

<h1 style="margin: 0;">Regulatory Analysis Form</h1> <p style="margin: 0;">(Completed by Promulgating Agency)</p> <p style="margin: 0;">(All Comments submitted on this regulation will appear on IRRC's website)</p>	<p>INDEPENDENT REGULATORY REVIEW COMMISSION</p> <p>IRRC</p> <p>2011 OCT 21 P 2 39</p>						
<p>(1) Agency: Department of Transportation</p>							
<p>(2) Agency Number: 18-426</p>	<p>IRRC Number: 2918</p>						
<p>(3) PA Code Cite: 67 Pa. Code, Chapter 231</p>							
<p>(4) Short Title: Intrastate Motor Carrier Safety Requirements</p>							
<p>(5) Agency Contacts (List Telephone Number and Email Address):</p> <p>Primary Contact: Daryl St. Clair, Bureau of Highway Safety and Traffic Engineering, 400 North St., 6th Floor, Commonwealth Keystone Building, Harrisburg, Pennsylvania 17120, telephone number: 717-787-6899.</p> <p>Secondary Contact:</p>							
<p>(6) Type of Rulemaking (check applicable box):</p> <table style="width: 100%; border: none;"> <tr> <td><input type="checkbox"/> Proposed Regulation</td> <td><input type="checkbox"/> Emergency Certification Regulation;</td> </tr> <tr> <td><input type="checkbox"/> Final Regulation</td> <td><input type="checkbox"/> Certification by the Governor</td> </tr> <tr> <td><input checked="" type="checkbox"/> Final Omitted Regulation</td> <td><input type="checkbox"/> Certification by the Attorney General</td> </tr> </table>		<input type="checkbox"/> Proposed Regulation	<input type="checkbox"/> Emergency Certification Regulation;	<input type="checkbox"/> Final Regulation	<input type="checkbox"/> Certification by the Governor	<input checked="" type="checkbox"/> Final Omitted Regulation	<input type="checkbox"/> Certification by the Attorney General
<input type="checkbox"/> Proposed Regulation	<input type="checkbox"/> Emergency Certification Regulation;						
<input type="checkbox"/> Final Regulation	<input type="checkbox"/> Certification by the Governor						
<input checked="" type="checkbox"/> Final Omitted Regulation	<input type="checkbox"/> Certification by the Attorney General						
<p>(7) Briefly explain the regulation in clear and nontechnical language. (100 words or less)</p> <p>In April 2010, the Department amended the Intrastate Motor Carrier Safety Regulations to comply with the Federal Motor Carrier Safety Regulations. The Federal Regulations which were adopted limit drivers of commercial vehicles to 11 hour shifts. During the Winter of 2010-2011, state (PENNDOT and Turnpike) and local governments experienced difficulty in securing sufficient numbers of qualified snow plow operators to effectively keep roads safe and free of snow and still comply with the restrictions of the newly adopted regulations.</p> <p>The proposed amendment is needed to ensure that state and local governments have the flexibility to ensure that qualified drivers are available to keep roadways cleared of snow.</p> <p>These amendments to Chapter 231 also generally provide state and local government with more flexibility under the regulations for snow removal activities, roadway maintenance activity and traffic control support operations to keep the highways and roadways of the Commonwealth safe for travel.</p>							
<p>(8) State the statutory authority for the regulation. Include specific statutory citation.</p>							

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),

(9) 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.

The amendment is not mandated by any federal or state law, or court order or federal regulation.

(10) 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.

In April 2010, the Department amended the Intrastate Motor Carrier Safety Regulations to comply with the Federal Motor Carrier Safety Regulations. The Federal Regulations which were adopted limit drivers of commercial vehicles to 11 hour shifts. During the Winter of 2010-2011, state (PENNDOT and Turnpike) and local governments experienced difficulty in securing sufficient numbers of qualified snow plow operators to effectively keep roads safe and free of snow and still comply with the restrictions of the newly adopted regulations. The proposed amendment is needed to provide state and local governments with the flexibility to ensure that roadways can be cleared of snow.

