



DEPARTMENT OF TRANSPORTATION

[4910-EX-P]

Federal Motor Carrier Safety Administration

49 CFR Parts 360, 380, 382, 385, 390, 391, 395, 396, and 397

RIN 2126-AC09

General Technical, Organizational, Conforming, and Correcting Amendments to the Federal Motor Carrier Safety Regulations

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Final rule.

SUMMARY: FMCSA amends its regulations by making technical corrections throughout the Federal Motor Carrier Safety Regulations. The Agency makes minor changes to correct inadvertent errors and omissions, remove or update obsolete references, and improve the clarity and consistency of certain regulatory provisions.

DATES: Effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Mr. David Miller, Federal Motor Carrier Safety Administration, Regulatory Development Division, 1200 New Jersey Avenue SE, Washington, DC 20590-0001, by telephone at (202) 366-5370 or via email at david.miller@dot.gov. Office hours are from 9:00 a.m. to 5:00 p.m. ET, Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

I. Legal Basis for the Rulemaking

Congress delegated certain powers to regulate interstate commerce to the United States Department of Transportation (DOT or Department) in numerous pieces of legislation, most notably in section 6 of the Department of Transportation Act (DOT Act)

(Pub. L. 89–670, 80 Stat. 931, 937, Oct. 15, 1966). Section 6 of the DOT Act transferred to the Department the authority of the former Interstate Commerce Commission (ICC) to regulate the qualifications and maximum hours of service of employees, the safety of operations, and the equipment of motor carriers in interstate commerce (*id.* at 639). This authority, first granted to the ICC in the Motor Carrier Act of 1935 (Pub. L. 74–255, 49 Stat. 543, Aug. 9, 1935), now appears in 49 U.S.C. chapter 315. The regulations issued under this (and subsequently enacted) authority became known as the Federal Motor Carrier Safety Regulations (FMCSRs), codified at 49 CFR parts 350–399. The administrative powers to enforce chapter 315 (codified in 49 U.S.C. chapter 5) were also transferred from the ICC to the DOT in 1966, and assigned first to the Federal Highway Administration (FHWA) and then to FMCSA. The FMCSA Administrator has been delegated authority under 49 CFR 1.87 to carry out the motor carrier functions vested in the Secretary of Transportation.

Between 1984 and 1999, a number of statutes added to FHWA’s authority. Various statutes authorize the enforcement of the FMCSRs, the Hazardous Materials Regulations, and the Commercial Regulations, and provide both civil and criminal penalties for violations of these requirements. These statutes include the Motor Carrier Safety Act of 1984 (MCSA) (Pub. L. 98–554, 98 Stat. 2832, Oct. 30, 1984), codified at 49 U.S.C. chapter 311, subchapter III; the Commercial Motor Vehicle Safety Act of 1986 (Pub. L. 99–570, 100 Stat. 3207-170, Oct. 27, 1986), codified at 49 U.S.C. chapter 313; the Hazardous Materials Transportation Uniform Safety Act of 1990, as amended (Pub. L. 101–615, 104 Stat. 3244, Nov. 16, 1990), codified at 49 U.S.C. chapter 51; and

the ICC Termination Act of 1995 (ICCTA) (Pub. L. 104–88, 109 Stat. 803, Dec. 29, 1995), codified at 49 U.S.C. chapters 131–149.

The Motor Carrier Safety Improvement Act of 1999 (MCSIA) (Pub. L. 106–159, 113 Stat. 1748, Dec. 9, 1999) established FMCSA as a new operating administration within DOT, effective January 1, 2000. The motor carrier safety responsibilities previously assigned to both the ICC and FHWA are now assigned to FMCSA.

Congress expanded, modified, and amended FMCSA’s authority in the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT) Act of 2001 (Pub. L. 107–56, 115 Stat. 272, Oct. 26, 2001); the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU) (Pub. L. 109–59, 119 Stat. 1144, Aug. 10, 2005); the SAFETEA–LU Technical Corrections Act of 2008 (Pub. L. 110–244, 122 Stat. 1572, June 6, 2008); the Moving Ahead for Progress in the 21st Century Act (MAP–21) (Pub. L. 112–141, 126 Stat. 405, July 6, 2012); and the Fixing America’s Surface Transportation Act (FAST Act) (Pub. L. 114–94, 129 Stat. 1312, Dec. 4, 2015).

