

performance of this contract consistent with its efficient performance. GSA expects any subcontracting plan submitted pursuant to FAR 52.219-9, Small Business Subcontracting Plan, to reflect this commitment. The plan must demonstrate a creative and innovative program for involving small, HUBZone small, small disadvantaged, women-owned, veteran-owned, and service-disabled veteran-owned small business concerns as subcontractors in the performance of this contract.

* * * * *

■ 4. Amend section 552.219-72 by revising the date of the provision and paragraph (a) to read as follows:

552.219-72 Preparation, Submission, and Negotiation of Subcontracting Plans.

* * * * *

Preparation, Submission, and Negotiation of Subcontracting Plans (Oct 2016)

(a) When submitting a subcontracting plan in accordance with FAR 52.219-9, the offeror shall submit a subcontracting plan with its initial offer. The subcontracting plan will be negotiated concurrently with price and any required technical and management proposals, unless the offeror submits a previously-approved commercial plan.

* * * * *

■ 5. Amend section 552.270-13 by revising the date of the provision; and removing from paragraph (c) introductory text and paragraph (c)(2) "500,000" and adding "750,000" in their places, respectively.

The revision reads as follows.

552.270-13 Proposals for Adjustment.

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Proposals for Adjustment (Oct 2016)

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[FR Doc. 2016-24015 Filed 10-3-16; 8:45 am]

BILLING CODE 6820-61-P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Parts 355, 356, 365, 369, 370, 373, 374, 376, 377, 378, 382, 383, 384, 385, 386, 390, 391, 392, 395, 397, and 398

RIN 2126-AB95

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 Agency is making minor changes to correct errors and omissions, ensure conformity with Office of the Federal Register style guidelines, update cross references, and improve clarity and consistency of certain regulatory provisions. Further, this set of amendments removes all remaining instances of the term "common carrier" and "contract carrier" as required by the ICC Termination Act (ICCTA) and the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU). This rule does not make any substantive changes to the affected regulations, except to remove obsolete provisions.

DATES: *Effective Date:* The final rule is effective September 30, 2016.

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 *FMCSAregs@dot.gov*. Office hours are from 9:00 a.m. to 5:00 p.m. e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

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. 85-670, 80 Stat. 931 (1966)). Section 55 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. See 49 United States Code (U.S.C.) 104. 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 authority became known as the Federal Motor Carrier Safety Regulations (FMCSRs), appearing generally at 49 CFR parts 350-399. The administrative powers to enforce chapter 315 were also transferred from the ICC to the DOT in 1966 and appear in 49 U.S.C. chapter 5. The Secretary of the DOT (Secretary) delegated oversight of these provisions to the Federal Highway Administration (FHWA), a predecessor agency of FMCSA. The FMCSA Administrator has been delegated authority under 49 CFR 1.87

to carry out the motor carrier functions vested in the Secretary.

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 (HMRs), 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 (Pub. L. 98-554, 98 Stat. 2832, Oct. 30, 1984), codified at 49 U.S.C. chapter 311, subchapter III (MCSA); 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 ICCTA of 1995 (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 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), 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), and the Moving Ahead for Progress in the 21st Century Act (MAP-21) (Pub. L. 112-141, 126 Stat. 405, July 6, 2012).

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. Title 49 CFR subtitle B, chapter III, contains all of the FMCSRs.

The Administrative Procedure Act (APA) (5 U.S.C. 551-706) specifically provides exceptions to its notice and public comment rulemaking procedures where the Agency finds there is good cause (and incorporates the finding and a brief statement of reasons therefore in the rules issued) to dispense with them. Generally, good cause exists where the Agency determines that notice and public procedures are impractical,

unnecessary, or contrary to the public interest (5 U.S.C. 553(b)(3)(B)). The amendments made in this final rule merely correct inadvertent errors and omissions, remove or update obsolete references, and make minor changes to improve clarity and consistency. The technical amendments do not impose any new requirements, nor do they make any substantive changes to the CFR. For these reasons, FMCSA finds good cause that notice and public comment on this final rule is unnecessary.

