCSA proposes a revised registration system
- ✓ This Unified Registration System would apply to every motor carrier, freight forwarder and broker required to register with DOT under 49 CFR 390.19 or 49 U.S.C. 13901, except Mexico-domiciled motor carriers.

FMCSA (con't)

Load Securement

- ✓ The FMCSA proposes to amend its 2002 final rule concerning protection against shifting and falling cargo for commercial motor vehicles (CMVs) engaged in interstate commerce in response to petitions for rulemaking.
- ✓ Comments were due 08/08/05

FMCSA (con't)

H. R. #3, the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU)

- ✓ Signed by President Bush 08/10/05
- ✓ Sec. 4129: Operation of CMVs by individuals who use insulin to treat diabetes mellitus

FMCSA (con't)

SAFETEA - LU (Section #4129)

- (a) No later than 90 days after the enactment of this Act, secretary shall begin revising the final rule ... to allow individuals who use insulin ... to operate CMVs
- (b) No period of commercial driving while using insulin required for qualification
- (c) minimum period of insulin use required to demonstrate stable control of diabetes
- (d) Insulin-treated individuals may not be held to a higher standard of physical qualification ... than other drivers

FMCSA (con't)

Hours of Service for Utility Service Vehicles (USVs) Recap

- ✓ January 4, 2004 Rulemaking
- ✓ 2004 Consolidated Appropriations Bill
- ✓ Legal Action - PATT; CRASH; Teamsters; & Public Citizen
- ✓ Citizens for Reliable and Safe Highways, No. 02-1363 (D.C. Cir.) settlement
- ✓ Reauthorization of TEA - 21

Hours of Service of Drivers (con't)

Relief for USVs

Initiatives seeking relief from regulatory burden for USVs ...

✓ Why?



Hours of Service of Drivers (con't)

H. R. #3, the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU)

- ✓ Signed by President Bush 08/10/05
- ✓ Sec. 4132: Hours of Service for operators of USVs

Hours of Service of Drivers (con't)

SAFETEA - LU (Section #4132)

(1) in subsection (a) by striking paragraph (4) and inserting the following:

`(4) OPERATORS OF UTILITY SERVICE VEHICLES-

`(A) INAPPLICABILITY OF FEDERAL REGULATIONS- Such regulations shall not apply to a driver of a utility service vehicle.

`(B) PROHIBITION ON STATE REGULATIONS- A State, a political subdivision of a State, an interstate agency, or other entity consisting of two or more States, shall not enact or enforce any law, rule, regulation, or standard that imposes requirements on a driver of a utility service vehicle that are similar to the requirements contained in such regulations.'; and

(2) in subsection (b) by striking `Nothing' and inserting `Except as provided in subsection (a)(4), nothing'.

Hours of Service of Drivers (con't)

FMCSA response to SAFETEA - LU

FMCSA FAQ:

- ✓ J-1. Are there other hours-of-service exemptions not included in this regulation?
- ✓ Yes. The Motor Carrier Safety Act of 2005 (Part IV of SAFETEA-LU) includes several exemptions to the hours-of-service for specific industries. Although not included in this regulation, these exemptions are in effect.

Hours of Service of Drivers (con't)

FMCSA response to SAFETEA - LU

Consultant Inquiry #1

- ✓ Will FMCSA publish further guidance on the exemption given to USVs? When will the exemption for USVs become effective? October 1, 2005?
- ✓ Although a period of time is necessary to modify an agency's regulations, an exemption of this nature goes into effect at the time the legislation is effective even though agency regulations to the contrary may not have yet been changed.

Hours of Service of Drivers (con't)

FMCSA response to SAFETEA - LU

Consultant Inquiry #2

- ✓ Does the language in the Safe, Accountable, Flexible, Efficient Transportation Equity Act, section #4132 specifically prohibit the states from enacting and enforcing any law, rule, regulation, or standard that would impose hours-of-service restrictions on purely intrastate drivers?
- ✓ Whether the SAFETEA-LU provisions regarding utility service vehicles apply to intrastate operations has not been formally addressed by legal counsel. In the absence of customary Congressional expression of the intent to include intrastate operations, the first impression is that the provisions do not prohibit or restrict State hours of service regulations pertaining to utility service vehicles.

Hours of Service of Drivers (con't)

FMCSA Final Rule: Hours of Service of Drivers

- ✓ Published 08/19/05, effective 10/01/05
- ✓ Does not apply to passenger-carrying drivers
- ✓ Changes to the sleeper-berth provisions
- ✓ Additions to the short-haul provisions
- ✓ Clarification of the re-start provision



Hours of Service of Drivers (con't)

HOURS-OF-SERVICE RULES	
2003 Rule Property-Carrying CMV Drivers Compliance Through 09/30/05	2005 Rule Property-Carrying CMV Drivers Compliance On & After 10/01/05
May drive a maximum of 11 hours after 10 consecutive hours off duty.	NO CHANGE
May not drive beyond the 14th hour after coming on duty, following 10 consecutive hours off duty.	NO CHANGE
May not drive after 60/70 hours on duty in 7/8 consecutive days. •A driver may restart a 7/8 consecutive day period after taking 34 or more consecutive hours off duty.	NO CHANGE
Commercial Motor Vehicle (CMV) drivers using a sleeper berth must take 10 hours off duty, but may split sleeper-berth time into two periods provided neither is less than 2 hours.	CMV drivers using the sleeper berth provision must take at least 8 consecutive hours in the sleeper berth, plus 2 consecutive hours either in the sleeper berth, off duty, or any combination of the two.

Passenger-carrying carriers/drivers are not subject to the new hours-of-service rules. These operations must continue to comply with the hours-of-service limitations specified in 49 CFR 395.5.

Hours of Service of Drivers (con't)

Short-Haul Provision

Drivers of property-carrying CMVs which do not require a Commercial Driver's License for operation and who operate within a 150 air-mile radius of their normal work reporting location:

- May drive a maximum of 11 hours after coming on duty following 10 or more consecutive hours off duty.
- Are not required to keep records-of-duty status (RODS).
- May not drive after the 14th hour after coming on duty 5 days a week or after the 16th hour after coming on duty 2 days a week.

Employer must:

- Maintain and retain accurate time records for a period of 6 months showing the time the duty period began, ended, and total hours on duty each day in place of RODS.

Drivers who use the above-described Short-haul provision are **not** eligible to use 100 Air-mile provision 395.1(e) or the current 16-hour exception in 395.1 (o).

Hours of Service of Drivers (con't)

- ✓ 24-Hour Restart: Previously, a driver was required to be in compliance with the "60/70 on-duty hours in 7/8 days" limitation before the driver could start counting a 24-hour restart period. Now the 24-hour restart period may begin at the start of any consecutive 24-hour off-duty period.

Hours of Service of Drivers (con't)

Next steps ...

- ✓ Make a decision regarding the applicability of the HOS exemption for USVs in SAFETEA - LU
- ✓ Where the SAFETEA - LU HOS exemption for USVs does not apply - comply with the new FMCSA HOS rule
- ✓ Watch for more lawsuits to be filed as the public advocacy groups do not believe the Agency has met its commitments under the DC Circuit Court Decision.

Questions? Comments?