

# NTTC REGIONAL MEETING

## Baltimore, MD

### HM UPDATE

- ▶ Joe Evans
- ▶ HM Program Manager
  - ▶ FMCSA
- ▶ Eastern Service Center
  - ▶ 44 3 865 9929

## Today's topics

- ▶ RULES AFFECTING CARGO TANK OPERATIONS
  - FINAL RULES
    - HM
    - FMCSR
  - PROPOSED RULES
  - CSA HM CHANGES

## Revisions of Special Permits (SP) Procedures – HM-233B

- ▶ FR / Vol. 76, No. 3 / Wednesday, January 5, 2011
- ▶ *Effective date:* Mar 7, 2011
- ▶ *Voluntary Date:* Jan 5, 2011
- ▶ PHMSA is revising its procedures for applying for SP
- ▶ Applicants to provide sufficient information about its operations
- ▶ PHMSA will evaluate applicant's fitness and the safety impact of operations that would be authorized in the special permit.
- ▶ PHMSA is providing an online application option too.
- ▶ PHMSA independently reviews and evaluates the information provided
- ▶ Determines whether the SP will achieve equal level of safety as provided by the HMR.
- ▶ FMCSA and other modal administrations could also be involved in the evaluation process.

## Regulatory Changes – HM 215K

- ▶ Federal Register / Vol. 76, No. 12 / Wednesday, January 19, 2011 – HM 215K
- ▶ *Effective date:* January 19, 2011. *Voluntary compliance date:* January 1, 2011.
- ▶ Sour Crude Oil – The rulemaking added a new shipping description for petroleum sour crude for international transportation, but did not mandate its use for domestic transportation.
- ▶ See the new SP 343 and 357.

## Regulatory Changes – HM 215K

- ▶ A new marking is now required under new Section 172.327 for bulk packages in domestic transportation that contain petroleum crude oil containing **hydrogen sulfide** “in sufficient concentration that vapors evolved from the crude oil may present an inhalation hazard...”.

## Regulatory Changes – HM 215K

The new section allows for the use of the skull and crossbones symbol from the International Globally Harmonized System (GHS), or a label, tag, or sign, displayed at each location where exposure may occur. E.g. manholes, loading heads, etc.



## Regulatory Changes – HM 215K

- ▶ Definitions and Classification
- ▶ New flashpoint test methods have been added to Section 173.120.
- ▶ New boiling point test methods have been added to Section 173.121.
- ▶ A definition of “self-heating” has been added to Section 173.124.

## Regulatory Changes – HM 215K

- ▶ DOT407 Cargo Tank Specification
- ▶ Section 178.347-1(d)(9) has been revised to clarify that UW-12 in Section VIII of the ASME Code does not apply to a weld seam in a bulkhead that has not been radiographically examined, under the conditions listed in the subsection.

## Regulatory Changes – 6 CT Special Permits incorporated into HMR

- ▶ FR / Vol. 76, No. 21 / Tuesday, Feb1, 2011
- ▶ **Effective date:** March 3, 2011. *Voluntary compliance date:* February 1, 2011.
- ▶ Incorporating provisions contained in six widely used or longstanding cargo tank special permits that are granted to multiple parties and have established safety records
- ▶ The details are very specific in each section of the HMR relative to the type of equipment and operations.
- ▶ Effects inspection, testing, marking, and recordkeeping.

## Regulatory Changes – 6 CT Special Permits incorporated into HMR

SPECIAL PERMIT# Retired	49 CFR PART(S) AFFECTED	PACKAGE TYPE/USE/HM CLASS
SP 11209	173.5(d)	Moveable Fuel Storage Tenders 2.1 LPG
SP 13113	173.5(e)	Liquid Soil Pesticide Fumigants 6.1
SP12284	173.5a(c)	Roadway Striping Equipment Various HM 3, 6.1, 5.2, 8, 9
SP 13341	173.315(j)	Consumer Storage Containers (LPG) 2.1
SP 13554	173.315(m)(2)	Anhydrous Ammonia tanks securely mounted on a farm wagon 2.2
SP 10950	173.315(m)(3)	Anhydrous Ammonia tanks on field mounted trucks 2.2

