

US EPA ARCHIVE DOCUMENT

Appendix I

Memorandum of Agreement between MDE and DOT

**FY 1998 AGREEMENT BETWEEN THE
MARYLAND DEPARTMENT OF TRANSPORTATION AND
THE MARYLAND DEPARTMENT OF THE ENVIRONMENT
(WASTE MANAGEMENT ADMINISTRATION)**

THIS AGREEMENT, dated as of June 30, 1998, by and between the Maryland Department of Transportation (hereinafter "MDOT"), and the Maryland Department of the Environment, (hereinafter "MDE") reflects the understanding of the respective parties hereto with regard to the funding of certain costs of the Waste Management Administration for Fiscal Year 1998, and subsequent fiscal years.

WITNESSETH THAT:

WHEREAS, pursuant to Section 12-118 (b)(2)(iv) of the Transportation Article, Annotated Code of Maryland (1998 Repl.Vol.), MDOT, through the State Comptroller, is authorized to pay for the salaries and other expenses of MDE in enforcing Section 22-409, and Sections 25-111(c) and (h) of the Transportation Article, which enforcement activities are hereinafter referred to as "HAZMAT"; and

WHEREAS, pursuant to Section 2-103(h) of the Transportation Article, the Secretary may contract with any person, including other units of the State, for any transportation related purpose.

NOW, THEREFORE, in consideration of the mutual covenants, promises and representatives herein, the parties hereto agree as follows:

1. MDOT shall provide financial support for the HAZMAT under the terms of this agreement in Fiscal Year 1998 and subsequent fiscal years.
2. The Department will pay to the MDE a sum in Fiscal Year 1998 not to exceed \$328,173, subject to Paragraph 15 hereof.
3. The financial support for MDE in Fiscal Year 1998 and each subsequent fiscal year shall not exceed the amount included in the Budget Bill appropriation to MDE for HAZMAT

operating expenses, unless MDOT and MDE agree and unless additional funds are available. For each subsequent fiscal year, the MDE Office of Budget will submit a proposed HAZMAT budget request to the MDOT Office of Finance for the upcoming budget request year by June 1. In response, the MDOT Office of Finance will advise the MDE Office of Budget of the funding level request that MDOT will submit for HAZMAT by July 1.

4. Transfer of funding from object 01, Salaries and Wages, to other objects is not permitted without the prior approval of MDOT.
5. Payments shall be made by MDOT to MDE on the basis of invoices for actual expenditures incurred. Such invoices shall be submitted by MDE to MDOT on a quarterly basis.
6. MDE shall maintain separate and complete accounting records which are consistent with generally accepted accounting procedures and accurately reflect all income and expenditures for MDE's HAZMAT activities. The records of MDE must be in sufficient detail to determine the nature of the cost incurred by the MDE for each program element.
7. MDE accounting records shall be maintained for a period of three (3) years after the end of each fiscal year in which funds are received by MDE from MDOT.
8. MDOT may perform interim and final audits of the amounts paid to MDE under the terms of this Agreement. The final audit shall commence within three (3) years of the end of the term of this Agreement. If it is determined as a result of any audit that MDOT has made payments in excess of the amount allowed pursuant to all the terms and conditions of this Agreement, such excess amounts shall be promptly remitted to MDOT, or MDOT, in its discretion, shall reduce the amount of the next fiscal year's payment under this Agreement. If it is determined as a result of the audit that MDOT has made payments of less than the amount required pursuant to all the terms and conditions of this Agreement, such

additional required amounts will be added to the next fiscal year's payment under this Agreement, subject to required budgetary appropriations.

