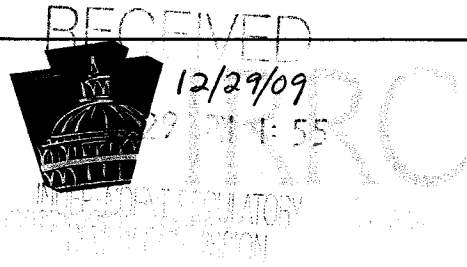


Regulatory Analysis Form

(Completed by Promulgating Agency)



SECTION I: PROFILE

(1) Agency:
Transportation

(2) Agency Number:
18-414
Identification Number:

IRRC Number: 2745

(3) Short Title:
Intrastate Motor Carrier Safety Requirements

(4) PA Code Cite:
67 Pa. Code, Chapter 231

(5) Agency Contacts (List Telephone Number, Address, Fax Number and Email Address):

Primary Contact: Daryl St. Clair, Acting Director, Bureau of Highway Safety and Traffic Engineering
(717) 787-7350

Secondary Contact: Girish Modi, Bureau of Highway Safety and Traffic Engineering
(717) 787-6853

(6) Primary Contact for Public Comments (List Telephone Number, Address, Fax Number and Email Address) – Complete if different from #5:

(All Comments will appear on IRRC'S website)

(7) Type of Rulemaking (check applicable box):

- Proposed Regulation
- Final Regulation
- Final Omitted Regulation
- Emergency Certification Regulation;
 - Certification by the Governor
 - Certification by the Attorney General

Regulatory Analysis Form

(8) Briefly explain the regulation in clear and nontechnical language. (100 words or less)

The Federal Motor Carrier Safety Assistance Program (MCSAP), administered by the Federal Motor Carrier Safety Administration (FMCSA), provides financial assistance to states to reduce the number and severity of crashes and hazardous materials incidents involving commercial motor vehicles. As a condition of participating in MCSAP, each state must ensure that its laws and regulations are identical to or have the same effect as the Federal Motor Carrier Safety Regulations (FMCSR) and the Hazardous Materials Regulations (HMR). During a MCSAP National Management and Performance Review in 2007, the FMCSA determined Pennsylvania's Intrastate Motor Carrier Safety Regulations do not meet these requirements. Unless these regulations are amended, Pennsylvania will lose federal MCSAP funds. Consequently, the proposed regulations adopt the North American Standard Out-Of-Service Criteria and the applicable federal motor carrier safety regulations.

(9) Include a schedule for review of the regulation including:

- A. The date by which the agency must receive public comments: N/A
- B. The date or dates on which public meetings or hearings will be held: N/A
- C. The expected date of promulgation of the proposed regulation as a final-form regulation: 02/15/2010
- D. The expected effective date of the final-form regulation: 02/15/2010
- E. The date by which compliance with the final-form regulation will be required: 02/15/2010
- F. The date by which required permits, licenses or other approvals must be obtained: N/A

(10) Provide the schedule for continual review of the regulation.

The regulation will be reviewed on an annual basis and as issues may arise in the administration and enforcement of the MCSAP program.

SECTION II: STATEMENT OF NEED

(11) State the statutory authority for the regulation. Include specific statutory citation.

Authority for these amendments is found in sections is found in Sections 4704 and 6103 of the Vehicle Code, 67 Pa.Code §§4704 and 6103.

(12) Is the regulation mandated by any federal or state law or court order, or federal regulation? Are there any relevant state or federal court decisions? If yes, cite the specific law, case or regulation as well as, any deadlines for action.

These regulations are mandated by 49 CFR Part 350 generally, and 49 CFR 350.201 specifically. Failure to adopt these regulations prior to March 1, 2010 may result in a loss of MCSAP funding.

(13) State why the regulation is needed. Explain the compelling public interest that justifies the regulation. Describe who will benefit from the regulation. Quantify the benefits as completely as possible and approximate the number of people who will benefit.

The commercial motor vehicle safety program is designed to reduce commercial motor vehicle involved accidents, fatalities and injuries through consistent, uniform, and effective commercial motor vehicle safety programs.

Implementation of these regulations enhances the safety and operation of commercial motor vehicles and drivers on Commonwealth highways.

Failure to enact these regulations would result in the loss of federal funds to implement and enforce the commercial motor vehicle safety program. Without a commercial motor vehicle safety program there would be an increase in property damage, injuries and death resulting from commercial motor vehicle crashes.

(14) If scientific data, studies, references are used to justify this regulation, please submit material with the regulatory package. Please provide full citation and/or links to internet source.

There was/were no scientific data, studies or references used to justify this regulation. The regulations are justified as necessary to conform to the mandates in 49 CFR Part 350.

Regulatory Analysis Form

(15) Describe who and how many will be adversely affected by the regulation. How are they affected?

There should be no adverse impact to any person or entities through the enactment of these regulations. Intrastate motor carriers and drivers are already subject to the existing regulations in this Chapter.

Adoption of these regulations will benefit all users of Commonwealth highways through reduced risk of commercial vehicle crashes. In addition, motor carriers will benefit through uniform and consistent application of these safety regulations throughout the Commonwealth.

