



# MARYLAND DEPARTMENT OF THE ENVIRONMENT

1800 Washington Boulevard • Baltimore MD 21230

410-537-3000 • 1-800-633-6101

Martin O'Malley  
Governor

Robert M. Summers, Ph.D.  
Secretary

Anthony G. Brown  
Lieutenant Governor

April 29, 2013

The Honorable Mike V. Miller, Jr., President  
Senate of Maryland  
State House, H-107  
Annapolis MD 21401-1991

The Honorable Michael E. Busch, Speaker  
House of Delegates  
State House, H-101  
Annapolis MD 21401-1991

The Honorable Joan Carter Conway  
Chairwoman  
Senate Education, Health and  
Environmental Affairs Committee  
Miller Senate Office Building  
2 West Wing  
11 Bladen Street  
Annapolis MD 21401-1991

The Honorable Maggie McIntosh  
Chairwoman  
Environmental Matters Committee  
House of Delegates  
House Office Building, Room 251  
6 Bladen Street  
Annapolis, MD 21401-1991

Dear President Miller, Speaker Busch, Chairwomen Conway and McIntosh:

In accordance with Chapter 176 of the Acts of 2012 and §2-1246 of the State Government Article, Annotated Code of Maryland, this one time report presents the Maryland Department of the Environment's ("the Department" or "MDE") findings and recommendations of the controlled hazardous substance vehicle certification process.

Chapter 176 (Senate Bill 114 entitled *Controlled Hazardous Substance Driver Certification – Elimination*) which became effective July 1, 2012, requires MDE to conduct a review, in consultation with federal and State transportation officials, relating to the efficiency and regulatory consistency of its controlled hazardous substance vehicle certification process. As part of this requirement, MDE met internally and reviewed the process and drafted recommendations.

On October 2, 2012, MDE sent letters to Maryland State Highway Administration (SHA) and Federal Motor Carrier Safety Administration (FMCSA) asking for comments on MDE's recommendations to make changes to the language in the law. The proposed recommendation eliminates the requirement to display the certification on the vehicle and instead requires that the certificate be carried in the vehicle.

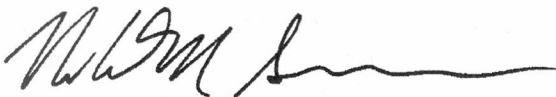
Maryland State Highway Administration has notified MDE that they agree with our recommendation and have drafted a departmental bill for the 2013 Legislative session to address this change. The justification is that the United States Code (USC), Title 49, Section 14506, prohibits a State from enacting or enforcing, "any law, rule, regulation standard or other provision having force and effect of law that requires a motor carrier to display any form of identification on or in a commercial motor vehicle (as defined in section 14504a), other than form of identification required by the Secretary of Transportation under section 390.21 of title 49, Code of Federal Regulations (CFR)."

The Department, SHA, and the Federal Motor Carrier Safety Administration agreed on recommended statutory language that was submitted to the General Assembly (see enclosed letters). At the request of SHA, Senate Bill 64, entitled Control Hazardous Substance Vehicles – Display of Certificates was introduced and recently passed by the 2013 General Assembly with an effective date of October 1, 2013.

In addition, MDE is looking into making other changes to the certification process. Two of the changes are having the applications available electronically and the ability to accept the applications electronically. The Department's staff is contacting the surrounding States (Virginia, Delaware, Pennsylvania, New Jersey and New York) to inquire about their processes to see if MDE can incorporate some of their procedures as well. If necessary, additional changes may be made once that review is completed.

If we can provide you with any additional information, please contact me or Horacio Tablada, Director of the Land Management Administration, at 410-537-3304 or via e-mail at [htablada@mde.state.md.us](mailto:htablada@mde.state.md.us).

Sincerely,



Robert M. Summers, Ph.D.

Secretary

Enclosures

cc: Horacio Tablada, Director, Land Management Administration





## MARYLAND DEPARTMENT OF THE ENVIRONMENT

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Martin O'Malley  
Governor

Robert M. Summers, Ph.D.  
Secretary

Anthony G. Brown  
Lieutenant Governor

October 24, 2012

Pipeline and Hazardous Materials Safety Administration  
1200 New Jersey Avenue SE, PHH-50  
Washington, D.C. 20590-0001

RE: Maryland's law and regulations pertaining to certification to transport controlled hazardous substance in Maryland. Environment Article Section 7-252, Annotated Code of Maryland & COMAR 26.13.04.01

Dear Madam or Sir:

During the 2012 Maryland legislative session, SB 114 Environment - Controlled Hazardous Substance Driver Certification - Elimination passed and was enacted as Chapter 176 of the 2012 Acts. Section 2 of this bill asks MDE to "... conduct a review, in consultation with federal and State transportation officials, relating to the efficiency and regulatory consistency of its controlled hazardous substance vehicle certification process ..."