(11) If data is the basis for this regulation, please provide a description of the data, explain in detail how the data was obtained, and how it meets the acceptability standard for empirical, replicable and testable data that is supported by documentation, statistics, reports, studies or research. Please submit data or supporting materials with the regulatory package. If the material exceeds 50 pages, please provide it in a searchable electronic format or provide a list of citations and internet links that, where possible, can be accessed in a searchable format in lieu of the actual material. If other data was considered but not used, please explain why that data was determined not to be acceptable.

Data was not the basis for this regulation.

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

There should be no adverse affects from this amendment to the regulation. Rather, the amendment should ensure that state and local governments have the flexibility to ensure that roadways can be cleared of snow. These amendments to Chapter 231 also provide state and local governments with more flexibility under the regulations for snow removal activities, roadway maintenance activity and traffic control support operations to keep the highways and roadways of the Commonwealth safe for travel.

(13) 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.

Operators of state and municipal equipment, and individuals who operate equipment under contract with the Commonwealth and municipal governments for snow removal and other roadway activities will be required to comply with these regulations.

(14) 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.

There should be no cost to the regulated community.

(15) 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 change in the costs or savings to local governments from these amendments. There could be marginal savings effected in allowing operators to remain on the roadway and not having to bring equipment back to a garage for a relief driver.

(16) 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 change in the costs or savings to state government from these amendments. There could be marginal savings effected in allowing operators to remain on the roadway and not having to bring equipment back to a garage for a relief driver.

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

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:	\$	\$	\$	\$	\$	\$
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					

(17a) Provide the past three year expenditure history for programs affected by the regulation.

Program	FY -3	FY -2	FY -1	Current FY
MCSAP Program State & Federal monies	\$ 7,856,988	\$ 7,871,246	\$ 7,826,380	\$ 8,215,847

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

The benefit of having an adequate number of snow plow and other equipment operators to respond to weather events and other roadway needs greatly outweighs any adverse impact that might result from the extension of the hours of service for these drivers.

(19) 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.

Input from the Pennsylvania Turnpike and various representatives of municipal governments related to the experience during the 2010-2011 Winter prompted this amendment to the regulation.

(20) 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.

No alternative regulatory schemes were considered.

(21) 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.

The Federal standards for operator hours of service are more stringent allowing only 11 hours of continuous operation for operators of commercial vehicles. These amendments represent a departure from those standards, otherwise adopted for Pennsylvania, for the special circumstances presented here.

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

These amendments are similar to those adopted by other states which experience snowfalls and ice during the Winter months.

(23) 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.

(24) 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.

These amendments will not change existing legal, accounting or consulting procedures or require additional reporting. Record keeping or other paperwork.

(25) 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.

There are no special provisions in these amendments which address the particular needs of minorities, elderly small businesses or farmers.

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

- | | |
|---|-------------------|
| A. The date by which the agency must receive public comments: | <u>N/A</u> |
| B. The date or dates on which public meetings or hearings will be held: | <u>N/A</u> |
| C. The expected date of promulgation of the proposed regulation as a final-form regulation: | <u>12/21/2011</u> |
| D. The expected effective date of the final-form regulation: | <u>12/21/2011</u> |
| E. The date by which compliance with the final-form regulation will be required: | <u>12/21/2011</u> |
| F. The date by which required permits, licenses or other approvals must be obtained: | <u>N/A</u> |

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

These regulations will be reviewed periodically as appropriate to ensure continued effectiveness.