(16) List the persons, groups or entities that will be required to comply with the regulation. Approximate the number of people who will be required to comply.

These regulations will affect all motor carriers and drivers who operate commercial vehicles intrastate. The department is unable to determine the number of persons or entities that will be required to comply.

SECTION III: COST AND IMPACT ANALYSIS

(17) Provide a specific estimate of the costs and/or savings to the **regulated community** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

The costs and/or savings to the regulated community resulting from these amendments are minimal and cannot be calculated with any precision.

(18) Provide a specific estimate of the costs and/or savings to **local governments** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

There should be no costs and/or savings to local governments resulting from the amendments to the regulations. Local governments are not subject to the regulations.

(19) Provide a specific estimate of the costs and/or savings to **state government** associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required. Explain how the dollar estimates were derived.

There should be no costs and/or savings to state government resulting from these amendments to the regulation.

(20) In the table below, provide an estimate of the fiscal savings and costs associated with

Regulatory Analysis Form

implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
SAVINGS:	\$ N/A	\$	\$	\$	\$	\$
Regulated Community	N/A					
Local Government	N/A					
State Government	N/A					
Total Savings	N/A					
COSTS:	N/A					
Regulated Community	N/A					
Local Government	N/A					
State Government	N/A					
Total Costs	N/A					
REVENUE LOSSES:	N/A					
Regulated Community	N/A					
Local Government	N/A					
State Government	N/A					
Total Revenue Losses	N/A					

(20a) Provide the past three year expenditure history for programs affected by the regulation.

Program	FY -3	FY -2	FY -1	Current FY
Appropriation 187	\$ 8,295,095 00	\$ 9,360,605 00	\$ 9,671,455 00	\$ 8,679,788 00

Regulatory Analysis Form

(21) Explain how the benefits of the regulation outweigh any cost and adverse effects.

Adoption of these regulations will benefit all users of Commonwealth highways through reduced risk of commercial vehicle crashes. In addition, motor carriers will benefit through uniform and consistent application of these safety regulations throughout the U.S. Intrastate motor carriers and drivers are already subject to the existing regulations so the application of these regulations is of minimal impact.

(22) Describe the communications with and input from the public and any advisory council/group in the development and drafting of the regulation. List the specific persons and/or groups who were involved.

These regulations were developed in accordance and compliance with a MCSAP National Management and Performance Review conducted by the FMCSA. The following persons and/or groups have been involved in the drafting and/or review of the regulation:

Pennsylvania State Police, Pennsylvania Public Utility Commission, Pennsylvania Motor Truck Association, Pennsylvania Farm Bureau and Penn Ag.

(23) Include a description of any alternative regulatory provisions which have been considered and rejected and a statement that the least burdensome acceptable alternative has been selected.

There are alternative regulatory provisions that would satisfy the requirements of the FMCSA mandate.

(24) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulations.

Individual states, not the federal government, regulate the transportation of school children. A school bus operating in interstate commerce is exempted from the motor carrier regulations by 49 CFR 390.3(f)(1). The proposed regulation would remove the exemption thereby requiring compliance with motor carrier safety standards for drivers and school buses which are operated in intrastate commerce. This is part of a comprehensive regulatory scheme designed to promote the safe transportation of school children. Evidence of the heightened interest in school bus safety is demonstrated by Section 4702(b)(1)(relating to the requirement for biannual inspections by school buses) and Section 4705(a) (relating to inspection by the State Police before transporting students) of the Vehicle Code. The proposed amendment does not change the current regulatory framework.

Also, Section 231.8(2) removes an exemption from all of the requirements in Chapter 231 for transportation by a state and local government or state or local agency. A limited exemption in Section 231.8(6) was added to exempt state and local governments and state and local agencies from the requirements of 391. State and local governments and agencies would still be required to comply with the hours of service restrictions and maintenance and repair requirements. This is consistent with the current restrictions. The regulations are consistent with basic safe practices which government and agency employees should be complying with anyway.

Regulatory Analysis Form

(25) How does this regulation compare with those of other states? How will this affect Pennsylvania's ability to compete with other states?

The regulations are identical or substantially similar to those enacted by all other states, as mandated by the FMCSA.

(26) Will the regulation affect any other regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

These amendments will not affect other Department regulations or the regulations of any other Commonwealth agency.

(27) Submit a statement of legal, accounting or consulting procedures and additional reporting, recordkeeping or other paperwork, including copies of forms or reports, which will be required for implementation of the regulation and an explanation of measures which have been taken to minimize these requirements.

The regulations will not change existing reporting, record keeping or other paperwork requirements

(28) Please list any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers.

The federal compliance guidelines restrict the availability of accommodations. However, an exemption from the medical requirement was included in Section 231.8(5) for mechanics performing a road test as part of a safety inspection. Section 231.8(14) provides farmers with an exemption from the requirements in 49 CFR Part 385 (relating to safety fitness procedures).

**FACE SHEET
FOR FILING DOCUMENTS
WITH THE
LEGISLATIVE REFERENCE BUREAU**

(Pursuant to Commonwealth Documents Law)

DO NOT WRITE IN THIS SPACE

Copy below is hereby approved as to form and legality.
Attorney General.

