



COMMONWEALTH OF PENNSYLVANIA
OFFICE OF THE GOVERNOR
HARRISBURG

February 24, 2010

2744, 2745
Hard copy to follow

Members of IRRC
333 Market Street
14th Floor
Harrisburg, PA 17101

**RE: No. 2744 Department of Transportation #18-413:
Interstate Motor Carrier Safety Requirements
No. 2745 Department of Transportation #18-414:
Intrastate Motor Carrier Safety Requirements**

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INDEPENDENT REGULATORY
FEDERAL COMMISSION

Dear Members of the IRRC:

Thank you for the opportunity to again weigh in on what we believe are critical changes to the Interstate Motor Carrier Safety Requirements. The above mentioned regulations will be considered for a vote at your meeting scheduled for February 25, 2010. In response to a federal audit, The Commonwealth, through the Department of Agriculture, the Department of Transportation and the Pennsylvania State Police have painstakingly reviewed the regulations as they currently exist and updated them to meet the federal requirements but also when possible the daily business and operating needs of our traveling public and businesses. Of paramount importance and the starting gate for all final decisions was the safety and security of all our traveling public.

Again, while safety is of utmost concern there are also significant monetary risks upon failure to approve. Without updating these regulations to comply with federal law there will be \$3.1 million, or 50 percent, of the PSP's Basic Motor Carrier Safety Assistance Program (MCSAP) in peril. In other words, PSP will lose approximately \$3.1 million which help fund their commercial vehicle safety enforcement activities. Presently, these federal appropriations cover nearly 80% of the salaries for PSP's motor carrier enforcement officers, supervisors, and civilian employees. With fewer enforcement officers checking the safety of commercial vehicles on Pennsylvania's highways, we will see a significant reduction in the number of roadside inspections. Fewer commercial vehicle size and weight enforcement activities will occur.

Beyond the detrimental effect this will have to the safety of our roadways, Pennsylvania could suffer an even greater financial penalty if these regulations do not go into effect by March 31st, 2010. If the Commonwealth is unable to certify to federal authorities that it is maintaining its historical level of size and weight enforcement due to the layoff of enforcement officers, the Commonwealth could lose 10% of its total federal aid highway money, or approximately \$22 million dollars. This \$22 million dollars helps to fund a wide array of highway improvement projects, including infrastructure repair on bridges

and roadways. This has already happened in other states such as Maine and South Dakota. Additionally, Pennsylvania has had funding withheld in the past for this specific reason. In 1995, the Feds withheld \$1.2 million for regulatory non-compliance due to issues with the way we adopted the commercial driver medical requirements.

It is our belief that the proposed regulations offer a reasonable, safe, compliant and enforceable solution. It was not lost on anyone involved in drafting these regulations that they must be designed to be clear, concise, and enforceable yet flexible enough to change with the direction of the federal rules and regulations as well as the needs of the traveling public. To be clear, as it stands the current regulations are so outdated that there are many instances where the enforcement mechanism is all but negated because over time the federal statute referenced has changed not only name and code but the entire subject matter. For example, in 2004 FMCSA implemented significant changes to the hours of service requirements. Prior to the change, the hours of service requirements were the same for all commercial vehicle drivers, and the Commonwealth had adopted these. The 2004 changes by FMCSA created two separate requirements, one for property carriers and one for passenger carriers. Since the 67 Pa Code was not updated, the Commonwealth no longer has a mechanism to regulate and enforce the number of hours a passenger carrier (bus driver) drives a commercial vehicle. This is a serious concern because fatigued driving has been identified through a major multi-state study as one of the contributors to catastrophic crashes involving these vehicles.

The conclusion of this letter will provide you with examples of the day to day benefits and consequences of strong motor carrier programs and the regulations that define them. But first we ask that you allow us to clarify some points so that you may make a better informed decision when considering these important changes to Pennsylvania's Motor Carrier Safety Requirements.

Unchanged By the Proposed Regulations

- There has been some confusion regarding what the impact on farm tractors and other farm equipment by the proposed regulation changes. In a letter dated February 23, 2010 the Federal Motor Carrier Safety Administration has made it clear that tractors used in agriculture are outside the agency's jurisdiction and not subject to the Motor Carrier Regulations because they are designed for off-road operation and cannot operate at highway speeds. Pennsylvania law currently permits the operation of tractors and other farm implements on roadways. This regulation will not change this.
- There are no proposed changes to the current exemptions contained within the PA Vehicle Code as they relate to CDL licensing.
- Licensed drivers 16 & 17 will be permitted to operated under 17,000lb articulated vehicles.
- Operators of articulated commercial motor vehicles greater than 17,000lbs must possess a medical certification in accordance with the Federal Motor Carrier Safety Administration standards.
- Operators of single unit farm vehicles within 150 miles of the farm are exempt from possessing a medical certification.

- A record of vehicle maintenance must be kept for articulated vehicles greater than 17,000lbs.
- A pre and post trip inspection is completed for articulated vehicles greater than 17,000lbs.
- Articulated farm vehicles (trucks pulling trailers) are subject to hours of service requirements, the keeping of logs and other records as well as driver qualification requirements.

