review DOT’s complete Privacy Act Statement in the Federal Register published on April 11, 2000 (65 FR 19477–78).

Docket: To read background documents or comments received, go to http://www.regulations.gov at any time or to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.


Issued in Washington, DC, on February 29, 2012.

Brenda D. Courtney, Acting Deputy Director, Office of Rulemaking.

Petition for Exemption


Petitioner: American Aviation, Inc.

Section of 14 CFR Affected: 14 CFR 119.1(e)(6).

Description of Relief Sought: The relief sought would allow American Aviation, Inc., to conduct parachute operations dropping test flares more than 25-statute-miles from the airport of takeoff.

Comment on this petition must be received on or before April 5, 2012.

For Further Information Contact: Brenda D. Courtney, Acting Deputy Director, Office of Rulemaking.

Petition for Reconsideration


Petitioner: American Aviation, Inc.

Section of 14 CFR Affected: 14 CFR 119.1(e)(6).

Description of Relief Sought: The relief sought would allow American Aviation, Inc., to conduct parachute operations dropping test flares more than 25-statute-miles from the airport of takeoff.

Comment on this petition must be received on or before April 5, 2012.

For Further Information Contact: Brenda D. Courtney, Acting Deputy Director, Office of Rulemaking—Aviation Safety.
York City or in connection with a business carried on within New York City to display a stamp evidencing payment of the city’s CMV Tax. ATA alleged that New York City’s credential display requirement was preempted under 49 U.S.C. 14506(a), which prohibits States from requiring motor carriers to display in or on CMVs any form of identification other than forms required by the Secretary of Transportation. Section 14506(b), however, establishes several exceptions to this prohibition [all statutory references are to title 49, United States Code]:

(b) Exception.—Notwithstanding subsection (a), a State may continue to require display of credentials that are required—
(1) Under the International Registration Plan under section 31704;
(2) Under the International Fuel Tax Agreement under section 31705 or under an applicable State law if, on October 1, 2006, the State has a form of highway use taxation not subject to collection through the International Fuel Tax Agreement;
(3) Under a State law regarding motor vehicle license plates or other displays that the Secretary determines are appropriate;
(4) In connection with Federal requirements for hazardous materials transportation under section 5103; or
(5) In connection with the Federal vehicle inspection standards under section 31386.

In response to this and other petitions, ATA submitted seeking preemption of credential display requirements in New Jersey and Cook County, Illinois. FMCSA published a notice in the Federal Register seeking comment on whether the credential display requirements of New York City, the State of New Jersey, and Cook County, Illinois should be preempted (74 FR 53578, Oct. 19, 2009). FMCSA specifically requested comment from the three jurisdictions, but neither New Jersey nor New York City responded with comments. After the close of the comment period, Cook County sent a letter conceding that its ordinance was subject to preemption under §14506(b). FMCSA concurred that the credentials required by the Cook County Rules, Tit. 19, § 6–09, were required by the Secretary of Transportation to be displayed on commercial motor vehicles and were thus subject to preemption under § 14506(b)(2).

DOF’s petition contended that New York City’s credential display requirement was based on a form of highway use taxation excepted from preemption under § 14506(b)(2). For the reasons set forth below, FMCSA grants the DOF’s petition for reconsideration.

Applicable Law
New York City’s CMV Tax has been in effect since 1960. See Administrative Code of the City of New York, Title 11, Chapter 8, Subchapter 6, §§ 11–801(3), 11–801(4), 11–801(5). New York City Rules, Tit. 19, § 6–09.
(1952). Stated otherwise, a highway use tax need not necessarily be dedicated to highway purposes. As a result, the DOF’s failure to demonstrate a connection between the CMV Tax and highway funding is not dispositive.

FMCSA concludes, therefore, that New York City’s CMV Tax is a highway use tax within the meaning of 49 U.S.C. 14506(b)(2).

In consideration of the above, FMCSA grants the DOF’s petition for reconsideration and reverses its decision preempting New York City’s credential display requirement. Today’s decision is limited to the new arguments the DOF raised in its petition for reconsideration claiming exception from preemption under § 14506(b)(2). Under this analysis, New York City’s credential display requirement in § 11–809 is not preempted and New York City may resume enforcement.

This decision does not affect the Agency’s previous determination preempting the credential display requirements in New Jersey and Cook County, Illinois.


Anne S. Ferro,
Administrator, Federal Motor Carrier Safety Administration.

[FRL Doc. 2012–5319 Filed 3–5–12; 8:45 am]

BILLING CODE: P

DEPARTMENT OF TRANSPORTATION
Pipeline and Hazardous Materials Safety Administration
[Docket No. PHMSA–2012–0044]

Pipeline Safety: Notice to Operators of Drisco8000® 8000 High Density Polyethylene Pipe of the Potential for Material Degradation

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.