By: _____
(Deputy Attorney General)

Date of Approval

Check if applicable
Copy not approved. Objections attached.

Copy of below is hereby certified to be true and
correct copy of a document issued, prescribed or
promulgated by:

**Department
of
Transportation**
(Agency)

DOCUMENT/FISCAL NOTE NO. 18-414

DATE OF ADOPTION _____

Allen D. Bickler

BY _____
Secretary of Transportation

Copy below is hereby approved as to
form and legality. Executive or
Independent Agencies.

BY Andrew C. Clark
DEC 23 2009
(Date of Approval)

(Deputy General Counsel)
(~~Chief Counsel, Independent Agency~~)
(Strike Inapplicable Title)

Check if applicable. No attorney
General Approval or Objection within
30 days after submission.

NOTICE OF FINAL RULEMAKING

DEPARTMENT OF TRANSPORTATION

Title 67. Transportation

Part I. Department of Transportation

Subpart A. Vehicle Code Provisions

Article VIII. Administration and Enforcement

Chapter 231. Intrastate Motor Carrier Safety Requirements

ORIGINAL

TITLE 67. TRANSPORTATION

PART I. DEPARTMENT OF TRANSPORTATION

SUBPART A. VEHICLE CODE PROVISIONS

ARTICLE VIII. ADMINISTRATION AND ENFORCEMENT

CHAPTER 231. INTRASTATE MOTOR CARRIER SAFETY REQUIREMENTS

NOTICE OF FINAL RULEMAKING

Preamble

The Department of Transportation, pursuant to the authority contained in Sections 4704 and 6103 of the Vehicle Code, Act of June 17, 1976, P.L. 162, No. 81, *as amended* (75 Pa.C.S. §§ 4704 and 6103), hereby adopts amendments to Title 67, Chapter 231 of the Department of Transportation Regulations (relating to intrastate motor carrier safety requirements), to read as set forth Annex A.

Purpose of Chapter

The purpose of Chapter 231 is to prescribe the minimum requirements and qualifications for drivers, vehicles and other matters relating to the intrastate operation of commercial vehicles.

Summary of Comments and Changes in Final Adopted Regulation

The amendments to the regulation were published as a proposed rulemaking in the February 21, 2009 issue of the Pennsylvania Bulletin. The proposed rulemaking was also submitted to the Independent Regulatory Review Commission (IRRC) and the House and Senate Transportation Committees of the Pennsylvania General Assembly.

Comments were received from Officer Thomas Sanders and from the IRRC. Officer Sanders noted that the existing language of Section 231.2 (relating to the scope of the regulation), indicates that the regulation applies to “vehicles, including motor vehicles and combinations of vehicles, and drivers of motor vehicles engaged in interstate commerce if the registered gross weight of the vehicle or the combination of vehicles exceeds 17,000 pounds. He indicated that the reference to 17,000 pounds may be confusing and requested that the language in section 231.2 be modified to be consistent with the definition of motor carrier vehicle as it appears in the Vehicle Code. We agree that the reference to a vehicle which “exceeds 17,000 pounds” should be removed and was removed in the proposed rulemaking. In its place, the regulation references a “commercial motor vehicle,” the term used and defined in the federal motor carrier safety regulations. Accordingly, no change to the proposed rulemaking was necessary to address this concern.

IRRC questioned the propriety of adopting the interpretations of the Federal Motor Carrier Safety Regulations in Section 231.17. Initially, it should be noted that similar language is found in the currently existing regulations at Section 231.411 (relating to adoption of Interpretations of Federal Motor Carrier Safety Regulations, Federal Highway Administration, United States Department of Transportation) as well as in 67 Pa. Code §229.411 (relating to adoption of Interpretations of Federal Motor Carrier Safety Regulations, Federal Highway Administration, United States Department of Transportation). The language is also consistent with 52 Pa. Code §37.206 (relating to interpretations of the Federal Highway Administration, United States Department of Transportation).

The Federal Motor Carrier Safety Administration (FMCSA) periodically publishes interpretations of its regulations. The purpose of adopting the interpretations is to ensure that motor carriers, drivers and law enforcement may rely on the FMCSA interpretations. Additionally, adopting the FMCSA interpretations will enhance the uniform interpretation and implementation of the motor carrier safety regulations in this Commonwealth consistent with its application throughout the rest of the United States.

The Federal Motor Carrier Safety Administration commented that Section 231.8(9) of the proposed rulemaking permitted a person 16 years of age or older to operate an articulated farm vehicle. Although 49 CFR §350.341 provides some specific variances from the federal motor carrier regulations which are permitted, FMCSA indicated that the provision permitting a person 16 years of age or older to drive an articulated farm vehicle is not consistent with the requirements to participate in the federal Motor Carrier Safety Assistance Program (MCSAP). The Department amended Section 231.8(9) by removing the proposed exemption and renumbering the remaining exemptions.