Section 7-252, Annotated Code of Maryland currently states "When transporting any controlled hazardous substance, shall: ... Display prominently the vehicle certificate or affix the vehicle certificate to the outside of the left door of the cab of the controlled hazardous substance vehicle ..." Since the US DOT has exempted that certificates are not to be displayed on vehicles, MDE is considering a change to our law. The Department is proposing that we eliminate the word "display prominently" and replace it with "carry in the cab" in addition to deleting "or affix the vehicle certificate to the outside of the left door of the cab ..."

In following with the General Assemblies request to conduct a review in consultation with State transportation officials, MDE is asking your comments on this proposed legislative change. The Department appreciates your opinion on this matter. Please return comments to me by November 1, 2012.

Thank you for your attention to this matter. If you have any questions feel free to contact me at 410-537-3305 or by e-mail at [htablada@mde.state.md.us](mailto:htablada@mde.state.md.us).

Sincerely,

Horacio Tablada, Director  
Land Management Administration

Enclosure

cc: Jennifer Hopper, Section Head, Hazardous Waste Certification Section





**MARYLAND DEPARTMENT OF THE ENVIRONMENT**  
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Martin O'Malley  
Governor

Robert M. Summers, Ph.D.  
Secretary

Anthony G. Brown  
Lieutenant Governor

October 2, 2012

Federal Motor Carrier safety Administration  
Ms. Barbara Webb-Edwards  
City Crescent Building  
10 S. Howard Street, Suite 2710  
Baltimore MD 21201

RE: Maryland's law and regulations pertaining to certification to transport controlled hazardous substance in Maryland. Environment Article Section 7-252, Annotated Code of Maryland & COMAR 26.13.04.01

Dear Ms. Webb-Edwards:

During the 2012 Maryland legislative session, SB 114 Environment - Controlled Hazardous Substance Driver Certification – Elimination passed and was enacted as Chapter 176 of the 2012 Acts. Section 2 of this bill asks MDE to "... conduct a review, in consultation with federal and State transportation officials, relating to the efficiency and regulatory consistency of its controlled hazardous substance vehicle certification process ..."

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In following with the General Assemblies request to conduct a review in consultation with State transportation officials, MDE is asking your comments on this proposed legislative change. The Department appreciates your opinion on this matter. Please return comments to me by October 26, 2012.

Thank you for your attention to this matter. If you have any questions feel free to contact me at 410-537-3305 or by e-mail at [htablada@mde.state.md.us](mailto:htablada@mde.state.md.us).

Sincerely,

Horacio Tablada, Director  
Land Management Administration

Enclosure

cc: Jennifer Hopper, Section Head, Hazardous Waste Certification Section





U. S. DEPARTMENT  
OF TRANSPORTATION  
Federal Motor Carrier Safety Administration  
City Crescent Building  
10 South Howard Street, Suite 2710  
Baltimore, Maryland 21201-2517  
410-962-2889



October 23, 2012

Mr. Horacio Tablada  
Director  
Maryland Department of Environment (MDE)  
Land Management Administration  
1800 Washington Boulevard  
Baltimore, Maryland 21230

Mr. Tablada:

I received your letter dated October 2, 2012 requesting review of proposed changes in Maryland Environment Article, Section 7-252, Annotated Code of Maryland. You state that the Maryland Department of Environment (MDE) is required to conduct a review, in consultation with Federal and State transportation officials, relating to the efficiency and regulatory consistency of the controlled hazardous substance vehicle certification process. We are happy to provide that review from Federal Motor Carrier Safety Administration's perspective.

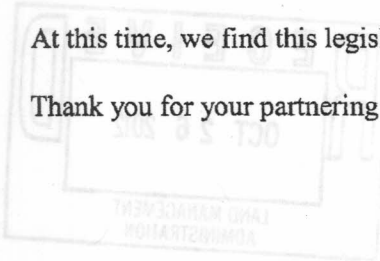
I reviewed all of the documentation you provided and also conferred with our subject matter experts at our headquarters Hazardous Material Division.