SUMMARY: PHMSA is issuing this advisory bulletin to alert operators using Drisco8000® 8000 High Density Polyethylene Pipe (Drisco8000) of the potential for material degradation. Degradation has been identified on pipe between one-half inch to two inches in diameter that was installed between 1978 and 1999 in desert-like environments in the southwestern United States. However, since root causes of the degradation have not been determined, PHMSA cannot say with certainty that this issue is isolated to these regions, operating environments, pipe sizes, or pipe installation dates.

While the manufacturer has attempted to communicate with known or suspected users, PHMSA and the National Association of Pipeline Safety Representatives (NAPSR) have identified several operators currently using Drisco8000 pipe who had not received communications about the issue. PHMSA is issuing this advisory bulletin to all operators of Drisco8000 pipe in an effort to ensure they are aware of the issue, communicating with the manufacturer and their respective regulatory authorities to determine if their systems are susceptible to similar degradation, and taking measures to address it.

ADDRESSES: This document can be viewed on the PHMSA home page at: http://www.phmsa.dot.gov.

FOR FURTHER INFORMATION CONTACT: Max Kieba by phone at 202–493–0505 or by email at max.kieba@dot.gov. Pipeline operators with potentially affected pipe or anyone with questions specific to actions in a certain state or region are encouraged to communicate with the appropriate pipeline safety authority directly. Operators of pipelines subject to regulation by PHMSA should contact the appropriate PHMSA Regional Office. A list of the PHMSA Regional Offices and their contact information is available at: http://www.phmsa.dot.gov/pipeline/about/org. Pipeline operators subject to regulation by a state should contact the appropriate state pipeline safety authority. A list of state pipeline safety authorities and their contact is provided at: http://www.napsr.org/managers/napsr_state_program_managers2.htm.

SUPPLEMENTARY INFORMATION:

I. Background

Two operators of natural gas pipeline systems have identified locations of material degradation on Drisco8000 pipe in Arizona and Nevada. The manufacturer of the pipe, Performance Pipe, a division of Chevron Phillips Chemical Company LP, confirmed that the pipe was degraded.

In 1999, a one-inch Copper Tube Size (CTS) Drisco8000 pipe service line in Arizona experienced a gas leak and was found to be degraded. The operator of this pipeline found areas of delaminating and surface cracking on Drisco8000 pipe ranging from one-half inch CTS to two inches Iron Pipe Size pipe at various locations in Arizona beginning in 2004. To better track the instances of the phenomenon, the operator implemented a procedure for reporting delaminating the degradation area, and conducting leak surveys on the affected pipe. Chemical contamination was considered a potential source for degradation, but after extensive testing by the manufacturer and various outside laboratories, no indications of chemical source could be verified as a root cause.

In 2007, the operator experienced a gas ignition incident on a one-inch CTS Drisco8000 service line in Arizona. Due to the slit crack nature of the pipe failure, the investigation of this incident included checking for the possibility of nylon contamination in the pipe material. Nylon contamination was ruled out, but degradation of the internal pipe wall was noted. An additional incident occurred elsewhere in Arizona in 2007. As a result of these incidents, the operator implemented a replacement program and follow-up leak survey program. The operator continues its investigation and is working cooperatively with the manufacturer and regulators to determine the root causes and necessary mitigative actions.

A second operator found two cases of degraded Drisco8000 pipe in Arizona in 2006 and reported them to the Arizona Corporation Commission Office of Pipeline Safety. This operator is now looking at other areas of their service territory for potential degraded pipe issues.

The affected pipes in the cases reported thus far have diameters from one-half inch to two inches and have installation dates that range from 1978 to 1999. All reported cases have been on systems operating at or below 60 psig in desert regions in the southwestern United States. In those cases where print line codes are present on the pipe, the codes identify the pipe as being manufactured at a Watsonville, California, pipe plant which closed in 2000. The manufacturer has indicated they do not have any evidence that the condition developed as a result of the manufacturing process.

According to the manufacturer, the degraded pipe is fairly easy to identify when the pipe is exposed. Affected pipe displays delaminating or peeling of the outer diameter or a friable or crumbling appearance on the inner diameter surfaces of the pipe. In addition, an audible cracking sound or noise may be detected when flexing, cutting, or squeezing the pipe.

Once installed and in service, degraded pipe is not easy to identify. The manufacturer is not aware of a current testing protocol that consistently identifies the affected material while it is in service. Existing leak survey technologies have proven to be the most effective tool in locating and identifying degraded pipe.