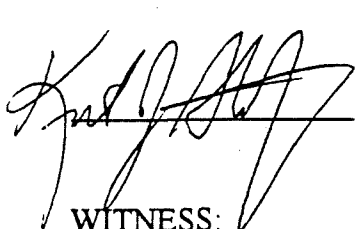
9. To the extent permitted by law, MDOT reserves the right to suspend or terminate all or part of the financial assistance herein provided for if MDE violates the terms of this Agreement. Termination of this Agreement will not invalidate obligations properly incurred by MDE prior to the date of termination to the extent they are non-cancelable. The acceptance of a remittance from MDOT of any funds, or the closing out of MDOT's financial participation under this Agreement, shall not constitute a waiver of any claim which MDOT may otherwise have arising out of this Agreement.
10. If funds are not appropriated or otherwise made available to support continuation of this Agreement in any fiscal year subsequent to Fiscal Year 1998, this Agreement will terminate automatically as of the beginning of the fiscal year for which funds are not available.
11. This Agreement may be modified only by written instrument, executed by MDOT and MDE.
12. This Agreement shall be construed in accordance with the Constitution and laws of the State of Maryland.
13. The MDOT and the MDE are in compliance with the State's policy concerning drug and alcohol free workplaces, as set forth in COMAR 01.01.1989.18 and 21.11.08, and must remain in compliance throughout the term of this Agreement.
14. MDOT and MDE certify that they prohibit and covenant that they will continue to prohibit, discrimination on the basis of: (i) political or religious belief, opinion or affiliation, marital status, race, color, creed, ancestry, national origin or sexual orientation; (ii) sex or age, except when age or sex constitutes a bona fide occupational qualification; or (iii) the physical or mental disability of a qualified individual with a disability. Upon the

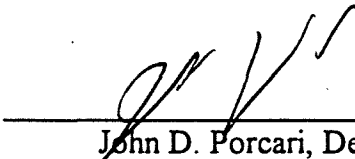
request of the other party, MDOT and MDE will submit to the other information relating to its policies and procedures with regard to political or religious belief, opinion or affiliation, marital status, physical or mental disability, race, color, creed, ancestry, sex, sexual orientation, age, or national origin.

- 15. All payments hereunder by MDOT to MDE are subject to and must be in conformance with the appropriation requirements and budgetary provisions of Section 3-216(d) of the Transportation Article of the Annotated Code of Maryland and any amendment thereof.

IN WITNESS WHEREOF, the parties have executed this FY 1998 HAZMAT Agreement effective July 1, 1997.

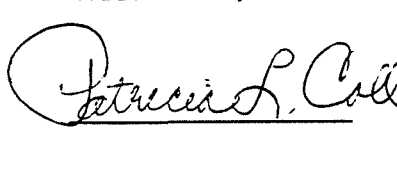
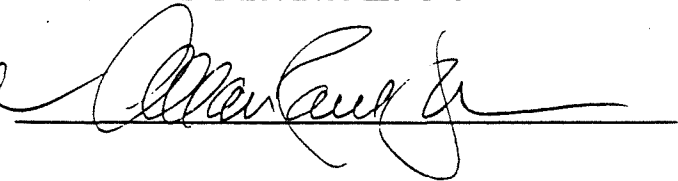
WITNESS: MARYLAND DEPARTMENT OF TRANSPORTATION



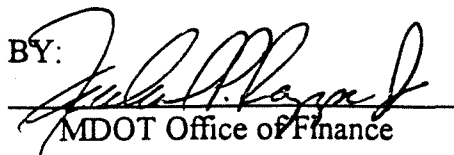


John D. Porcari, Deputy Secretary

WITNESS: MARYLAND DEPARTMENT OF THE ENVIRONMENT


 

FUNDS AVAILABLE

BY: 
MDOT Office of Finance

DATE: 6-30-98

APPROVED AS TO FORM AND LEGAL SUFFICIENCY



Maryland Department of Transportation

this subtitle applicable to them. (An. Code 1957, art. 66½, § 12-408; 1977, ch. 14, § 2; 1988, ch. 6, § 1; 1989, ch. 5, § 1; 1991, ch. 82.)

§ 22-409. Transportation of hazardous materials.

(a) *Rules and regulations.* — (1) The Administrator and the Secretary of the Department of the Environment jointly shall adopt such regulations as are necessary for the safe transportation of hazardous materials.

(2) The regulations adopted under this subsection shall duplicate or be consistent with the hazardous materials transportation regulations contained in 49 CFR, Parts 107 through 180, and all amendments to those regulations.

(b) *Applicability of regulations.* — (1) Any person engaged in the shipping and transporting of hazardous materials, regardless of whether the person's functions are related to the preparation or transportation of the materials or whether the transporting involves interstate or intrastate movements, shall comply with the regulations adopted under this section.

(2) All persons engaged in the manufacture, fabrication, marking, maintenance, reconditioning, repair, or retesting of packaging shall comply with the regulations adopted under this section.

(c) *Exemption from regulation.* — The Administrator may exempt through regulation certain persons from the regulations adopted under this section if the Administrator determines based on the evidence presented that public and environmental safety would not be adversely affected. (An. Code 1957, art. 66½, § 12-409; 1977, ch. 14, § 2; 1987, ch. 515, § 2; 1989, ch. 768, § 1; 1992, ch. 482.)