Similarly, FMCSA commented that a farmer who is transporting hazardous materials is subject to the requirements in Subpart E of 49 CFR. Part 385. Accordingly, the blanket exemption for farmers in Section 231.8(14) would need to be modified. The Department modified the language for the exemption in Section 231.8(14) to address the concerns raised by FMCSA.

Subsequent to the submission of the comment period, FMCSA notified the Department that the modification in Section 231.8(2) to delete the exemption for transportation by the federal government or an agency established under a compact between states that has been approved by

the Congress of the United States was not consistent with the MCSAP requirements. The federal motor carrier regulations, at 49 CFR §390.3(f)(2), exempts from the regulations “transportation performed by the federal government, a state, or any political subdivision of a state, or an agency established under a compact between states that has been approved by the Congress of the United States[.]” The Department addressed this concern by modifying the language of the regulation.

The Pennsylvania Farm Bureau expressed concern regarding the removal of the blanket exemption in the regulation for vehicles and drivers of vehicles that are exempt from registration such as implements of husbandry and farm vehicles. The Farm Bureau indicates that, while it makes sense to require trucking companies to be able to navigate through the myriad of motor carrier regulations, it is unreasonable for farmers to be held to the same standards because farming involves more than just transportation and their transportation activities are sporadic. However, the Pennsylvania Farm Bureau also acknowledged that the Department is required to update the regulation to conform with federal motor carrier regulations and that the impact of this rulemaking on the farming community will not be significant.

A MCSAP compliance audit was performed on the Departments intrastate motor carrier regulations. One of the compliance issues raised by the audit was that the Department’s blanket exemptions for farmers exceeded the permissible limits under the MCSAP program. This proposed rulemaking adopts the entire Parts of the applicable federal regulations to ensure that the Department adopts all of the exemptions that apply to the farming industry. The regulations are being adopted in this manner so that if the federal regulations are amended to create exemptions applicable to the farming industry, the exemptions will automatically be applicable

in this state. The method used will ensure that farmers are eligible to take advantage of all applicable exemptions without the Department having to amend the regulation first.

There were two additional changes which are contained in the final rulemaking. The first is the removal of a proposed exemption from the requirement to obtain and display a USDOT number. Requiring intrastate carriers to obtain and display a USDOT number will allow the Commonwealth to focus our resources on those intrastate carriers who pose the greatest safety risk, and we will utilize existing Federal computer systems and methodologies to accomplish this task. This mechanism will also afford a uniform method for identifying the motor carrier ultimately responsible for the safety and operation of a motor carrier vehicle, which in many instances is not the vehicle registrant or owner.

The USDOT Number serves as a unique identifier when collecting and monitoring a company's safety information. While vehicle registration cards list the owner of a vehicle, this individual or entity may or may not ultimately be the person responsible for the safety and operation of the vehicle. The Federal Motor Carrier Safety Administration (FMCSA) maintains a database called Motor Carrier Management Information System (MCMIS), which is a Federally-based central repository of commercial vehicle safety data as well as a national inventory of motor carriers subject to the Federal Motor Carrier Safety Regulations. MCMIS utilizes the USDOT number to track and monitor a motor carrier's activities.

All roadside inspection reports and accident reports for reportable crashes are uploaded to MCMIS and again utilize a carrier's USDOT number and not the owner or registrant of the vehicle. This inspection and accident data is then utilized by the Safety Status Measurement System (SafeStat), which is an automated analysis system that uses crash and inspection data to

measure the safety fitness of an individual motor carrier with respect to the rest of the motor carrier population. Carriers are rated in four specific areas: accidents, driver violations, vehicle violations and safety management practices. The system utilizes up to 30 months of this data to perform an overall safety status assessment and assign each carrier a SafeStat score. This score is then utilized by state and federal enforcement agencies to focus their resources on those carriers posing the greatest safety risk.

The second change was the addition of an exemption from the location of the rear impact guard for dump trucks, used for roadway construction, maintenance or repair, which are owned or registered by state and local governments. The exemption does not authorize the removal of the existing rear impact guard. However, dump trucks used for roadway construction, maintenance or repair may be equipped with equipment needed to apply salt, cinders and other substances to the roadway. The addition of this equipment results in the non-conforming location of the rear impact guards. This amendment will ensure that the Commonwealth and local governments can continue to use dump trucks to apply salt, cinders and other materials to the roadway.

Persons and Entities Affected

These proposed regulations will affect all motor carriers and drivers who operate in interstate commerce.

Fiscal Impact

Implementation of these regulations will not require the expenditure of any additional funds by the Commonwealth or local municipalities. These regulations will not impose any additional costs on the regulated community.

Regulatory Review

Under Section 5(a) of the Regulatory Review Act, the Act of June 25, 1982 (P.L. 633, No. 181), *as amended*, 71 P.S. § 745.5(a), on February 21, 2009, the Department submitted a copy of the notice of proposed rulemaking, published at 39 Pa. B 997, to the Independent Regulatory Review Commission and to the Chairpersons of the House and Senate Transportation Committees for review and comment. In preparing this final-form regulation, the Department has considered all comments received from the public, IRRC and the Committees.

Effective Date

The Department of Transportation will make these regulations effective upon publication in final form.