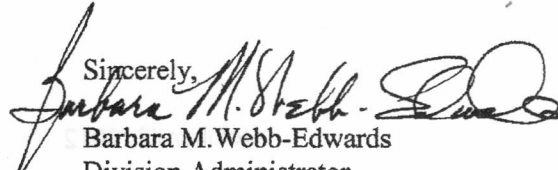
The transportation of these materials are under the purview of the Hazardous Materials Transportation Law (49 U.S.C. 5101, et seq). Sections 5108 and 5109 authorizes the Pipeline and Hazardous Material Safety Administration's (PHMSA) registration program and the Federal Motor Carrier Safety Administration's (FMCA) safety permit program, respectively, affecting both inter and intrastate commerce. Neither of these sections prohibits a state from enacting their own, perhaps even more stringent, registration or permitting programs and provisions, as long as the requirements are not otherwise referred to in Section 5125, "Preemption".

You referenced the State's current regulation requires a carrier transporting any controlled hazardous substance to display prominently or affix the vehicle certificate to the door of the transport vehicle. MDE is now considering changing that wording to eliminate the "display" and "affix", replacing it with, "carry in the cab".

At this time, we find this legislative change in no way negates federal regulations.

Thank you for your partnering and enforcement efforts in highway safety.



Sincerely,  
  
Barbara M. Webb-Edwards  
Division Administrator  
Maryland Division

Motor Vehicle Safety Council (MVSC) is a non-profit organization that provides technical assistance to states in the development and implementation of motor vehicle safety programs. MVSC is currently conducting a review of proposed changes in Maryland's motor vehicle safety laws and regulations. The purpose of this review is to ensure that the proposed changes are consistent with federal regulations and to identify any potential conflicts or gaps in the law. We are happy to provide that review from Federal Motor Vehicle Safety Council.

The proposed changes to the Motor Vehicle Safety Council (MVSC) are consistent with federal regulations and do not conflict with any existing state laws or regulations. We are happy to provide that review from Federal Motor Vehicle Safety Council.

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Martin O'Malley  
Governor

Robert M. Summers, Ph.D.  
Secretary

Anthony G. Brown  
Lieutenant Governor

October 2, 2012

Maryland State Highway Administration  
Mr. Dave Czorapinski  
Chief, Motor Carrier Division  
7491 Connelley Drive  
Hanover MD 21076

RE: Maryland's law and regulations pertaining to certification to transport controlled hazardous substance in Maryland. Environment Article Section 7-252, Annotated Code of Maryland & COMAR 26.13.04.01

Dear Mr. Czorapinski:

During the 2012 Maryland legislative session, SB 114 Environment - Controlled Hazardous Substance Driver Certification - Elimination passed and was enacted as Chapter 176 of the 2012 Acts. Section 2 of this bill asks MDE to "... conduct a review, in consultation with federal and State transportation officials, relating to the efficiency and regulatory consistency of its controlled hazardous substance vehicle certification process ..."

Section 7-252, Annotated Code of Maryland currently states "When transporting any controlled hazardous substance, shall: ... Display prominently the vehicle certificate or affix the vehicle certificate to the outside of the left door of the cab of the controlled hazardous substance vehicle ..." Since the US DOT has exempted that certificates are not to be displayed on vehicles, MDE is considering a change to our law. The Department is proposing that we eliminate the word "display prominently" and replace it with "carry in the cab" in addition to deleting "or affix the vehicle certificate to the outside of the left door of the cab ..."

In following with the General Assemblies request to conduct a review in consultation with State transportation officials, MDE is asking your comments on this proposed legislative change. The Department appreciates your opinion on this matter. Please return comments to me by October 26, 2012.

Thank you for your attention to this matter. If you have any questions feel free to contact me at 410-537-3305 or by e-mail at [htablada@mde.state.md.us](mailto:htablada@mde.state.md.us).