§ 22-410. Air conditioning equipment.

(a) *"Air conditioning equipment" defined.* — In this section, "air conditioning equipment" means mechanical vapor compression refrigeration equipment used to cool the driver's or passenger compartment of any motor vehicle.

(b) *Manufacture.* — Air conditioning equipment shall be manufactured with due regard for the safety of the occupants of the vehicle and the public and may not contain any refrigerant that is toxic to persons or is flammable.

(c) *Installation.* — Air conditioning equipment shall be installed with due regard for the safety of the occupants of the vehicle and the public and may not contain any refrigerant that is toxic to persons or is flammable.

(d) *Maintenance.* — Air conditioning equipment shall be maintained with due regard for the safety of the occupants of the vehicle and the public and may not contain any refrigerant that is toxic to persons or is flammable.

(e) *Adoption and enforcement of safety requirements, regulations, and specifications.* — The Administrator may adopt and enforce safety requirements, regulations, and specifications for air conditioning equipment consistent with the requirements of this section.

(f) *Compliance required for sale, etc.* — A person may not have for sale, offer for sale, sell, or equip any motor vehicle with any air conditioning equipment unless it complies with the requirements of this section.

(g) *Compliance required for driving on highways.* — A person may not drive on any highway any motor vehicle equipped with any air conditioning

school vehicles promulgated by the Motor Vehicle Administration. 68 Op. Att'y Gen. 242 (1983).

§ 25-111. Motor carrier safety inspections; utility and transportation emergencies.

(a) *Definitions.* — (1) In this section the following words have the meanings indicated.

(2) "Hazardous materials inspector" means a person who is assigned by the Department of the Environment and certified by the Department of State Police to perform an inspection authorized under this section.

(3) "Police officer" means:

(i) Any uniformed law enforcement officer;

(ii) Any civilian employee of the Department of State Police assigned to enforce any rule or regulation adopted under this section, but only while acting under written authorization of the Secretary of the State Police;

(iii) Any civilian employee of the Maryland Transportation Authority Police who is:

1. Acting under the immediate direction and control of a uniformed police officer;

2. Acting under the written authorization of the Secretary of the State Police; and

3. Certified by the Department of State Police to perform an inspection authorized under this section; or

(iv) Any civilian employee of a local government who is:

1. Acting under the immediate direction and control of a uniformed police officer;

2. Acting under the written authorization of the Secretary of the State Police; and

3. Certified by the Department of State Police to perform an inspection authorized under this section.

(4) "Public Service Commission inspector" means a person who is assigned by the Public Service Commission and certified by the Department of State Police to perform an inspection authorized under this section.

(5) "Transportation emergency" means any natural or man-made emergency that disrupts or hinders the free flow of traffic on the State's highways and local streets and roads for more than 8 hours so that public safety is or may be threatened as a result.

(6) "Utility emergency" means any natural or man-made emergency that disrupts or severs or has the potential to disrupt or sever gas, electric, telephone, water, sewer, or other utility service to:

(i) Any large number of residential or commercial customers in an area or areas of the State; or

(ii) Any public or private institutions in an area or areas of the State so that the public health, welfare, or safety is or may be threatened as a result.

(b) *Authority to stop and inspect vehicle.* — (1) A police officer may require the driver of any vehicle that is subject to any rule or regulation adopted under this section to stop and submit to an inspection:

(i) All applicable driver records, including driver's license, driver hours of service record and certificate of physical examination;

(ii) All load manifests, including bills of lading or other shipping documents; and

(iii) All cargo and cargo areas; and

(2) A police officer who is certified by the Department of State Police to perform an inspection authorized under this section, a Public Service Commission inspector, or a hazardous materials inspector may conduct a safety inspection of the vehicle that is subject to a rule or regulation adopted under this section or § 22-409 of this article.

(c) *Consent to inspection.* — The operation of a vehicle on any highway in this State constitutes the consent of the driver and the owner of the vehicle to the inspection provided for in this section.

(d) *Duty of driver.* — The driver of a vehicle shall obey every sign and every direction of a police officer to stop his vehicle and submit to the required inspection.

(e) *Display of sign restricted.* — A sign used to direct vehicles under this section may be displayed only by a police officer who is assigned to enforce this section.

(f) *Adoption of rules and regulations by Administration.* — (1) Except as provided in subsection (i) of this section the Administration may adopt rules and regulations as are necessary for the safe operation of vehicles that exceed 10,000 pounds rated gross weight and are engaged in the transportation of property or passengers over the highways of this State.