Sunset Provisions

The Department is not establishing a sunset date for these regulations, since these regulations are required to participate in the federal Motor Carrier Safety Assistance Program. The Department, however, will continue to closely monitor these regulations for their effectiveness.

Contact Person

The contact person for technical questions about this final-form rulemaking should be directed to Daryl St. Clair, Bureau of Maintenance and Operations, 400 North St., 6th Floor, Commonwealth Keystone Building, Harrisburg, Pennsylvania 17120, telephone number: 717-787-6899.

Order

The Department of Transportation orders that:

- (A) The regulations of the Department of Transportation, 67 Pa. Code, Chapter 231 are amended as set forth in Annex A.
- (B) The Secretary of the Department of Transportation shall submit this Order and Annex A hereto the Office of General Counsel and the Office of Attorney General for approval as to legality and form, as required by law.
- (C) The Secretary shall certify this Order and Annex A and deposit the same with the Legislative Reference Bureau, as required by law.
- (D) This Order shall take effect upon publication in the *Pennsylvania Bulletin*.

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

(Editor's Note: As part of this proposed FINAL rulemaking, the Department is proposing to rescind RESCINDING Subchapters B--J as follows:

§§ 231.21--231.25, 231.31, 231.32, 231.41--231.44, 231.61--231.66, 231.71 and 231.81--231.85 which appear in 67 Pa. Code pages 231-5--231-11, serial pages (198297)--(198303).

§§ 231.101--231.111, 231.121--231.127, 231.131--231.135, 231.141--231.144, 231.151--231.153, 231.161--231.163 and 231.171--231.181 which appear in 67 Pa. Code pages 231-13--231-18, serial pages (198305)--(198308) and (265941) and (265942).

§§ 231.201--231.223, 231.231--231.243, 231.251--231.254, 231.271, 231.272, 231.281--231.299, 231.301 and 231.311--231.314 which appear in 67 Pa. Code pages 231-20--231-29, serial pages (198312)--(198321).

§§ 231.331 and 231.341--231.347 which appear in 67 Pa. Code pages 231-29--231-36, serial pages (198321)--(198328).

§§ 231.361--231.367 which appear in 67 Pa. Code pages 231-36--231-38, serial pages (198328)--(198330).

§§ 231.381--231.392 which appear in 67 Pa. Code pages 231-38 and 231-39, serial pages (198330) and (198331).

§ 231.411 which appears in 67 Pa. Code pages 231-39 and 231-40, serial pages (198331) and (198332).

§§ 231.451--231.453 which appear in 67 Pa. Code pages 231-40--231-42, serial pages (198332)--(198334).

Appendices (A) and (B) which appear in 67 Pa. Code pages 231-42--231-59 serial pages (198334)--(198351).

ANNEX A

TITLE 67. TRANSPORTATION

PART I. DEPARTMENT OF TRANSPORTATION

SUBPART A. VEHICLE CODE PROVISIONS

ARTICLE VIII. ADMINISTRATION AND ENFORCEMENT

CHAPTER 231. INTRASTATE MOTOR CARRIER SAFETY REQUIREMENTS

Subchapter A. General

§ 231.1. General information and requirements.

(a) *Purpose.* The purpose of this chapter is to prescribe the minimum requirements and qualifications for drivers, vehicles and other matters relating to the intrastate operation of commercial motor vehicles. Much of this chapter incorporates by reference 49 CFR [390—397] Parts 382, 385 and 390—396 and the North American Standard Out-of-Service Criteria.

Appropriate parts may be obtained from the following:

* * * * *

(4) Commercial Vehicle Safety Alliance, 1101 17th Street NW, Suite 803, Washington, DC 20036.

* * * * *

(c) *Title and name changes.* To reconcile differences between this chapter and the incorporated sections of Federal regulations and to effectuate their joint enforcement, except in 49 CFR Part 382 (relating to controlled substances and alcohol use and testing), the following words and terms, unless the context clearly indicates otherwise, shall be substituted for the language of the Federal regulations as follows:

(1) Reference to the Department of Transportation means the Pennsylvania Department of Transportation.

(2) Reference to the [Director means the] Secretary means the Secretary of the Pennsylvania Department of Transportation.

(3) Reference to [the Regional Highway Administrator means the Secretary] special agent includes a police officer or a qualified Commonwealth employee.

(4) Reference to Department means the Pennsylvania Department of Transportation.

(5) Reference to school bus mean the term as defined in 75 Pa.C.S. §102(relating to definitions).

(6) Reference to Director, Office of Bus and Truck Standards and Operations (MC PSD) means Director of the Bureau of Driver Licensing of this Commonwealth.

(7) Reference to State Director or Division Administrator, FMCSA means the Director of the Bureau of Driver Licensing of this Commonwealth.

(8) Reference to Medical Program Specialist, FMCSA field service center means the Medical Unit of the Bureau of Driver Licensing of this Commonwealth.

* * * * *

§ 231.2. Scope.