## Regulatory Changes – Limiting the Use of Electronic Devices by Highway

- ▶ FR /Vol. 76, No. 39 /Monday, February 28, 2011
- ▶ Effective March 30, 2011.
- ▶ Prohibits texting on electronic devices by drivers during the operation of a motor vehicle containing HM requiring placards or DHHS “Select Agents and Toxins”.
- ▶ FMCSA adopts similar rule on September 27, 2010 by prohibiting motor carriers from requiring or allowing drivers of covered motor vehicles to engage in texting while driving.
- ▶ **177.804 Compliance with Federal Motor Carrier Safety Regulations.**
- ▶ (b) *Prohibition against texting.* In accordance with § 392.80 of the FMCSRs a person transporting a quantity of hazardous materials requiring placarding under 49 CFR part 172 or any quantity of a material listed as a select agent or toxin in 42 CFR part 73 may not engage in, allow, or require texting while driving.
- ▶ **392.80 Prohibition against texting** – No driver shall engage in texting while driving and no motor carrier shall allow or require its drivers to engage in texting while driving.

## Requirements for Storage of Explosives During Transportation –HM 238

- ▶ FR /Vol. 76, No. 109 /Tuesday, June 7, 2011
- ▶ *Effective July 7, 2011*
- ▶ *Voluntary Compliance: June 7, 2011*
- ▶ PHMSA, in coordination with the FMCSA, approves the use of the NFPA 498—*Standard for Safe Havens and Interchange Lots for Vehicles Transporting Explosives (2010 Edition)* for the construction and maintenance of safe havens used for unattended storage of Division 1.1, 1.2, and 1.3 explosives
- ▶ Part 171.7 – *NFPA 498–Standard for Safe Havens and Interchange Lots for Vehicles Transporting Explosives, 2010 Edition* .....
- ▶ 177.835(k) Attendance of Class 1 materials .....

## Regulatory Changes – HM 218F Miscellaneous Amendments

- ▶ FR / Vol. 76, No. 139 / Wed July 20, 2011
- ▶ **Effective Date:** August 19, 2011.
- ▶ **Voluntary Compliance Date:** July 20, 2011
- ▶ **107.105, 107.107, and 107.109** – have been revised to add a requirement for each applicant to a special permit to identify their role as a shipper (offeror), carrier, or both
- ▶ **171.8** – Revise the definition of “person” to include those who manufacture, test, repair, and recondition packages *authorized for the transportation of hazardous materials.* (see § 171.8).
- ▶ **171.14** – Removed and reserved: transitional provisions are moved to the applicable parts. (e.g.) Shipping description sequence alternatives transition is moved from 171.14(e) to 172.202(b) – Until January 1, 2013, either sequence is allowed

## Regulatory Changes – HM 218F Miscellaneous Amendments

- ▶ **172.203(p)** – Inserts a new paragraph requiring “non-odorized” on shipping papers of non-odorized liquefied petroleum gas.
- ▶ **172.519(c)(1)** is revised to reduce the minimum placard size from 274mm on each side (10.8 inches) to 250 mm on each side (9.84 inches), which is the same as all the other international regulations.

## Regulatory Changes – HM 218F Miscellaneous Amendments

- ▶ **Cargo Tanks**
- ▶ *Venting void space*
- ▶ **178.345–1(i)(2)** is revised to allow closure or plugging of the top vent and only requiring an open drain. This change applies only to DOT 400–series cargo tanks.
- ▶ *Definition of cargo tank wall*
- ▶ **178.320** is revised to reflect a change to the definition of cargo tank wall. The term “cargo tank assembly” has been removed and replaced with “completed cargo tank motor vehicle”.
- ▶ *DOT 407 cargo tank revisions*
- ▶ **178.347–1** is revised to clarify that a cargo tank motor vehicle with a Maximum Allowable Working Pressure (MAWP) greater than 35 psig or designed to be loaded by vacuum must be constructed and certified in accordance with the ASME Code.

## Regulatory Changes – HM 218F Miscellaneous Amendments

- ▶ **178.347–4** is revised to make a clear distinction between “designed to be loaded by vacuum” and “built to withstand full vacuum”.
- ▶ CT is designed “to withstand full vacuum,” = **constructed** in accordance with the ASME Code
- ▶ CT is “loaded by vacuum” = **constructed and certified** in accordance with the ASME Code.
- ▶ The intent of the final user will determine whether a tank will be “loaded by vacuum” and require a certified (“U” stamped) vessel.
- ▶ *180 – Reporting and record retention*

**180.417(b)(1)(v)** requires the minimum thickness of the cargo tank shell and heads to be noted on inspection and test reports when the cargo tank thickness is tested in accordance with § 180.407(d)(4), § 180.407(e)(3), § 180.407(f)(3), or § 180.407(i). The reference to § 180.407(d)(4), which addresses thickness testing of ring stiffeners or other appurtenances, is incorrect. The correct reference for this section is § 180.407(d)(5).