Sincerely,

Horacio Tablada, Director  
Land Management Administration

Enclosure

cc: Jennifer Hopper, Section Head, Hazardous Waste Certification Section



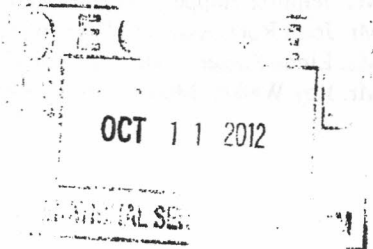


State Highway Administration

MARYLAND DEPARTMENT OF TRANSPORTATION

Martin O'Malley, Governor  
Anthony G. Brown, Lt. Governor

Darrell B. Mobley, Acting Secretary  
Melinda B. Peters, Administrator



October 9, 2012

Mr. Horatio Tablada, Director  
Land Management Administration  
Maryland Department of the Environment  
1800 Washington Blvd.  
Baltimore MD 21076

Dear Mr. Tablada:

Thank you for the opportunity to comment on your efforts to revise the controlled hazardous substance transportation requirements. The plan you have presented to address the issue of truck stickers, of particular concern to the Maryland State Highway Administration (SHA), is fine. In that regard, the Maryland Department of Transportation (MDOT) has developed a legislative proposal to accomplish what you have proposed. Our Legislative Manager, Mr. Martin Harris, would be the appropriate person to coordinate efforts with on this legislation. Mr. Harris can be reached by phone at 410-865-1102 or via email at mharris1@mdot.state.md.us.

Thank you again for your commitment to commercial vehicle safety. We look forward to working with the Maryland Department of the Environment (MDE) on this proposal and its successful adoption.

Sincerely,

Dave Czorapinski, Chief  
Motor Carrier Division

cc: Mr. Martin Harris, Legislative Manager, MDOT

My telephone number/toll-free number is \_\_\_\_\_  
Maryland Relay Service for Impaired Hearing or Speech 1.800.735.2258 Statewide Toll Free

Street Address: 707 North Calvert Street • Baltimore, Maryland 21202 • Phone 410.545.0300 • www.roads.maryland.gov



Mr. Horatio Tablada  
Page Two

bcc: Mr. Matthew Garbark, Research Policy Analyst Project Manager, SHA  
✓ Ms. Jennifer Hopper, Section Head, Hazardous Waste Certification Section, MDE  
Mr. John Rotz, Assistant Division Chief, MCD, SHA  
Ms. Linda Singer, State Legislative Manager, SHA  
Mr. Rey Walker, Motor Carrier Special Projects Manager, MCD, SHA

A BILL ENTITLED

L.R. 52

AN ACT concerning

**Environment – Controlled Hazardous Substance Vehicle Certificate Display – Elimination**

FOR the purpose of repealing a requirement that certain drivers of controlled hazardous substance vehicles display a certain certificate on the outside of the left door of the cab of the controlled hazardous substance vehicle; and generally relating to the elimination of displaying controlled hazardous substance vehicle certificates.

BY repealing and reenacting, with amendments,  
Article – Environment  
Section 7–252  
Annotated Code of Maryland  
(2007 Replacement Volume and 2012 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
That the Laws of Maryland read as follows:

**Article - Environment**

7–252.

(a) Each controlled hazardous substance hauler:

(1) Shall maintain a bond or other security that the Department considers sufficient to indemnify this State for abatement of any pollution that may result from the improper transportation of a controlled hazardous substance;

(2) Shall pay an annual vehicle certificate fee set by the Department but not more than \$50;

(3) When transporting any controlled hazardous substance, shall [:

(i) Carry] CARRY the manifest AND THE VEHICLE CERTIFICATE in the cab of the controlled hazardous substance vehicle; [and

(ii) Display prominently the vehicle certificate or affix the vehicle certificate to the outside of the left door of the cab of the controlled hazardous substance vehicle;]

(4) May not transport a controlled hazardous substance unless the controlled hazardous substance is labeled properly and in secure containers in accordance with the rules and regulations of the Department that apply to that particular controlled hazardous substance;

(5) On the request of any police officer, shall stop the controlled hazardous substance vehicle and display to the police officer all required documentation and allow inspection and sampling of the controlled hazardous substance to determine if there is a violation of:

(i) The provisions of the vehicle certificate or

(ii) Any federal or state law;

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(6) Except under the supervision of the Department during an emergency, may not remove the controlled hazardous substance from the controlled hazardous substance vehicle, or treat, store for any period of time, or mix any controlled hazardous substance except in a controlled hazardous substance facility; and

(7) Shall report periodically, on a form required by the Department, the following information about shipments of controlled hazardous substances:

- (i) The source of the controlled hazardous substance;
- (ii) The nature of the controlled hazardous substance; and
- (iii) The disposal destination.

(b) Each controlled hazardous substance vehicle driver, when transporting any controlled hazardous substance, shall comply with subsection (a)(3), (4), (5), and (6) of this section and all applicable State rules and regulations.

**SECTION 2. BE IT FURTHER ENACTED,** That this Act shall take effect October 1, 2013.