The specific regulations amended by this rule are based on the statutes detailed above. Generally, the legal authority for each of those provisions was explained when the requirement was originally adopted and is noted at the beginning of each part in title 49 of the CFR.

The Administrative Procedure Act (APA) specifically provides exceptions to its notice and comment rulemaking procedures when an agency finds there is good cause to dispense with them, and incorporates the finding and a brief statement of reasons therefore, in the rules issued (5 U.S.C. 553(b)(3)(B)). Generally, good cause exists when

the agency determines that notice and public comment procedures are impractical, unnecessary, or contrary to the public interest (*id.*). The amendments made in this final rule merely correct inadvertent errors and omissions, remove or update obsolete references, and make minor language changes to improve clarity and consistency. The technical amendments do not impose any material new requirements or increase compliance obligations. For these reasons, FMCSA finds good cause that notice and public comment on this final rule are unnecessary.

The APA also allows agencies to make rules effective immediately with good cause (5 U.S.C. 553(d)(3)), instead of requiring publication 30 days prior to the effective date. For the reasons already stated, FMCSA finds there is good cause for this rule to be effective immediately.

FMCSA is aware of the regulatory requirements concerning public participation in FMCSA rulemaking (49 U.S.C. 31136(g)). These requirements pertain to certain major rules,¹ but, because this final rule is not a major rule, they are not applicable. In any event, the Agency finds that publication of an advance notice of proposed rulemaking under 49 U.S.C. 31136(g)(1)(A), or a negotiated rulemaking under 49 U.S.C. 31136(g)(1)(B), is unnecessary and contrary to the public interest in accordance with the waiver provision in 49 U.S.C. 31136(g)(3).

¹ A “major rule” means any rule that the Administrator of the Office of Information and Regulatory Affairs of the Office of Management and Budget (OMB) finds has resulted in or is likely to result in (a) an annual effect on the economy of \$100 million or more; (b) a major increase in costs or prices for consumers, individual industries, Federal agencies, State agencies, local government agencies, or geographic regions; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets (5 U.S.C. 804(2)). The term “major rule” does not include any rule promulgated under the Telecommunications Act of 1996 and the amendments made by that Act.

II. Section-By-Section Analysis

A. Sections 360.1 (Suspended) and 360.1T Fees for Registration-Related Services

FMCSA amends §§ 360.1 (suspended) and 360.1T by revising paragraphs (a) and (d)(2) to correct the name and, where applicable, routing code of the office where certificates of authenticity and information on computer search fees can be obtained. Section 360.1 was revised by the Unified Registration System final rule on August 23, 2013 (78 FR 52644). On January 17, 2017, FMCSA suspended certain regulations relating to the new electronic Unified Registration System and delayed their effective date indefinitely (82 FR 5292). The suspended regulations were replaced by temporary provisions that contain the requirements in place on January 13, 2017. Section 360.1 was one of the sections suspended and § 360.1T, which is currently in effect, was added (82 FR 5297). On May 17, 2018, FMCSA amended § 360.1T to reflect that the Office of Registration and Safety Information (MC-RS) provides certificates of authenticity and information on computer search fees (83 FR 22873). However, the Office of Management Information and Services (MC-MM) is currently the office with those responsibilities. The amendments bring the name of the office and the routing symbol of the responsible office up to date.

B. Section 380.603 Applicability

FMCSA amends § 380.603(b) by clarifying that drivers issued a Class A or Class B commercial driver's license (CDL), or a passenger (P), school bus (S), or hazardous materials (H) endorsement before February 7, 2020, are not required to comply with the entry-level driver training (ELDT) requirements, set forth in subpart F of part 380, pertaining to that CDL or endorsement. The Agency makes this change to

resolve an unintended inconsistency between § 380.603(b) and the definition of “entry-level driver” in § 380.605. Entry-level driver is defined, in part, as “an individual who must complete the CDL skills test requirements under § 383.71 of this subchapter prior to receiving a CDL *for the first time*, upgrading to a Class A or Class B CDL, or obtaining a hazardous materials, passenger, or school bus endorsement *for the first time*” (emphasis added).