## **Commercial Driver's License Testing (CDL) and Commercial Learner's Permit (CLP) Standards – Parts 383, 384, and 385**

- ▶ FR/Vol. 76, No. 89 / May 9, 2011
- ▶ *Effective date:* July 8, 2011.
- ▶ *Compliance Date:* States must be in compliance with the subpart B of Part 384 by July 8, 2014.
- ▶ FMCSA amends CDL knowledge and skills testing standards
- ▶ Establishes new minimum Federal standards for States to issue CLP.
- ▶ Requires that a CLP holder meet same requirements as CDL holder
- ▶ Driver holding CLP subject to same driver disqualification penalties applicable to a CDL

## **PROPOSED RULES**

- ▶ *HM 241* – Adoption of ASME Code Section XII and the National Board Inspection Code 12/23/2010 (ANPRM)
- ▶ *FMCSA-2004-19608* – Hours of Service of Drivers
- ▶ FMCSA proposes to revise HOS regulations for drivers of property-carrying commercial motor vehicles.
- ▶ *HM 213D* – Safety Requirements for External Product Piping on Cargo Tanks Transporting Flammable Liquids. 1/27/2011
- ▶ *HM - 255* & *FMCSA-2006-25660* – Highway-Rail Grade Crossing; Safe Clearance. 1/28/2011
- ▶ *HM 247* – Cargo Tank Motor Vehicle Loading and Unloading Operations. 3/11/2011
- ▶ *FMCSA 2010-0167* – Electronic on-board Recorders and Hours of Service Supporting Documents 2/1/2011
  
- ▶ **FEDERAL EXPARTE RULES DO NOT ALLOW DISCUSSION OF PROPOSED RULES**

## CSA Safety Measurement System (SMS) – Change

- ▶ Question: Which motor carriers are now subject to the more stringent HM intervention threshold?
- ▶ Answer: Motor carriers that transport placardable HM
  - ▶ Background:
- ▶ CSA's SMS assesses 24 months of motor carriers' safety performance information (inspections and investigations)
- ▶ SMS uses 7 Behavior Analysis and Safety Improvement Categories (BASICS).
  - Question: What are the 7 BASICS
  - Unsafe Driving
  - Fatigued Driving (Hours-of-Service)
  - Driver Fitness
  - Controlled Substances/Alcohol
  - Vehicle Maintenance
  - Cargo-Related
  - Crash Indicator
- Question: Which BASIC includes HM criteria?
- Answer: Cargo Related

## CSA Safety Measurement System (SMS) – Change

- ▶ Each month FMCSA updates carrier percentiles in each BASIC.
- ▶ Carriers with BASIC percentiles above the FMCSA threshold are prioritized for an FMCSA intervention. (Warning letters, NOV, Investigations, etc)
- ▶ Carriers that transport placardable quantities of HM are subject to more stringent BASIC thresholds due to higher safety risk these HM pose
- ▶ Previously, the HM intervention threshold was applied to carriers based solely on their registration information indicating they transported any quantity of HM. This resulted in some motor carriers being subjected to the lower HM threshold that in fact were not carrying placardable quantities of HM

## CSA BASIC Thresholds (Percentiles)

BASIC	Passenger Carriers	HM Carriers	All Other Motor Carriers
Unsafe Driving – Fatigued Driving – (HOS) – Crash Indicator –	50	60	65
Driver Fitness – Controlled – Substances/Alcohol – Vehicle Maintenance – Cargo-Related	65	75	80

## CSA Safety Measurement System (SMS) – Change

### ▶ What Changed?

- ▶ The HM intervention threshold now applies to motor carriers that transport placardable quantities of HM based on operational evidence.

### ▶ What Operational Evidence

- ▶ Carrier is identified transporting placardable quantities of HM within the last 24 months
- ▶ Carrier identified transporting placardable HM during a CR or SA in the last 24 months
- ▶ Carrier has a HM safety permit

## CSA Safety Measurement System (SMS)

- ▶ HM BASIC?
- ▶ FMCSA is currently developing a separate HM BASIC
- ▶ It will not be included in the Safety Fitness Determination proposed rulemaking set to be released by the end of the year.

