

# RULES AND REGULATIONS

## Title 67—TRANSPORTATION

### DEPARTMENT OF TRANSPORTATION

[ 67 PA. CODE CH. 231 ]

#### Intrastate Motor Carrier Safety Requirements; Snow Removal Operations

The Department of Transportation (Department), under 75 Pa.C.S. §§ 4704 and 6103 (relating to inspection by police or Commonwealth personnel; and promulgation of rules and regulations by department), amends Chapter 231 (relating to intrastate motor carrier safety requirements) to read as set forth in Annex A. This rulemaking is being promulgated as an emergency regulation under section 6(d) of the Regulatory Review Act (71 P.S. § 745.6(d)).

The Department published a final-form rulemaking at 40 Pa.B. 2106 (April 24, 2010) to amend the intrastate motor carrier safety regulations to comply with the Federal Motor Carrier Safety Regulations. After the final-form rulemaking, during the winter of 2010-2011, State (the Department and the Turnpike Commission (Commission)) and local governments contacted the Department and expressed concern that the final-form rulemaking rescinded § 231.346 which had been interpreted to allow drivers of snow plows to operate on 12-hour driving shifts.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, the Department, the Commission 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.

This emergency regulation is needed to provide State and local governments with the flexibility to ensure that roadways can be cleared of snow. Governor Corbett issued a Certification of Need for Emergency Regulation stating that the regulatory amendment is needed on an expedited basis, with the approach of the 2011-2012 winter season.

#### *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 Amendment*

The purpose of the amendment 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 in this Commonwealth safe for travel.

#### *Summary of Significant Amendments*

This emergency regulation 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 emergency regulation 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 State or local governments.

#### *Persons and Entities Affected*

This emergency regulation will affect State and local government drivers who drive commercial motor vehicles to provide snow removal, highway maintenance and traffic control support activities. This emergency regulation will also affect private motor carrier drivers who provide snow removal activities on behalf of State or local governments.

#### *Fiscal Impact*

Implementation of this emergency regulation will not require the expenditure of additional funds by the Commonwealth or local municipalities. This emergency regulation will not impose additional costs on the regulated community.

#### *Regulatory Review*

Under section 5.1 of the Regulatory Review Act (71 P.S. § 745.5a), on November 1, 2011, the Department submitted a copy of this emergency regulation to the Office of Attorney General, the Independent Regulatory Review Commission and the Chairpersons of the House and Senate Transportation Committees for review. In addition to this emergency regulation, the Committees were provided with a copy of the certification from the Governor that this emergency regulation is required to meet an emergency threatening the public health, safety or welfare. The Committees were also provided with a detailed Regulatory Analysis Form prepared by the Department. A copy of this material is available to the public upon request.

#### *Effective Date*

This emergency regulation is effective upon publication in the *Pennsylvania Bulletin*.

#### *Contact Person*

The contact person for technical questions about the emergency regulation is Daryl St. Clair, Bureau of Highway Safety and Traffic Engineering, 400 North Street, 6th Floor, Commonwealth Keystone Building, Harrisburg, PA 17120, (717) 787-6899.

#### *Order*

The Department orders that:

(a) The regulations of the Department, 67 Pa. Code Chapter 231, are amended by amending § 231.8 to read as set forth in Annex A, with ellipses referring to the existing text of the regulation.

(b) The Secretary of the Department shall submit this order and Annex A 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 emergency regulation shall take effect upon publication in the *Pennsylvania Bulletin*.

BARRY J. SCHOCH, P.E.,  
Secretary

**Fiscal Note:** 18-426. No fiscal impact; (8) recommends adoption.

**GOVERNOR'S OFFICE**

**Certification of Need for Emergency Regulation**

Whereas, the Commonwealth Department of Transportation and local political subdivisions engage in snow removal activities on state and local highways; and

Whereas, the Turnpike Commission engages in snow removal activity on the Pennsylvania Turnpike; and

Whereas, snow removal is fundamental to the safety of the travelling public as well as the safe and efficient flow of commerce throughout Pennsylvania; and

Whereas, there is a shortage of drivers with commercial driver licenses who are available to provide snow removal services for or on behalf of state and local governments; and

Whereas, existing Department of Transportation regulations restrict the amount of time that a state or local government driver may operate a snow plow to 11 hours; and

Whereas, state and local governments also contract with motor carriers to supplement the snow removal activities but those drivers are also restricted to 11 hours of driving time under existing Department of Transportation regulations; and

Whereas, state and local governments have expressed concerns that the existing Department of Transportation regulations adversely affect their ability to provide adequate snow removal services; and

Whereas, existing Department of Transportation regulations do not provide state and local governments adequate flexibility to allow drivers to engage in snow removal activities for periods in excess of the amount permitted by regulation; and

Whereas, without immediate amendment of the regulations, snow removal activities by and on behalf of state and local governments will be severely hampered to the detriment of the safety of the travelling public and the safe and efficient flow of commerce; and

Whereas, without immediate amendment of the regulations the Department of Transportation, the Turnpike Commission and local governments will continue to be without a mechanism to address this problem during the period of time required to propose and promulgate a rulemaking.

Now Therefore, I do hereby certify that the regulatory amendments to 67 Pa. Code, Chapter 231, following hereto as ANNEX A are required to meet the emergency conditions enumerated in the recitals above and to safeguard the public health, safety and welfare as described therein.

Further, I hereby authorize the Secretary of Transportation to publish these amendments in the *Pennsylvania Bulletin* as a Final Rulemaking consistent with the provisions of Section 4 of the Regulatory Review Act, as amended, 71 P. S. § 745.6(d).

Given under my hand and the Seal of the Governor, at the City of Harrisburg, on this twenty-eighth day of October in the year of our Lord two thousand and eleven, and of the Commonwealth the two hundred and thirty fifth.



Governor

**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**

**§ 231.8. 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) 49 CFR 395.1 (relating to scope of rules in this part) is modified by adding subsections 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.

[Pa.B. Doc. No. 11-1932. Filed for public inspection November 11, 2011, 9:00 a.m.]