As currently written, § 380.603(b) relieves drivers who hold a “valid” Class A or Class B CDL or a P, S, or H endorsement issued before February 7, 2020, of the burden of completing ELDT for that CDL or endorsement. However, in the preamble of the ELDT final rule, FMCSA noted its intention to delete the term “valid CDL” to make the provision consistent with the scope of the final rule: “Accordingly, the subsection now states that anyone holding a Class A or Class B CDL, or the passenger (P), school bus (S), or hazardous materials (H) endorsement, issued before the compliance date [February 7, 2020,] is not subject to ELDT requirements pertaining to that CDL or endorsement” (81 FR 88774, Dec. 8, 2016). Today’s change conforms the language of § 380.603(b) to the Agency’s original intention, as expressed in the preamble to the ELDT final rule. An individual to whom a specified CDL or endorsement was issued prior to February 7, 2020, is not subject to ELDT requirements for that CDL or endorsement because the individual is not an “entry-level driver” as that term is defined in § 380.605.

C. Section 382.107 Definitions

At the end of paragraph (1) in the definition of “commerce” in § 382.107, FMCSA changes the conjunctive “and” to “or” to be consistent with the definition of “commerce” in 49 U.S.C. 31301(2). This action corrects an error that has been in § 382.107 since the regulation was inherited from the FHWA and later revised by FMCSA on August 17, 2001 (66 FR 43103).

Paragraph (2) of 49 U.S.C. 31301 provides that “commerce” means trade, traffic, and transportation in the United States between a place in a State and a place outside that State (including a place outside the United States); “or” in the United States that affects trade, traffic, and transportation between a place in a State and a place outside that State. This definition applies to 49 U.S.C. 31306 (“Alcohol and controlled substances testing”), including the definition of “commerce” in § 382.107 of 49 CFR part 382 (“Controlled substances and alcohol use and testing”). To ensure consistency with the applicable statutory authority, the conjunction “and” is replaced with “or” in § 382.107 to correct an inadvertent drafting error.

D. Appendix B to Part 385—Explanation of Safety Rating Process

FMCSA revises Appendix B to Part 385 by correcting the entry for “§ 177.835(c)” in section VII, List of Acute and Critical Regulations, to be consistent with 49 CFR 177.835(c). While the current entry in Appendix B to Part 385 references “Division 1.1, 1.2, or 1.3 (explosive) materials,” the introductory text of 49 CFR 177.835(c) only references “Division 1.1 or 1.2 (explosive) materials.” The entry for “§ 177.835(c)” in Appendix B to Part 385 was added in the June 30, 2004, Hazardous Materials Safety Permits final rule (69 FR 39371). The Agency’s August 19, 2003,

supplemental notice of proposed rulemaking, however, proposed the entry to read without the Division 1.3 reference (*see* 68 FR 49755). There is no discussion of a need to change the entry for “§ 177.835(c)” in the final rule. Thus, the addition of Division 1.3 materials to the “§ 177.835(c)” entry appears to be an inadvertent error.

E. Sections 390.5 (Suspended) and 390.5T Definitions

The definitions of “medical examiner” in §§ 390.5 (suspended) and 390.5T are revised to bring the definitions up to date. On April 20, 2012 (77 FR 24127), FMCSA revised the definition of “medical examiner” in § 390.5 to include the requirements of the National Registry of Certified Medical Examiners final rule. On January 17, 2017 (82 FR 5311, 5314), § 390.5 was suspended indefinitely and § 390.5T was added as part of the rule to delay the effective date of certain provisions of the Unified Registration System rule. Because the May 21, 2014, compliance date for the National Registry of Certified Medical Examiners rule has passed, the current definitions are obsolete. This change clarifies the definition by removing only the language that provided the pre-May 21, 2014, definition of a medical examiner, and leaving the current definition.

F. Section 391.23 Investigations and Inquiries

FMCSA amends § 391.23(a)(1) by adding a time frame of 30 days from the date a driver’s employment begins, to clarify when an inquiry must be made to a State for the motor vehicle record (MVR). Currently, the time frame is provided in paragraph (b).

