

# **U.S. DOT Regulatory Update**

**New and Proposed Rules Affecting the Heating  
Fuels Industry**

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# Division of Authority at the U.S. DOT

## **Federal Motor Carrier Safety Administration (FMCSA)**

Motor Carrier Safety CDL Requirements . Operating Authority  
Hours of Service . Drug and Alcohol Testing . U.S. DOT Number  
Equipment Requirements . Driver Medical Certification  
Enforcement/ Roadside Inspections . On-Site Audits

## **Pipeline and Hazardous Material Safety Administration (PHMSA)**

HAZMAT Transportation Safety . Shipping Papers and  
Placarding . HAZMAT Registration . Driver HAZMAT Training .  
Equipment Specifications . Testing and Inspection . Roadside  
Inspections . On-Site Audits

# New U.S. DOT Drug and Alcohol Clearinghouse Requirements

## What is it?

- ▶ New electronic data base containing CDL drivers record of drug and alcohol violations

## Purpose?

- ▶ The database is used to report and check driver drug and alcohol violations
- ▶ The database is used to ensure that drivers with drug and alcohol violations do not driver prior to required rehabilitation requirements

## Who must use it?

- ▶ Employers, drivers, state licensing agencies and third party drug and alcohol testers must access the database

# New U.S. DOT Drug and Alcohol Clearinghouse Requirements

## Employer Responsibility

- ▶ **Employers are required** to query the Clearinghouse for current and prospective employees' drug and alcohol violations before permitting those employees to operate a commercial motor vehicle
- ▶ **Employers are required** to upload driver drug and alcohol violation information
- ▶ **Employers must** register in the Clearinghouse to access the Clearinghouse database
- ▶ **Employers must** receive driver electronic consent to view individual violation information
- ▶ **Employers must** identify a company administrator for the Clearinghouse

# New U.S. DOT Drug and Alcohol Clearinghouse Requirements

## CDL Driver Responsibility

- ▶ ***Drivers are required*** to enter their CDL information during their Clearinghouse registration
- ▶ ***Drivers must*** provide employers with an electronic consent for third party access to records

## Violations in Database

- ▶ Only drug and alcohol violations occurring after January 6, 2020 are recorded in the database

## Driver Notification

- ▶ FMCSA will contact the driver via mail when new violations are posted

# Drug and Alcohol Clearinghouse Requirements

## Third Party Responsibility

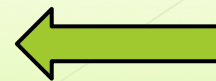
- ▶ **State licensing agencies must** query the database whenever a driver applies, renews, upgrades or transfers a CDL license
- ▶ **Drug and alcohol testers must** upload violation information
- ▶ **Prospective employers must** query database as part of new employee hiring process
- ▶ **Enforcement Authorities may** query the database for individual driver information

## Compliance Deadline

All responsible parties (except state agencies) must register with, and begin using the database as required no later than :



January 6, 2020



# Drug and Alcohol Clearinghouse Requirements

Online Registration

<https://clearinghouse.fmcsa.dot.gov/>

# Cannibidoil (CBD) and U.S. DOT Drug Testing

## What is it?

- ▶ Popular and legal natural “remedy” used for many common ailments.
- ▶ Largely sold in convenience stores and through online purchase
- ▶ One of the 400 chemical compounds found in cannabis.
- ▶ Causes the sensation of getting “high” that’s often associated with marijuana.

## Problem

- ▶ Use of CBD oil, even if derived from hemp, can result in a positive drug test



# Cannibidoil (CBD) and U.S. DOT Drug Testing

## Federal Regulatory Prohibitions

- ▶ The use of THC by CDL drivers, *in any form*, is prohibited
- ▶ It does not matter that state law allows such use
- ▶ Medical and recreational marijuana and CBD oils are **banned** under U.S. DOT regulations, legal or otherwise
- ▶ Medical review officers (drug and alcohol testers) **must not** take the legal medicinal use of marijuana or CBD oil into consideration when determining a driver's drug test result.
- ▶ If THC is detected it results in a positive drug test
- ▶ Employers must remove from duty a CDL driver until specific steps in the DOT return-to-duty protocol are successfully completed.