(a) Except as otherwise provided, this chapter applies to [vehicles, including buses, motor vehicles and combinations of vehicles; and to drivers of buses or motor vehicles engaged in intrastate commerce if the registered gross weight of the vehicle or combination of vehicles exceeds 17,000 pounds] commercial motor vehicles and school buses engaged in intrastate commerce.

* * * * *

[(c) This chapter does not apply to the following classes of vehicles and their drivers:

- (1) Farm trucks not required to be registered.
- (2) Special mobile equipment.
- (3) Implements of husbandry.

(d) Subchapters B and E (relating to qualifications of drivers; and hours of service of drivers) do not apply to drivers of farm trucks whether or not required to be registered and not carrying hazardous materials in an amount and type which require the vehicle to be placarded or marked under regulations promulgated under 75 Pa.C.S. § § 8301—8308 (relating to hazardous materials transportation).

(e) This chapter does not apply to maintenance mechanics driving vehicles as part of their duties related to routine road tests or other maintenance tests provided the mechanic operates the vehicle within 25 air miles of the maintenance facility to which he is assigned.]

§ 231.3. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Bus—The term as defined in 75 Pa.C.S. § 102 (relating to definitions).

Business district—49 CFR 390.12 (relating to business districts) incorporated by reference.

Department—The Department of Transportation of the Commonwealth.

Driveaway-towaway operation—49 CFR 390.9 (relating to driveaway-towaway operation) incorporated by reference.

Driver—The term as defined in 75 Pa.C.S. § 102.

Full trailer—49 CFR 390.7 (relating to full trailer) incorporated by reference.

Gross weight—The term as defined in 75 Pa.C.S. § 102.

Interstate commerce—Trade, traffic or transportation of property or persons by highway between a place in this Commonwealth and a place in another state or between a place in one state and a place in another state with transportation by highway through this Commonwealth.

Intrastate commerce—The trade, traffic or transportation of property or persons by highway between places within this Commonwealth.

Lightweight vehicle—A motor vehicle, other than a vehicle that is being used to transport passengers for hire; or a vehicle that is being used to transport hazardous materials of a type or quantity that requires the vehicle to be marked or placarded under 49 CFR 177.823 that was one of the following:

(i) Manufactured on or after January 1, 1972, and has a manufacturer's gross vehicle weight rating of 17,000 pounds or less, in the case of a single vehicle, or a manufacturer's gross combination weight rating of 17,000 pounds or less, in the case of an articulated vehicle.

(ii) Manufactured before January 1, 1972, and has a gross weight including its load and the gross weight of the vehicle being towed by the motor vehicle, of 17,000 pounds or less.

Motor carrier—49 CFR 390.15 (relating to motor carrier) incorporated by reference.

Motor carrier vehicle—The term as defined in 75 Pa.C.S. § 102.

Pole trailer—49 CFR 390.8 (relating to pole trailer) incorporated by reference.]

Qualified Commonwealth [employee] employee—[A Commonwealth employee designated

by the Department who is authorized to inspect vehicles, drivers, documents, equipment and loads, or cargo as provided in 75 Pa.C.S. § § 4704 and 8302 (relating to inspection by police or Commonwealth personnel; and powers and duties of department).] The term as it is defined in 75 Pa.C.S. § 4102.

[*Radar detector*—49 CFR 390.5 (relating to definitions) incorporated by reference.

Residence district—49 CFR 390.13 (relating to residence district) incorporated by reference.]

School bus – The term as it is defined in 75 Pa.C.S. § 102.

[*Secretary*—The Secretary of the Department.

Semitrailer—49 CFR 390.6 (relating to semitrailer) incorporated by reference.

Truck—The term as defined in 75 Pa.C.S. § 102.

Truck tractor—49 CFR 390.5 (relating to truck tractor) incorporated by reference.

Vehicle—The term as defined in 75 Pa.C.S. § 102.]

§ 231.4. [Other terms]. (Reserved).

§ 231.5. [Vehicles used for purposes other than as defined.] Reserved.

§ 231.6. [Motor carrier to require observance of driver regulations.] (Reserved).

§ 231.7 Adoption of portions of 49 CFR by reference.

The Department incorporates by reference the following portions of 49 CFR (relating to transportation), subject to § 231.3 (relating to definitions) and § 231.8 (relating to additions or modifications to 49 CFR).

(1) Part 382 (relating to driver drug and alcohol testing).

- (2) Part 385 (relating to safety fitness procedures).
- (3) Part 390 (relating to Federal motor carrier safety regulations; general).
- (4) Part 391 (relating to qualifications of drivers).
- (5) Part 392 (relating to driving of motor vehicles).
- (6) Part 393 (relating to parts and accessories necessary for safe operation).
- (7) Part 395 (relating to hours of service for drivers).
- (8) Part 396 (relating to inspection, repair and maintenance).

§ 231.8 Additions or modifications to 49 CFR.