Section 391.23 was adopted on April 22, 1970 (35 FR 6461). Paragraph (a) has not been amended in a relevant way since it was adopted. On November 13, 1970 (35 FR 17420), paragraph (b) was amended to provide that the inquiry to States required by paragraph (a)(1) “must be made within 30 days of the date the driver’s employment

begins.” Section 391.23(b) was next amended on March 30, 2004 (69 FR 16720) to require that a copy of the driver’s MVR obtained in response to the inquiry to each State required by paragraph (a)(1) “be placed in the driver qualification file within 30 days of the date the driver’s employment begins.” Therefore, the amendment is consistent with the regulation’s history and the language and meaning of paragraph (b). Adding the language also does not impose any additional burden on a motor carrier because the carrier is already required to obtain the MVR.

G. Section 395.2 Definitions

The definition of “farm supplies for agricultural purposes” in § 395.2 is amended by removing the italics from the phrase “at any time of the year.” The definition is adopted from a direct quotation of section 4130(c) of SAFETEA-LU (Pub. L. 109–59, 119 Stat. 1144, 1743, Aug. 10, 2005), except that the statute does not italicize the relevant phrase. When the definition was added to § 395.2 on July 5, 2007, the phrase was italicized without an explanation for the need to highlight it (72 FR 36790). Because there is no reason to highlight the phrase “at any time of the year,” the italics are removed.

In the definition of “transportation of construction material and equipment” in § 395.2, the word “tomovements” is changed to read “to movements” to correct a typographical error. FMCSA revised the definition on July 22, 2016 (81 FR 47721).

H. Section 397.73 Public Information and Reporting Requirements and Section 397.103 Requirements for State Routing Designations

FMCSA amends § 397.73(c) by removing the erroneous phrase “in the *Federal Register*” and correcting the name of the registry to “National Hazardous Materials Route Registry.” The preamble of the final rule modifying § 397.73(c), published on October 2, 2014 (79 FR 59450), accurately stated twice that publication in the Hazardous Materials Route Registry (e.g., not the *Federal Register*) was required to make a routing designation effective (79 FR 59453). FMCSA amends § 397.103(c)(3) by correcting the name of the registry to “National Hazardous Materials Route Registry.” These errors were present when the paragraphs were adopted (*see* 79 FR 59457-58) in response to section 33013(b) of MAP-21 (Pub. L. 112–141, 126 Stat. 405, 839, July 6, 2012). As stakeholders have suggested, and consistent with section 33013(b) of MAP–21, language is added to both sections to clarify that a routing designation becomes effective after it is published in the National Hazardous Materials Route Registry on FMCSA’s website and to provide the website’s address.

The Agency notes that it will continue to periodically publish notices in the *Federal Register* summarizing changes to the National Hazardous Materials Route Registry. However, such *Federal Register* notices do not affect the effective date of changes published in the National Hazardous Materials Route Registry on FMCSA’s website. The industry should continue to consult FMCSA’s website for the most up-to-date list of all designated and restricted road and preferred highway routes for

transportation of highway route controlled quantities of Class 7 radioactive materials and non-radioactive hazardous materials.

III. Regulatory Analyses

A. E.O. 12866 (Regulatory Planning and Review), E.O. 13563 (Improving Regulation and Regulatory Review), and DOT Regulatory Policies and Procedures

FMCSA determined that this final rule is not a significant regulatory action under section 3(f) of E.O. 12866 (58 FR 51735, Oct. 4, 1993), Regulatory Planning and Review, as supplemented by E.O. 13563 (76 FR 3821, Jan. 21, 2011), Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. Accordingly, OMB has not reviewed it under that Order. It is also not significant within the meaning of DOT regulatory policies and procedures (DOT Order 2100.5, dated May 22, 1980; 44 FR 11034, Feb. 26, 1979). This final rule makes changes to correct inaccurate references and citations, improve clarity, and fix errors. None of the changes in this final rule imposes material new requirements or increases compliance obligations; therefore, this final rule imposes no new costs and a full regulatory evaluation is unnecessary.

