Drivers of CMVs: Restricting the Use of Cellular Phones
AGENCIES: Federal Motor Carrier Safety Administration (FMCSA) and Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT
http://www.fmcsa.dot.gov/about/news/news-releases/2011/Secretary-LaHood-Announces-Step-towards-Safer-Highways.aspx

FREQUENTLY ASKED QUESTIONS

1. **Q: What is the effective date of the Mobile Telephone rule?**
   A: The effective date of the rule is January 3, 2012.

2. **Q: Are wired or wireless earpieces allowed?**
   A: Yes. Hands-free use of a mobile telephone is allowed using either a wired or wireless earpiece, or the speakerphone function of the mobile telephone. Wireless connection of the mobile telephone to the vehicle for hands-free operation of the telephone, which would allow the use of single-button controls on the steering wheel or dashboard, would also be allowed.

3. **Q: Is Push-to-Talk allowed?**
   A: No. A driver's use of the Push-to-Talk function on a mobile telephone violates the prohibition against holding the phone. This includes the continuous holding of a button that is necessary to use a Push-to-Talk feature through a mobile telephone, even when the driver is using a connected microphone or wireless earphone.

4. **Q: Are holders of a commercial driver's license (CDL) subject to the regulation only when driving a CMV, as defined in 49 CFR 383.5, or any vehicle?**
   A: CDL holders are subject to the Federal rule only when driving a CMV.

5. **Q: What drivers are covered by the Federal rule: intrastate or interstate? CDL holders? All CMVs?**
   A: The rule covers both drivers of CMVs in interstate commerce and intrastate drivers who operate CMVs 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.

   If a CMV driver is employed by a State or a political subdivision of a State (e.g. county, city, township, etc.), FMCSA safety regulations do not apply, even if the driver is engaged in interstate transportation. But if a CMV driver employed by a State or a political subdivision of a State is operating a vehicle that requires a CDL, the applicable State traffic laws would govern (e.g., Maryland's prohibition on the use of hand-held phones). The States have 3 years to implement by State law the disqualification provision.

6. **Q: What is required of the employer in terms of company policy or training?**
   A: The rule does not require motor carriers to establish written policies in terms of company policy or training programs for their drivers. However, employers are prohibited from allowing or requiring their drivers to use hand-held mobile phones. A motor carrier may establish

policies or practices that make it clear that the employer does not require or allow hand-held mobile telephone use while driving a CMV in interstate commerce. The carrier is responsible for its drivers' conduct.

7. **Q: Is dialing a phone number allowed under this rule?**
   A: No. Dialing a mobile telephone while operating a CMV in interstate commerce is prohibited by the rule. A driver can initiate, answer, or terminate a call by touching a single button on a mobile telephone, earpiece, steering wheel, or instrument panel – comparable to using vehicle controls or instrument panel functions, such as the radio or climate control system.

8. **Q: Can a driver reach for a mobile telephone even if he/she intends to use the hands-free function?**
   A: No. In order to comply with this rule, a driver must have his or her mobile telephone located where the driver is able to initiate, answer, or terminate a call by touching a single button while the driver is in the seated driving position and properly restrained by a seat belt. If the mobile telephone is not close to the driver and operable while the driver is restrained by properly installed and adjusted seat belts, then the driver is considered to be reaching for the mobile phone, which is prohibited by the rule.

9. **Q: Are tow trucks exempt?**
   A: No. The interstate operation of tow trucks that meet the definition of a CMV are not exempt. Tow trucks, however, are exempt when responding to police emergencies in accordance with 49 CFR 390.23(a)(3).