New Requirements Under the Proposed Regulations

- No person under the age of 18 will be permitted to operate any articulated vehicle (truck pulling a trailer) over 17,000lbs on public roadways. Previously licensed drivers 16 and 17 were permitted to operate any farm vehicle.
- Operators of single unit farm vehicles greater than 150 miles from the farm must possess a medical certification in accordance with the Federal Motor Carrier Safety Administration standards.
- A record of vehicle maintenance must be kept for a single unit farm vehicle greater than 17,000lbs.
- A pre and post trip inspection must be completed for single unit farm vehicles greater than 17,000lbs.
- Drivers of articulated vehicles greater than 17,000lbs must be at least 18, speak and read English and have a valid medical card.
- During the months not covered by the exception drivers of farm vehicles including articulated vehicles operated within a 100 air mile radius will have limits on hours of work and will require the carrier/farmer to maintain time records that include start time, end time and total hour worked. Drivers will be required to begin and end their work at the same location.

New Exemptions Under the Proposed Regulations

- Hours of service requirements, the keeping of logs and other records as well as the driver qualification requirements, including a CDL are waived during the planting and harvesting season, which has been defined in Pennsylvania as March 1 through November 30, for vehicles operating within 100 miles of the farm, which transport agricultural products. These exceptions include an hours of service exception that would apply to any vehicle operator, not just those operating registered farm vehicles.
- During the months not covered by the above exception drivers of farm vehicles including articulated vehicles operated within a 100 air mile radius are exempt from keeping logs.
- Hours of service requirements, the keeping of logs and other records as well as the driver qualification requirements, including a CDL are waived for vehicles operating within 100 miles of the farm, which transport livestock feed.
- Pre-employment road testing and obtaining driving history requirements for drivers of farm vehicles are waived. If they will be operating greater than 150

miles from the base of operations, they are no longer considered a farm vehicle driver, and must meet Federal Motor Carrier Safety Administration requirements.

- Non CDL farm truck drivers who operate within a 150 mile radius of their normal work reporting location will not be required to keep logs, but will be subject to hour limitations and time keeping requirements.
- A custom harvest operator who operates a vehicle within a 150 mile radius of the farm to transport farm machinery, supplies, or both, to or from a farm for custom-harvesting operations on a farm or to transport custom-harvested crops to storage or market it would be exempt from the regulations.
- A driver who is operating a commercial motor vehicle controlled and operated by a beekeeper engaged in the seasonal transportation of bees would be exempt from the regulations.

It is our position that while the proposed regulation changes potentially impose some additional record keeping requirements on farmers during the months of December, January and February and limit 16 and 17 year olds from driving combination vehicles in excess of 17,000lbs, they offer farmers more relief from the regulation of commercial vehicles than they previously enjoyed. The proposed regulations changes will provide both farmers and law enforcement with a consistent and predictable guide for compliance.

The Daily Impact of the Basic Motor Carrier Safety Assistance Program

Highway truck inspections have additional benefits to public safety above and beyond the obvious improvements to highway safety. For example, on January 31, 2010, State Police MCSAP Inspectors were conducting size and weight enforcement activities at the Grantville Weigh-In-Motion (WIM) scale site located on Interstate 81 in Dauphin County. Two truck tractors failed to enter the scale site as required, and were subsequently stopped by PSP troopers. The troopers became suspicious that the truck drivers might be transporting illegal drugs. Upon a search of the vehicle, one of the trucks was found to contain approximately 6500 pounds of high-grade marijuana, with a street value of approximately \$25 million. Over three tons of illicit drugs never made it to their intended destination, thanks to the work made possible by federal MCSAP funds.

There are many more examples of proactive commercial vehicle enforcement efforts that have saved countless lives. Just recently, on January 8, 2010, MCSAP Inspectors stopped a propane truck in the western portion of the Pennsylvania Turnpike and discovered that the vehicle's brakes were dangerously out-of-tolerance. The vehicle was immediately placed out of service, thereby preventing a potential catastrophe. Continued federal funding for MCSAP supports these types of proactive enforcement activities.

Unfortunately, lessened enforcement efforts may also lead to the worst case scenario, like the crash that occurred on the Schuylkill Expressway in Montgomery County on the morning of January 22, 2009. A tractor trailer traveling eastbound at a high rate of speed came upon a line of stopped or slowing vehicles. The truck was unable to stop in time and plowed into the rear end of a vehicle driven by a 49-year-old father of three from

Fort Washington, PA. The driver was killed instantly. Two other people seated in a second vehicle were injured, but managed to survive the horrific crash. The subsequent accident investigation revealed that the truck tractor's brakes were practically non-existent. Sadly, the truck driver had contacted the vehicle's owner several days prior to the crash and expressed his concern regarding the brakes. The truck driver was told to use the "downshift" technique, and to nurse the vehicle back to Pennsylvania, where it could be repaired. The investigation further revealed that the truck driver falsified his log book, and that the truck owner fraudulently placed inspection stickers to the windshield of the truck knowing the truck could not pass a safety inspection. In the end, the driver, truck owner, and the mechanic were all arrested.

Moreover, the regulations presently before the Commission will improve and clarify the rules and regulations for all commercial vehicle owners and operators, including farmers. Indeed, some of Pennsylvania's current regulations are so out of date they have effectively become unenforceable. These regulatory changes are meant to bring Pennsylvania into compliance with current federal regulations regarding motor carrier safety and in step with the rules in the majority of states.

In closing, for all the reasons stated we implore the Commission to approve the regulations at the February 25th meeting.

Sincerely,

Colonel Frank E. Pawlowski
Commissioner
Pennsylvania State Police

Allen D. Biehler, P.E.
Secretary
Pennsylvania Department of Transportation

Russell C. Redding
Secretary
Pennsylvania Department of Agriculture