B. E.O. 13771 (Reducing Regulation and Controlling Regulatory Costs)

This rulemaking is not an E.O. 13771 regulatory action and no further action under E.O. 13771 is required.

C. Regulatory Flexibility Act (Small Entities)

Under the Regulatory Flexibility Act of 1980 (5 U.S.C. 601-612), FMCSA is not required to complete a regulatory flexibility analysis because, as discussed earlier in the Legal Basis for the Rulemaking section, this action is not subject to notice and public comment under section 553(b) of the APA.

D. Assistance for Small Entities

In accordance with section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996, FMCSA wants to assist small entities in understanding this final rule so that they can better evaluate its effects and participate in the rulemaking initiative. If the final rule will affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance; please consult the FMCSA point of contact, David Miller, listed in the **For Further Information Contact** section of this final rule.

Small businesses may send comments on the actions of Federal employees who enforce or otherwise determine compliance with Federal regulations to the Small Business Administration's Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of FMCSA, call 1-888-REG-FAIR (1-888-734-3247). DOT has a policy regarding the rights of small entities to regulatory enforcement fairness and an explicit policy against retaliation for exercising these rights.

E. Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector of \$156 million (which is

the value equivalent of \$100,000,000 in 1995, adjusted for inflation to 2015 levels) or more in any 1 year. This final rule will not result in such an expenditure.

F. Paperwork Reduction Act (Collection of Information)

This final rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

G. E.O. 13132 (Federalism)

A rule has implications for federalism under section 1(a) of E.O. 13132 if it has “substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.” FMCSA has determined that this rule will not have substantial direct costs on or for States, nor will it limit the policymaking discretion of States. Nothing in this document preempts any State law or regulation. Therefore, this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Impact Statement.

H. E.O. 12988 (Civil Justice Reform)

This final rule meets applicable standards in sections 3(a) and 3(b)(2) of E.O. 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

I. E.O. 13045 (Protection of Children)

E.O. 13045, Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, Apr. 23, 1997), requires agencies issuing “economically significant” rules, if the regulation also concerns an environmental health or safety risk that an agency has reason to believe may disproportionately affect children, to include an evaluation of

the regulation's environmental health and safety effects on children. The Agency determined this final rule is not economically significant. Therefore, no analysis of the impacts on children is required. In any event, the Agency does not anticipate that this regulatory action could in any respect present an environmental or safety risk that could disproportionately affect children.

J. E.O. 12630 (Taking of Private Property)

FMCSA reviewed this final rule in accordance with E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights, and has determined it will not effect a taking of private property or otherwise have taking implications.

K. Privacy

The Consolidated Appropriations Act, 2005 (Pub. L. 108-447, 118 Stat. 2809, 3268, 5 U.S.C. 552a note) requires the Agency to conduct a privacy impact assessment (PIA) of a regulation that will affect the privacy of individuals. Because this final rule does not require the collection of personally identifiable information, the Agency is not required to conduct a PIA.

The E-Government Act of 2002 (Pub. L. 107-347, § 208, 116 Stat. 2899, 2921, Dec. 17, 2002), requires Federal agencies to conduct a PIA for new or substantially changed technology that collects, maintains, or disseminates information in an identifiable form. No new or substantially changed technology would collect, maintain, or disseminate information as a result of this rule. Accordingly, FMCSA has not conducted a PIA.

L. E.O. 12372 (Intergovernmental Review)

The regulations implementing E.O. 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this program.

M. E.O. 13211 (Energy Supply, Distribution, or Use)

FMCSA has analyzed this final rule under E.O. 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. The Agency has determined that it is not a “significant energy action” under that order because it is not a “significant regulatory action” likely to have a significant adverse effect on the supply, distribution, or use of energy. Therefore, it does not require a Statement of Energy Effects under E.O. 13211.

N. E.O. 13783 (Promoting Energy Independence and Economic Growth)

E.O. 13783 directs executive departments and agencies to review existing regulations that potentially burden the development or use of domestically produced energy resources, and to appropriately suspend, revise, or rescind those that unduly burden the development of domestic energy resources. In accordance with E.O. 13783, DOT prepared and submitted a report to the Director of OMB that provides specific recommendations that, to the extent permitted by law, could alleviate or eliminate aspects of agency action that burden domestic energy production. This rule has not been identified by DOT under E.O. 13783 as potentially alleviating unnecessary burdens on domestic energy production.