As stated in §231.7 (relating to adoption of portions of 49 CFR by reference), this chapter generally incorporates 49 CFR Parts 382, 385, 390, 391, 392, 393, 395 and 396. The following modification, additions and deletions to those parts apply:

- (1) The definition of “commercial motor vehicle” in 49 CFR 390.5 (relating to definitions) is modified to read as follows:

Commercial motor vehicle — means any motor vehicle or combination used on a highway in intrastate commerce to transport passengers or property when the vehicle

(i) Has a gross vehicle weight rating or gross combination weight rating, or gross vehicle weight or gross combination weight, of 17,001 pounds or more, whichever is greater;

(ii) Is designed or used to transport more than 8 passengers (including the driver) for compensation;

(iii) Is designed or used to transport more than 15 passengers, including the driver, and is not used to transport passengers for compensation;

(iv) Is a school bus; or

(v) Is transporting hazardous materials which is required to be placarded in accordance with Department regulations.

(2) 49 CFR 390.3 (relating to general applicability) is modified by deleting subsections SUBSECTION (f)(1) and (f)(2).

(3) 49 CFR 390.19 (relating to motor carrier identification report) is deleted in its entirety. 49 CFR 390.3(F)(2) IS MODIFIED TO REMOVE THE REFERENCE TO TRANSPORTATION BY A STATE OR ANY POLITICAL SUBDIVISION OF A STATE.

(4) 49 CFR 390.21 (relating to marking of CMVs) is deleted in its entirety. 49 CFR 390.19 (RELATING TO MOTOR CARRIER IDENTIFICATION REPORT) IS DELETED IN ITS ENTIRETY.

(5) 49 CFR 391.2 (relating to general exceptions) is modified to add an exemption for an inspection mechanic who is performing a road test as required by 67 Pa. Code Chapter 175 (relating to vehicle equipment and inspection) from the requirements of 49 CFR Part 391 (relating to qualifications of drivers and longer combination vehicle (LCV) instructors).

(6) 49 CFR 391.2 is modified to add an exemption from the requirements of 49 CFR Part 391 for regularly employed drivers of state and local governments and agencies of state and local government.

(7) 49 CFR 391.11(b)(4) (relating to general qualifications of drivers) is modified to exempt school bus drivers who are required to comply with the medical regulations in 67 Pa. Code Chapter 71 (relating to school bus drivers).

(8) 49 CFR Part 391 is modified by adding the following exemption regarding drivers regularly employed as of September 23, 1995 and the parameters for the exemption:

(i) A regularly employed driver as of September 23, 1995, who cannot meet the physical qualifications requirements of 49 CFR Part 391, will be considered to be qualified to operate in intrastate commerce if certified by the medical examiner and motor carrier in accordance with this section. The driver shall be considered qualified only until the existing unqualifying medical or physical condition significantly worsens or a new unqualifying medical or physical condition develops subsequent to September 23, 1995.

(ii) The motor carrier's certification shall be based on a review of the driver's past driving safety record and accident history. The motor carrier's certification shall be on a form prescribed by the Department and shall be valid for a period commensurate with the period of the medical examiner's certificate issued in accordance with this chapter.

(iii) A copy of the medical examiner's initial certificate establishing a driver's qualification under this section and annotated in accordance with subsection (iv), the most current biannual medical examiner's certificate and the most current certification by the employing motor carrier that the driver is qualified to operate in intrastate commerce shall be maintained in the driver's qualification file for the entire period of the driver's term of employment and for an additional 2 years after termination of employment.

(iv) If the medical examiner determines that the driver is only qualified to drive in intrastate commerce in accordance with the above, the medical examiner's certificate required by 49 CFR 391.43 (relating to medical examination; certificate of

physical examination) shall display the statement “Medically qualified to operate in intrastate commerce only.”

(9) 49 CFR 391.67 is modified to reference “16 years of age or older” rather than “18 years of age or older.”

(10) (9) 49 CFR 391.11(b)(1) is deleted.

(11) (10) 49 CFR 391.47(e) (relating to resolution of conflicts of medical evaluation) is modified to reference 67 Pa. Code Chapter 491 (relating to administrative practice and procedure) instead of §386.13(a).

(12) (11) 49 CFR 391.47(f) is modified to read as follows:

(f) Status of driver. Once a petition for review of a decision of the Director of the Bureau of Driver Licensing is submitted, the driver shall be deemed disqualified until such time as the Pennsylvania Secretary of Transportation makes a determination or orders otherwise.

(13) (12) 49 CFR 390.27 (relating to locations of motor carrier safety service centers) is amended to read as follows:

390.27 Address of the Medical Unit of the Bureau of Driver Licensing

The mailing address for the Medical Unit is PENNDOT, Bureau of Driver Licensing, Medical Unit, 1101 South Front Street, 3rd Floor, Harrisburg, PA 17104-2516.

(14) (13) 49 CFR 385.1(D) (relating to purpose and scope) is modified to add an exemption for farmers from the requirements of Part 385 (relating to safety fitness procedures) TO READ AS FOLLOWS:-

(D) THE PROVISIONS OF THIS PART APPLY TO ALL MOTOR CARRIERS SUBJECT TO THE REQUIREMENTS OF THIS SUBCHAPTER, EXCEPT NON-BUSINESS PRIVATE MOTOR

CARRIERS OF PASSENGERS AND FARMERS THAT DO NOT TRANSPORT HAZARDOUS MATERIALS OF A TYPE OR QUANTITY THAT REQUIRES THE COMMERCIAL MOTOR VEHICLE TO BE PLACARDED IN ACCORDANCE WITH 49 CFR §177.823.