## Electronic On-Board Recorders

- ▶ FR Vol. 75, No. 64 / Monday, April 5, 2010 Parts 350, 385, 395, and 396 Electronic On-Board Recorders for Hours-of-Service Compliance: AGENCY: Federal Motor Carrier Safety
- ▶ Sent back to the drawing board by 7th U.S. Circuit Court of Appeals on Aug 26, 2011. The rule was vacated and remanded back FMCSA for further proceedings.
- ▶ Rule does not adequately address or ensure that carriers could not use the devices to force drivers to stay on the road even when they are tired.
  - ▶ **Court's Comments**
- ▶ FMCSA needs to consider what types of harassment already exist, how frequently and to what extent harassment happens, and how an electronic device capable of contemporaneous transmission of information to a motor carrier will guard against (or fail to guard against) harassment"

## MORE INFORMATION

- ▶ For more detailed information on the HM regulations and how to comply with them, motor carriers should visit FMCSA's Website at the following link: <http://www.fmcsa.dot.gov/safety-security/hazmat/complyhmregs.htm#hm>
- ▶ **How Can a Motor Carrier Learn about Its Status Regarding these Changes?**
- ▶ Motor carriers should:
  - ▶ Go to the SMS Website at <http://ai.fmcsa.dot.gov/sms>.
  - ▶ Enter their U.S. DOT or MC number on the right-hand side of the page.
  - ▶ Scroll down to the registration information at the bottom of the page.
  - ▶ View the item entitled "Subject to Placardable Hazardous Material Threshold" where they will see either a "Yes" or a "No."
  - ▶ If the answer is "Yes," motor carriers can click on the link where a table will outline why the motor carrier is assessed using the placardable HM threshold.

## Top Driver OOS Violations - 2010

Driver Violations	All Domiciles	U.S.	Mexico	Canada
<a href="#">Driver Inspections</a>	207,076	196,220	7,123	3,733
<a href="#">Driver Insp w/ OOS Vio</a>	5,072	4,900	81	91
Driver OOS Rates	2.4%	2.5%	1.1%	2.4%
Driver OOS Violations	5,910	5,743	60	107
395.3A2 - DRIVING AFTER 14 HOURS ON DUTY	10.4%	10.1%	8.3%	30.8%
395.3A1 - DRIVING MORE THAN 11 HOURS	6.3%	6.1%	5.0%	18.7%
395.8E - FALSE DRIVERS RODS	6.4%	6.4%	6.7%	8.4%

## Top VEHICLE OOS Violations – 2010

Vehicle Violations	All Domiciles	U.S.	Mexico	Canada
<u>Inspections</u>	186,397	176,351	6,842	3,204
<u>Inspections w/ OOS Viol</u>	24,761	23,438	1,043	280
<u>OOS Rate*</u>	13.3%	13.3%	15.2%	8.7%
<u>OOS Violations</u>	26,124	24,994	927	203
393.9 – INOPERATIVE TURN SIGNAL	2.0%	2.0%	1.4%	11.8%
393.75A – FLAT TIRE OR FABRIC EXPOSED	4.0%	4.0%	2.2%	8.9
393.45 – BRAKE TUBING/HOSE ADEQUACY	4.0%	3.6%	14.3%	7.4%
393.45B2 – BRAKE HOSE/TUBING CHAFFING AND/OR KINKING	7.3%	7.6%	0.8%	6.9%

## Top HM/DG OOS Violations – 2010

HM Violations	All Domiciles	U.S.	Mexico	Canada
<u>HM Inspections</u>	207,076	196,220	7,123	3,733
<u>HM Insp w/OOS Vio</u>	8,980	8,689	147	144
HM OOS Rates	4.3%	4.4%	2.1%	3.9%
HM OOS Viol.	11,404	11,068	162	174
177.834A – PACKAGE NOT SECURE IN VEHICLE	31.9%	31.8%	29.6%	39.1%
172.504A – VEHICLE NOT PLACARDED AS REQUIRED	10.6%	10.6%	4.9%	19.0%
177.823A – NO PLACARDS/MARKINGS WHEN REQUIRED	15.6%	15.6%	22.2%	7.5%

THANKS FOR YOUR ATTENTION