O. E.O. 13175 (Indian Tribal Governments)

This rule does not have tribal implications under E.O. 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial

direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

P. National Technology Transfer and Advancement Act (Technical Standards)

The National Technology Transfer and Advancement Act (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through OMB, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) are standards that are developed or adopted by voluntary consensus standards bodies. This rule does not use technical standards. Therefore, FMCSA did not consider the use of voluntary consensus standards.

Q. Environment (NEPA and CAA)

FMCSA analyzed this rule for the purpose of the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 et seq.) and determined this action is categorically excluded from further analysis and documentation in an environmental assessment or environmental impact statement under FMCSA Order 5610.1 (69 FR 9680, Mar. 1, 2004), Appendix 2, paragraph 6.b. This Categorical Exclusion (CE) addresses minor corrections such as those found in this rulemaking; therefore, preparation of an environmental assessment or environmental impact statement is not necessary. The CE determination is available for inspection or copying in the docket.

FMCSA also analyzed this rule under section 176(c) of the Clean Air Act, as amended (CAA) (42 U.S.C. 7406(c)), and implementing regulations promulgated by the Environmental Protection Agency. Approval of this action is exempt from the CAA's general conformity requirement because it does not affect direct or indirect emissions of criteria pollutants.

List of Subjects

49 CFR Part 360

Administrative practice and procedure, Brokers, Buses, Freight forwarders, Hazardous materials transportation, Highway safety, Insurance, Motor carriers, Motor vehicle safety, Moving of household goods, Penalties, Reporting and recordkeeping requirements, Surety bonds.

49 CFR Part 380

Administrative practice and procedure, Highway safety, Motor carriers, Reporting and recordkeeping requirements.

49 CFR Part 382

Administrative practice and procedure, Alcohol abuse, Drug abuse, Drug testing, Highway safety, Motor carriers, Penalties, Safety, Transportation.

49 CFR Part 385

Administrative practice and procedure, Highway safety, Mexico, Motor carriers, Motor vehicle safety, Reporting and recordkeeping requirements.

49 CFR Part 390

Highway safety, Intermodal transportation, Motor carriers, Motor vehicle safety, Reporting and recordkeeping requirements.

49 CFR Part 391

Alcohol abuse, Drug abuse, Drug testing, Highway safety, Motor carriers, Reporting and recordkeeping requirements, Safety, Transportation.

49 CFR Part 395

Highway safety, Motor carriers, Reporting and recordkeeping requirements.

49 CFR Part 396

Highway safety, Motor carriers, Motor vehicle safety, Reporting and recordkeeping requirements.

49 CFR Part 397

Administrative practice and procedure, Hazardous materials transportation, Highway safety, Intergovernmental relations, Motor carriers, Parking, Radioactive materials, Reporting and recordkeeping requirements, Rubber and rubber products.

In consideration of the foregoing, FMCSA amends 49 CFR chapter III as set forth below:

PART 360—FEES FOR MOTOR CARRIER REGISTRATION AND INSURANCE

1. The authority citation for part 360 continues to read as follows:

Authority: 31 U.S.C. 9701; 49 U.S.C. 13908; and 49 CFR 1.87.

2. Amend § 360.1 as follows:

- a. Lift the suspension of the section;
- b. Revise paragraphs (a) and (d)(2); and
- c. Suspend § 360.1 indefinitely.

§ 360.1 Fees for registration–related services.

* * * * *

(a) Certificate of the Director, Office of Management Information and Services,
as to the authenticity of documents, \$12;

* * * * *

(d) * * *

(2) The fee for computer searches will be set at the current rate for computer
service. Information on those charges can be obtained from the Office of Management
Information and Services (MC-MM).

* * * * *

3. Amend § 360.1T by revising paragraphs (a) and (d)(2) to read as follows:

§ 360.1T Fees for registration-related services.

* * * * *

(a) Certificate of the Director, Office of Management Information and Services,
as to the authenticity of documents, \$9.00;

* * * * *

(d) * * *

(2) The fee for computer searches will be set at the current rate for computer
service. Information on those charges can be obtained from the Office of Management
Information and Services (MC-MM).