# Placarding Cargo Tanks to the Lowest Flash Point

## **New U.S. DOT (PHMSA) Regulatory Interpretation**

- ▶ Prohibits placarding a cargo tank vehicle to the lowest flash point for alternating straight loads of diesel fuel and gasoline
- ▶ Use UN1203 gasoline placard in place of the NA1993 placard for diesel fuel.

## **Old Interpretation**

- ▶ Allowed for split loads and straight loads of gasoline and diesel or heating oil

## **New Interpretation**

- ▶ Allowed only for split loads. (Gasoline must be present in at least one compartment to use UN1203).



# Placarding Cargo Tanks to the Lowest Flash Point

## Problems

- ▶ Drivers now must change placards between hauling loads of gasoline and diesel fuel unless one compartment contains gasoline.
- ▶ Empty compartment that held gasoline counts if not cleaned and purged.
- ▶ Enforcement varies state to state as enforcement authorities question the new interpretation.
- ▶ Uneven enforcement
- ▶ Working on a regulatory fix to go back to the former interpretation

# New U.S DOT Interpretation on Cargo Tank Leak Testing

- ▶ U.S. DOT requires cargo tanks transporting petroleum to be undergo leak tests according to the agency's own test standard ("K Test")
- ▶ Test type and date are marked on the cargo tank vehicle and checked at roadside inspections
- ▶ Exception - EPA Method 27 leak test may be used in lieu of the DOT leak test for specification cargo tanks in ***dedicated*** gasoline service only
- ▶ Cargo tanks that transport heating oil, kerosene, diesel fuel, jet fuel or biodiesel must use the U.S. DOT leak test and cannot use EPA Method 27

# New U.S DOT Interpretation on Cargo Tank Leak Testing

## Problem

- ▶ Many cargo tanks that are not in dedicated gasoline service have been leak tested according to Method 27 due to confusion of terms
- ▶ These cargo tanks are being pulled out of service at roadside inspections for non-compliance with DOT leak test requirements

## Why the Leak Test Confusion?

- ▶ PHMSA regulatory language limits Method 27 to cargo tanks hauling “*petroleum distillates*”
- ▶ The petroleum industry defines distillates as diesel, heating oil, kerosene, jet fuel, etc. but *not* gasoline.
- ▶ PHMSA and EPA define “petroleum distillates” as fuels with a RVP of 4.0 psi or greater

# New U.S DOT Interpretation on Cargo Tank Leak Testing

- ▶ The only fuel with an RVP greater than 4.0 is *gasoline*

## Bottom Line

- ▶ Cargo tanks hauling heating oil, diesel and other distillates *must be* leak tested according to the U.S. DOT leak test
- ▶ Cargo tanks in *dedicated* gasoline service *may* use EPA Method 27 in lieu of the U.S. DOT leak test
- ▶ Cargo tanks that haul both gasoline and heating oil, diesel fuel etc. in split loads or alternating straight loads *must be* leak tested according to the U.S. DOT leak test *and* the EPA Method 27
- ▶ Method 27 is required by EPA for cargo tanks equipped with vapor recovery equipment
- ▶ To see U.S. DOT interpretation, google “Method 27 safety advisory”

# FMCSA Proposed Changes to Driver Hours of Service Requirements

FMCSA proposed the following changes to driver hours service regulations

## Short Haul Drivers

- ▶ Expand the 100 air-mile radius exception for short haul carriers from recording driver daily HOS to 150 miles
- ▶ Lengthen driver on duty time under the short haul exception from the current 12 hours daily maximum to 14 hours
- ▶ NEFI asked for this change to provide flexibility in scheduling drivers and remove transport drivers from the electronic HOS recording requirements



# FMCSA Changes to Driver Hours of Service

## FMCSA is also proposing to:

- ▶ Extend the maximum daily on-duty time under the adverse driving conditions exception from 14 hours to 16 hours during which driving is permitted
- ▶ Allow driver one off-duty break for at least 30 minutes, but not more than 3 hours
  - ▶ This would interrupt the daily maximum daily on-duty period for loading and unloading activities up to 3 hours
  - ▶ Drivers interrupting the on-duty period must take 10 consecutive hours off-duty at the end of the work shift
  - ▶ Question: Can this apply to waiting time at terminals?

# Questions?

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