(2) Any rule or regulation adopted pursuant to this subsection shall:

(i) Be formulated jointly by the Motor Vehicle Administration and the Department of State Police;

(ii) Duplicate or be consistent with the Federal Motor Carrier Safety Regulations contained in 49 CFR, Parts 390 through 399;

(iii) Apply to all vehicles over 10,000 pounds rated gross vehicle weight that are subject to the Federal Motor Carrier Safety Regulations;

(iv) Apply to vehicles over 10,000 pounds registered gross vehicle weight that are not subject to the Federal Motor Carrier Safety Regulations, if the rule or regulations adopted by the Motor Vehicle Administration specifically states that it applies to the vehicle; and

(v) Be consistent with 49 CFR, Parts 40 and 382, with respect to alcohol and drug testing regulations applicable to drivers of:

1. Vehicles with a gross vehicle weight rating over 26,000 pounds;

2. Vehicles transporting hazardous materials of a type and quantity requiring placarding; and

3. Vehicles designed to transport 16 or more passengers, including the driver.

(3) The rules or regulations adopted under this subsection may require that registrants of motor vehicles subject to this subsection have knowledge of applicable federal and State motor carrier safety regulations.

(g) *Operator to comply with rules and regulations.* — Any motor carrier operating a vehicle that is subject to the rules and regulations adopted under

this section shall, at all times when operating the vehicle on a highway in this State, comply with the rules and regulations adopted under this section.

(h) *Inspection of equipment and records by certain officials.* — During regular business hours, a police officer, a hazardous materials inspector, or a Public Service Commission inspector may enter the premises and inspect equipment and review and copy records of motor carriers subject to the rules or regulations adopted under this section or § 22-409 of this article, Federal Motor Carrier Safety Regulations, Federal Hazardous Material Regulations, or Public Service Commission laws and regulations.

(i) *Prohibited regulations; limitation on regulation of qualifications or hours of service of drivers permitted.* — (1) Except as provided for in paragraph (2) of this subsection, regulations adopted under this section for intrastate motor carrier transportation may not:

(i) Require that a driver be older than 18 years of age;

(ii) Apply the provisions of § 391.21, § 391.23, § 391.31 or § 391.35 of the Federal Motor Carrier Safety Regulations to:

1. A driver who is a regularly employed driver of a motor carrier for a continuous period that began before July 1, 1986, if the driver continues to be a regularly employed driver of the motor carrier; or

2. The motor carrier, with regard to a driver described under item 1 of this subparagraph, if the motor carrier continues to employ the driver;

(iii) Limit a driver's time or hours on duty if:

1. The driver operates only within a 150 air mile radius of the driver's normal work reporting location;

2. The driver returns to the driver's normal work reporting location;

3. The driver is released from work within a period of 16 consecutive hours, not more than 12 of which are dedicated to driving, and is given at least 8 consecutive hours off duty; and

4. Regardless of the number of motor carriers using the driver's services, the driver:

A. If the employing motor carrier does not operate motor vehicles every day of the week, has been on duty no more than 70 hours in a period of 7 consecutive days; or

B. If the employing motor carrier operates motor vehicles every day of the week, has been on duty no more than 80 hours in a period of 8 consecutive days;

(iv) Require a driver to maintain a record of duty status if the driver is not subject to item (iii) of this paragraph, except that, if a driver is on duty for a period of more than 12 hours, the driver shall maintain a record of the driver's duty status that:

1. For the first 12 hours of time on duty, accounts for all time dedicated to driving; and

2. For all time on duty in excess of 12 hours, conforms to federal regulations;

(v) Apply the provisions of this paragraph or Parts 391 and 395 of the Federal Motor Carrier Safety Regulations to a farmer, or an agent or employee of a farmer, who operates farm equipment or a motor vehicle owned or operated

by the farmer in the transportation of supplies to a farm or the transportation of farm products as defined in § 10-601 of the Agriculture Article within 150 air miles of the farmer's farm;

(vi) Apply the medical examination and certification requirements of §§ 391.41 (a), 391.43 and 391.45 of the Federal Motor Carrier Safety Regulations to a driver who operates a vehicle or vehicle combination with a registered gross or combination weight of less than 26,001 pounds; or

(vii) Except in the case of bus drivers, apply the provisions of § 391.41 (b) (1) through (11) of the Federal Motor Carrier Safety Regulations to any person who:

1. Was otherwise qualified to operate and operated a commercial motor vehicle in intrastate commerce on or before October 1, 1992;

2. Operates wholly within this State; and

3. Has a mental or physical condition which would disqualify the person under the Federal Motor Carrier Safety Regulations and:

A. The condition existed on October 1, 1992 or at the time of the first physical examination after that date to which the person submitted as required by regulations adopted by the Administration under subsection (k) of this section; and

B. A physician who has examined the person has determined that the condition has not substantially worsened since October 1, 1992 or the time of the first required physical examination after that date.