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PART 380—SPECIAL TRAINING REQUIREMENTS

4. The authority citation for part 380 is revised to read as follows:

Authority: 49 U.S.C. 31133, 31136, 31305, 31307, 31308, 31502; sec. 4007(a) and (b), Pub. L. 102-240, 105 Stat. 1914, 2151; sec. 32304, Pub. L. 112-141, 126 Stat. 405, 791; and 49 CFR 1.87.

5. Amend § 380.603 by revising paragraph (b) to read as follows:

§ 380.603 Applicability.

* * * * *

(b) Drivers issued a Class A CDL, Class B CDL, or a passenger (P), school bus (S), or hazardous materials (H) endorsement before February 7, 2020, are not required to comply with this subpart pertaining to that CDL or endorsement.

* * * * *

PART 382—CONTROLLED SUBSTANCES AND ALCOHOL USE AND TESTING

6. The authority citation for part 382 is revised to read as follows:

Authority: 49 U.S.C. 31133, 31136, 31301 et seq., 31502; sec. 32934, Pub. L. 112-141, 126 Stat. 405, 830; and 49 CFR 1.87.

7. Amend § 382.107 by revising paragraph (1) in the definition of “Commerce” to read as follows:

§ 382.107 Definitions.

* * * * *

Commerce means:

(1) Any trade, traffic or transportation within the jurisdiction of the United States between a place in a State and a place outside of such State, including a place outside of the United States; or

* * * * *

PART 385—SAFETY FITNESS PROCEDURES

8. The authority citation for part 385 is revised to read as follows:

Authority: 49 U.S.C. 113, 504, 521(b), 5105(e), 5109, 5113, 13901-13905, 13908, 31136, 31144, 31148, 31151, 31502; sec. 350, Pub. L. 107-87, 115 Stat. 833, 864; and 49 CFR 1.87.

9. Amend Appendix B to Part 385, section VII, by revising the entry for “§ 177.835(c)” to read as follows:

Appendix B to Part 385—Explanation of Safety Rating Process

* * * * *

VII. LIST OF ACUTE AND CRITICAL REGULATIONS.

* * * * *

§ 177.835(c) Accepting for transportation or transporting Division 1.1 or 1.2 (explosive) materials in a motor vehicle or combination of vehicles that is not permitted (acute).

* * * * *

PART 390—FEDERAL MOTOR CARRIER SAFETY REGULATIONS;

GENERAL

10. The authority citation for part 390 continues to read as follows:

Authority: 49 U.S.C. 504, 508, 31132, 31133, 31134, 31136, 31137, 31144, 31149, 31151, 31502; sec. 114, Pub. L. 103-311, 108 Stat. 1673, 1677; sec. 212 and 217, Pub. L. 106-159, 113 Stat. 1748, 1766, 1767; sec. 229, Pub. L. 106-159 (as added and transferred by sec. 4115 and amended by secs. 4130-4132, Pub. L. 109-59, 119 Stat.

1144, 1726, 1743; sec. 4136, Pub. L. 109-59, 119 Stat. 1144, 1745; secs. 32101(d) and 32934, Pub. L. 112-141, 126 Stat. 405, 778, 830; sec. 2, Pub. L. 113-125, 128 Stat. 1388; secs. 5403, 5518, and 5524, Pub. L. 114-94, 129 Stat. 1312, 1548, 1558, 1560; sec. 2, Pub. L. 115-105, 131 Stat. 2263; and 49 CFR 1.81. 1.81a, 1.87.

11. Amend § 390.5 as follows:

- a. Lift the suspension of the section;
- b. Revise the definition of “Medical examiner”; and
- c. Suspend § 390.5 indefinitely.

§ 390.5 Definitions.

* * * * *

Medical examiner means an individual certified by FMCSA and listed on the National Registry of Certified Medical Examiners in accordance with subpart D of this part.

* * * * *

12. Amend § 390.5T by revising the definition of “Medical examiner” to read as follows:

§ 390.5T Definitions.