<p align="center">FACE SHEET FOR FILING DOCUMENTS WITH THE LEGISLATIVE REFERENCE BUREAU</p> <p align="center">(Pursuant to Commonwealth Documents Law)</p>	<p align="center">OCT 21 P 2 39</p> <p align="center">DO NOT WRITE IN THIS SPACE</p>
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<p>Copy below is hereby approved as to form and legality. Attorney General.</p> <p>By: _____ (Deputy Attorney General)</p> <p>_____ Date of Approval</p> <p><input type="checkbox"/> Check if applicable Copy not approved. Objections attached.</p>	<p>Copy of below is hereby certified to be true and correct copy of a document issued, prescribed or promulgated by:</p> <p align="center">Department of Transportation (Agency)</p> <p>DOCUMENT/FISCAL NOTE NO. <u>18-426</u></p> <p>DATE OF ADOPTION _____</p> <p>BY <u>Benny J. Schulz</u> Secretary of Transportation</p>	<p>Copy below is hereby approved as to form and legality. Executive or Independent Agencies</p> <p>BY <u>Andrew C. Clark</u></p> <p align="center">OCT 19 2018 (Date of Approval) Andrew C. Clark (Deputy General Counsel) (Chief Counsel, Independent Agency) (Strike Inapplicable Title)</p> <p><input type="checkbox"/> Check if applicable. No attorney General Approval or Objection within 30 days after submission.</p>
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FINAL REGULATION WITH NOTICE OF PROPOSED RULEMAKING OMITTED

DEPARTMENT OF TRANSPORTATION

Title 67 Transportation

Part I. Department of Transportation

Subpart A. Vehicle Code Provisions

Article II. Title

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

Final Regulation with Proposed Rulemaking Omitted

Preamble

Notice is hereby given that 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), proposes to amend Chapter 231 of the Department of Transportation Regulations, Title 67, as set forth in Annex A to this Notice. This regulation is being submitted as a final regulation with proposed rulemaking omitted under Section 1204 of the Commonwealth Documents law, 45 P.S. § 1204.

In April 2010, the Department amended the Intrastate Motor Carrier Safety Regulations to comply with the Federal Motor Carrier Safety Regulations. After the amendment, during the Winter of 2010-2011, state (PENNDOT and Turnpike) and local governments contacted the Department and expressed concern that the amendments had removed the language in then existing 49 Pa. Code §231.346 which had been interpreted to allow drivers of snow plows to operate on 12 hour driving shifts. The Federal Motor Carrier Safety Regulations which were adopted limit drivers of commercial vehicles to 11 hour shifts. During several snowstorms in the past winter, PennDOT, the Turnpike and local municipalities experienced difficulty in securing sufficient numbers of qualified snow plow operators to effectively keep roads safe and free of snow and still comply with the restrictions of the newly adopted regulations.

The proposed amendment is needed to provide state and local governments with the flexibility to ensure that roadways can be cleared of snow. Insofar as the change has been requested by state and local governments, and no state or local government will be adversely impacted by the amendment, the Department has determined that the approach of the 2011-2012 winter season makes it impractical, unnecessary and contrary to the public interest to provide public notice and comment on the rulemaking, in accordance with 45 P.S. §1204(c)(3).

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.

Purpose of the Proposed Amendments

The purpose of these amendments to Chapter 231 is to provide state and local governments with more flexibility under the regulations for snow removal activities, roadway maintenance activity and traffic control support operations to keep the highways and roadways of the Commonwealth safe for travel.

Summary of Significant Amendments

These amendments will exempt state and local government drivers performing roadway maintenance, snow plow operations and traffic control support operations from the hours of service and driver log requirements. This amendment will also extend the

permitted driving time from 11 hours to 12 hours for drivers of private carriers who are performing snow removal operations for a state or local government.

Persons and Entities Affected

These amendments will affect state and local government drivers who drive a commercial motor vehicle to provide snow removal, highway maintenance and traffic control support activities. These amendments will also affect private motor carrier drivers who provide snow removal activities on behalf of a state or local government.

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 5a of the Regulatory Review Act (71 P.S. 745.5a), on October 21, 2011, the Department submitted a copy of this rulemaking to the Office of Attorney General, to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House and Senate Transportation Committees for review. In addition to the final rulemaking the Committees were provided with a copy of a detailed Regulatory Analysis Form prepared by the Department. A copy of the Regulatory Analysis Form is available to the public upon request.