(14) 49 CFR 393.86(B)(1)(IV)(RELATING TO REAR IMPACT GUARDS AND REAR END PROTECTION) IS AMENDED TO ADD THE FOLLOWING SENTENCE: “THIS LOCATION REQUIREMENT SHALL NOT APPLY TO DUMP TRUCKS OWNED BY OR REGISTERED TO THE COMMONWEALTH OR A POLITICAL SUBDIVISION OF THE COMMONWEALTH THAT IS USED FOR ROADWAY CONSTRUCTION, MAINTENANCE OR REPAIR.”

§ 231.9 Adoption of Out-of-Service Criteria.

The out-of-service criteria contained in the North American Standard Out-Of-Service Criteria is incorporated by reference.

§ 231.10 Adoption of Interpretation of Federal Motor Carrier Safety Regulations.

The Department hereby adopts, as statements of policy, interpretations of the Federal Motor Carrier Safety Regulations as published by the Federal Motor Carrier Safety Administration for those Parts enumerated in § 231.7 (relating to adoption of portions of 49 CFR by reference).

TITLE 67. TRANSPORTATION

PART I. DEPARTMENT OF TRANSPORTATION

SUBPART A. VEHICLE CODE PROVISIONS

ARTICLE VIII. ADMINISTRATION AND ENFORCEMENT

CHAPTER 231. INTRASTATE MOTOR CARRIER SAFETY REQUIREMENTS

NOTICE OF FINAL RULEMAKING

List of Commenters

Officer Thomas Sanders
Mt. Lebanon Police Department
555 Washington Rd.
Mt. Lebanon, PA 15228

The Federal Motor Carrier Safety Administration
Timothy Cotter
Division Administrator
228 Walnut Street, Room 560
Harrisburg, PA 17101

The Pennsylvania Farm Bureau
John J. Bell, Government Affairs Counsel
510 31st Street, P.O. Box 8736
Camp Hill, PA 17001-8736



COMMONWEALTH OF PENNSYLVANIA
GOVERNOR'S OFFICE OF GENERAL COUNSEL

December 29, 2009

Kim Kaufman
Executive Director
Independent Regulatory Review Commission
14th Floor Harrisstown 2
333 Market Street
Harrisburg, PA 17101

**Re: Final Rulemaking, Regulation # 18-414, 67 Pa. Code, Chapter 231
Intrastate Motor Carrier Safety Regulations**

Dear Mr. Kaufman:

Enclosed please find a copy of the Face Sheet, Preamble, Annex A and Regulatory Analysis Form for Amendments to 67 Pa. Code, Chapter 231, Intrastate Motor Carrier Safety Regulations, which the Department of Transportation intends to adopt in accordance with the provisions of the Commonwealth Documents Law, Act of July 31, 1968, P.L. 769, 45 P.S. § 1201 *et seq.*, and the Regulatory Review Act, 71 P.S. § 745.1 *et seq.*

The Department of Transportation will provide the Commission with any assistance you require to facilitate a thorough review of this regulation. Thank you for your attention.

Very truly yours,

Stephen F. J. Martin
Regulatory Counsel

cc: Danielle K. Spila, Director, Department of Transportation Policy Office



**TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE
REGULATORY REVIEW ACT**

I.D. NUMBER: #18-414

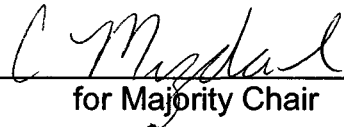

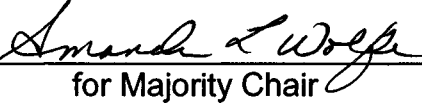

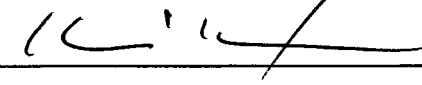
SUBJECT: Intrastate Motor Carrier Safety Requirements
67 Pa. Code, Chapter 231

AGENCY: Department of Transportation

TYPE OF REGULATION

- Proposed Regulation
- X Final Regulation
- Final Regulation with Notice of Proposed Rulemaking Omitted
- 120-day Emergency Certification of the Attorney General
- 120-day Emergency Certification of the Governor

FILING OF REGULATION

DATE	SIGNATURE	DESIGNATION
<u>12/29</u>	<u></u> for Majority Chair	SENATE COMMITTEE ON TRANSPORTATION The Honorable John C. Rafferty, Jr. Majority Chairman
<u>12-29-09</u>	<u></u> for Minority Chair	
<u>12.29.09</u>	<u></u> for Majority Chair	HOUSE COMMITTEE ON TRANSPORTATION The Honorable Joseph F. Markosek Majority Chairman
<u>12-29</u>	<u></u> for Minority Chair	
<u>12-29</u>	<u></u>	INDEPENDENT REGULATORY REVIEW COMMISSION
_____	_____	LEGISLATIVE REFERENCE BUREAU

Date: December 29, 2009