* * * * *

Medical examiner means an individual certified by FMCSA and listed on the National Registry of Certified Medical Examiners in accordance with subpart D of this part.

* * * * *

PART 391—QUALIFICATIONS OF DRIVERS AND LONGER COMBINATION VEHICLE (LCV) DRIVER INSTRUCTORS

13. The authority citation for part 391 continues to read as follows:

Authority: 49 U.S.C. 504, 508, 31133, 31136, 31149, 31502; sec. 4007(b), Pub. L. 102-240, 105 Stat. 1914, 2152; sec. 114, Pub. L. 103-311, 108 Stat. 1673, 1677; sec. 215, Pub. L. 106-159, 113 Stat. 1748, 1767; sec. 32934, Pub. L. 112-141, 126 Stat. 405, 830; secs. 5403 and 5524, Pub. L. 114-94, 129 Stat. 1312, 1548, 1560; sec. 2, Pub. L. 115-105, 131 Stat. 2263; and 49 CFR 1.87.

14. Amend § 391.23 by revising paragraph (a)(1) to read as follows:

§ 391.23 Investigations and inquiries.

(a) * * *

(1) An inquiry, within 30 days of the date the driver's employment begins, to each State where the driver held or holds a motor vehicle operator's license or permit during the preceding 3 years to obtain that driver's motor vehicle record.

* * * * *

PART 395—HOURS OF SERVICE OF DRIVERS

15. The authority citation for part 395 is revised to read as follows:

Authority: 49 U.S.C. 504, 31133, 31136, 31137, 31502; sec. 113, Pub. L. 103-311, 108 Stat. 1673, 1676; sec. 229, Pub. L. 106-159 (as added and transferred by sec. 4115 and amended by secs. 4130-4132, Pub. L. 109-59, 119 Stat. 1144, 1726, 1743, 1744); sec. 4133, Pub. L. 109-59, 119 Stat. 1144, 1744; sec. 108, Pub. L. 110-432, 122 Stat. 4860-4866; sec. 32934, Pub. L. 112-141, 126 Stat. 405, 830; sec. 5206(b), Pub. L. 114-94, 129 Stat. 1312, 1537; and 49 CFR 1.87.

§ 395.2 [Amended]

16. Amend § 395.2, in the definition of “*Farm supplies for agricultural purposes*” by removing the phrase “*at any time of the year*” and adding in its place the phrase “at any time of the year”.

17. Amend § 395.2, in the definition of “Transportation of construction material and equipment” by removing the word “to movements” and adding in its place the words “to movements”.

PART 396—INSPECTION, REPAIR, AND MAINTENANCE

18. The authority citation for part 396 is revised to read as follows:

Authority: 49 U.S.C. 504, 31133, 31136, 31151, 31502; sec. 32934, Pub. L. 112-141, 126 Stat. 405, 830; sec. 5524, Pub. L. 114-94, 129 Stat. 1312, 1560; and 49 CFR 1.87.

PART 397—TRANSPORTATION OF HAZARDOUS MATERIALS; DRIVING AND PARKING RULES

19. The authority citation for part 397 continues to read as follows:

Authority: 49 U.S.C. 322; 49 CFR 1.87. Subpart A also issued under 49 U.S.C. 5103, 31136, 31502, and 49 CFR 1.97. Subparts C, D, and E also issued under 49 U.S.C. 5112, 5125.

20. Amend § 397.73 by revising paragraph (c) to read as follows:

§ 397.73 Public information and reporting requirements.

* * * * *

(c) A State or Tribally-designated route is effective only after it is published in the National Hazardous Materials Route Registry on FMCSA’s website at

<https://www.fmcsa.dot.gov/regulations/hazardous-materials/national-hazardous-materials-route-registry>.

21. Amend § 397.103 by revising paragraph (c)(3) to read as follows:

§ 397.103 Requirements for State routing designations.

* * * * *

(c) * * *

(3) The route is published in the National Hazardous Materials Route Registry on FMCSA's website at <https://www.fmcsa.dot.gov/regulations/hazardous-materials/national-hazardous-materials-route-registry>.

* * * * *

Issued under the authority delegated in 49 CFR 1.87 on: September 21, 2018.

Raymond P. Martinez,
Administrator.

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