(2) Nothing contained in this subsection limits regulation of the qualifications or hours of service of a driver of a vehicle:

(i) In interstate commerce;

(ii) Transporting hazardous materials of a type and quantity requiring placarding under Federal Hazardous Materials Regulations; or

(iii) Designed to transport 16 or more passengers, including the driver.

(j) *Utility and transportation emergencies.* — (1) Notwithstanding the provisions of Article 16A, § 6A of the Code, the Governor may delegate the power to declare a utility or transportation emergency to the Secretary or the Secretary's designee.

(2) The Secretary or the Secretary's designee may declare a utility or transportation emergency.

(i) During the time in which a declared utility or transportation emergency exists, the Secretary or the Secretary's designee shall waive the maximum hours-of-service time limits contained in this section, or in regulations promulgated pursuant thereto for all interstate and intrastate drivers providing direct assistance in restoring utility services affected by a utility emergency.

(ii) This waiver shall include the hours of duty status accrued by, and shall apply only to, drivers providing direct assistance in restoring utility services affected by a utility emergency in the State, or to drivers of emergency vehicles operated under the direction of State and local governments or their agents when providing direct assistance in clearing and opening State highways and local streets and roads to allow free flow of traffic.

(3) (i) All declarations issued under this section shall indicate the nature of the utility or transportation emergency, the area or areas threatened, and the conditions which have brought it about.

(ii) A declaration shall be disseminated by a means calculated to bring its contents to the attention of the general public, in the areas affected by the declaration.

(4) Within 10 days of the issuance of any declaration issued under this section, the Secretary or the Secretary's designee shall notify the Governor of the nature of the declaration.

(5) A utility or transportation emergency declared by the Secretary or the Secretary's designee may not extend for more than 3 days, unless renewed by the Governor pursuant to § 6A of Article 16A of the Code.

(k) *Physical examinations.* — For the purposes of subsection (i) of this section, the Administration shall adopt regulations requiring physical examinations for intrastate commercial motor vehicle drivers. (1982, ch. 822; 1983, ch. 8; 1984, chs. 283, 742; 1986, ch. 865; 1987, ch. 11, § 1; ch. 306, § 3; ch. 515, § 2; 1988, ch. 720; 1989, ch. 5, § 1; ch. 768, § 1; 1991, ch. 396; ch. 460, § 2; 1992, ch. 22, § 1; ch. 126; 1993, chs. 7, 157; 1994, ch. 3, § 1; ch. 165, § 3; ch. 166, § 3; chs. 520, 577; 1995, ch. 3, § 2; ch. 308; 1997, ch. 44.)

Effect of amendments. — The 1997 amendment, effective Oct. 1, 1997, substituted "rated" for "registered" in (f) (1) and (f) (2) (iii).

Subtitle 2. Abandoned Vehicles.

§ 25-201. Definitions.

(a) *In general.* — In this subtitle the following words have the meanings indicated.

(b) *Abandoned vehicle.* — "Abandoned vehicle" means any motor vehicle, trailer, or semitrailer:

(1) That is inoperable and left unattended on public property for more than 48 hours;

(2) That has remained illegally on public property for more than 48 hours;

(3) That has remained on private property for more than 48 hours without the consent of the owner or person in control of the property;

(4) That has remained in a garage for more than 10 days after the garage keeper has given the owner of the vehicle notice by certified mail, return receipt requested, bearing a postmark from the United States Postal Service, to remove the vehicle;

(5) That has remained in a garage for more than 10 days after the period when, by contract, the vehicle was to remain in the garage;

(6) That was left for more than 10 days in a garage by:

(i) Someone other than its registered owner; or

(ii) A person authorized to have possession of the vehicle under a contract of use, service, storage, or repair;

(7) That has remained on public property for more than 48 hours; and

(i) Is not displaying currently valid registration plates; or