Sunset Provisions

The Department of Transportation will make these regulations effective upon publication in final form following appropriate evaluation of any comments, suggestions or objections received during the period allowed for public comment. 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 the proposed amendments to the regulations is Daryl St. Clair, Bureau of Highway Safety and Traffic Engineering, 400 North St., 6th Floor, Commonwealth Keystone Building, Harrisburg, Pennsylvania 17120, telephone number: 717-787-6899.

Order

The Department of Transportation orders that:

- (A) Section 231.8 of the regulations of the Department of Transportation, 67 Pa. Code §231.8, is amended as set forth in Annex A.
- (B) The Secretary of the Department of Transportation shall submit this Order and Annex A hereto to 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*.

Barry J. Schoch, P.E.

Secretary of Transportation

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

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§ 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:

*.***.*

(15) Section 395.1 (relating to scope of the rules in this part) is modified by adding a new paragraph as follows:

(q.1) This Part does not apply to transportation relating to snow removal, roadway maintenance and traffic control support activities performed by a state or any political subdivision of the state.

(q.2) A driver performing highway snow removal operations on behalf of the state or any political subdivision of the state who is not eligible to be exempted under

Subsection (q.1) may operate a commercial motor vehicle for up to 12 hours provided

that:

(1) the driver does not drive a commercial motor vehicle after having

been on duty for more than 16 hours; and

(2) the driver has not been on duty 70 hours in 7 consecutive days or 80
hours in 8 consecutive days.



COMMONWEALTH OF PENNSYLVANIA
GOVERNOR'S OFFICE OF GENERAL COUNSEL

October 21, 2011

Fiona E. Wilmarth, Acting Executive Director
Independent Regulatory Review Commission
333 Market Street, 14th Floor
Harrisburg, Pennsylvania 17101

**Re: Final-Omitted Rulemaking
18-426 — 67 Pa. Code Chapter 231
Intrastate Motor Carrier Safety Requirements**

Dear Acting Executive Director Wilmarth:

Enclosed please find a copy of the Face Sheet, Preamble, Annex A and Regulatory Analysis Form, for amendments to of Chapter 231 of Department regulations which the Department of Transportation hereby adopts in accordance with the provisions of Section 5 of the Regulatory Review Act, Act of June 25, 1982, P.L. 633, *as amended* 71 P.S. § 745.5a and Section 204 of the Commonwealth Documents Law, Act of July 31, 1968, P.L. 769, 45 P.S. § 1204.

Copies of these materials were also delivered today to the Office of Attorney General and to the majority and minority chairpersons of the Pennsylvania House and Senate Transportation Committees.

The Department of Transportation will provide IRRC 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



TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE
REGULATORY REVIEW ACT

RECEIVED
IRRC

I.D. NUMBER: #18-426
SUBJECT: Intrastate Motor Carrier Safety Requirements,
67 Pa. Code, Chapter 231
AGENCY: Department of Transportation

OCT 21 P 2:39

TYPE OF REGULATION

- Proposed Regulation
- 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>10/21/11</u>	<u>Kelly Dupman</u> for Majority Chair Hon. Richard A. Geist	HOUSE COMMITTEE ON TRANSPORTATION
<u>10/21/11</u>	<u>Suzanne E. Chadwick</u> for Minority Chair Hon. Michael P. McGeehan	
<u>10/21/11</u>	<u>Chris Madala</u> for Majority Chair Hon. John C. Rafferty, Jr.	SENATE COMMITTEE ON TRANSPORTATION
<u>10/21/11</u>	<u>Dawn Harmanis</u> for Minority Chair Hon. John N. Wozniak	
<u>10/21/11</u>	<u>Mary Mummert</u>	OFFICE OF ATTORNEY GENERAL
<u>10/21/11</u>	<u>K Cooper</u>	INDEPENDENT REGULATORY REVIEW COMMISSION
	<u>N/A</u>	LEGISLATIVE REFERENCE BUREAU

Date: October 21, 2011