The APA also allows agencies to make rules effective upon publication 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 on the date of publication in the **Federal Register**.

FMCSA is aware of the regulatory reform requirements imposed by section 5202 of the Fixing America's Surface Transportation Act (FAST Act) (Pub. L. 114–94, 129 Stat. 1312, at 1534, Dec. 4, 2015) 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 major, they are not applicable. In any event, the Agency finds that, for the reasons stated below, 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).

Background

This document makes editorial changes to correct inaccurate references and citations, improve clarity, and fix errors. The reasons for each of these minor revisions are set out below, in a section-by-section description of the changes. These amendments do not impose any new requirements.

This set of amendments removes all remaining instances of the term “common” and “contract” as required by the ICCTA and SAFETEA–LU. Many instances of these terms were removed in the FMCSA Unified Registration System (URS) final rules published in 2013, 2015, and 2016,² and this rule

¹ A “major rule” is defined by the Congressional Review Act, Pub. L. 104–121, title II, section 251, Mar. 29, 1996, 110 Stat. 873, and is codified at 5 U.S.C. 804(2). See <https://www.gpo.gov/fdsys/pkg/USCODE-2014-title5/pdf/USCODE-2014-title5-part1-chap8-sec804.pdf>.

² Final Rule, *Unified Registration System*, 78 FR 52608 (Aug. 23, 2013), amendments, corrections,

removes the remaining instances found in 49 CFR chapter III, subchapter B. This rule does not make any substantive changes to the affected regulations, except to remove eight obsolete provisions. Four of the provisions relate to the use of the terms “common” and “contract” and certain property-carrier routing requirements eliminated by the ICCTA. The other four obsolete provisions relate to a Congressionally-sunset emergency commercial driver's license grant, a pre-2014 medical exam schedule, outdated medical forms, and an obsolete reporting requirement.

FMCSA is adding “for-hire, non-exempt” to many rules to ensure motor carriers know the rules are only applicable to for-hire, non-exempt motor carriers, similar to the amendments being made in the URS final rules.

Use of the term “non-exempt” in these sections and other technical amendments related to the use of the terms “common” and “contract” below is to ensure motor carriers exempted by Congress from jurisdiction under 49 U.S.C. subtitle IV, part B, and specifically sec. 13506, do not feel compelled to comply with the amended rule text. FMCSA has discovered over the years that many for-hire, exempt³ motor carriers and their drivers (such as livestock, grain, and produce haulers), mistakenly believe that 49 U.S.C. subtitle IV, part B (secs. 13101 through 14916), are mandatory requirements applicable to their operations.

For-hire motor carriers transporting commodities, or agreeing to transport brokered loads of commodities, that are listed by statutes, FMCSA regulations, and FMCSA administrative rulings, as exempt from 49 U.S.C. subtitle IV, part B, are not subject to non-safety related rules administered by FMCSA. Such for-hire, exempt motor carriers thus are not required to comply with the following rules that are authorized under 49 U.S.C. subtitle IV, part B:

- Annual economic reporting requirements in part 369;
- Receipts and bills of lading in part 373;

and delayed effective and compliance dates published at 80 FR 63703, October 21, 2015, and 81 FR 49553, July 28, 2016.

³ An exempt for-hire motor carrier transports exempt (unregulated) property owned by others for compensation. The exempt commodities usually include unprocessed or unmanufactured goods, fruits, and vegetables, and other items of little or no value. For a partial listing of exempt and non-exempt commodities, please refer to Administrative Ruling No 119 at https://www.fmcsa.dot.gov/sites/fmcsa.dot.gov/files/docs/Administrative_Ruling_119.pdf. An exempt for-hire motor carrier is subject to the safety regulations in 49 CFR chapter III, subchapter B.

- Loss and damage claim requirements in part 370;
- Property broker requirements in part 371;
- Passenger carrier regulations in part 374;
- Household goods transportation regulations in part 375;
- Lease and interchange of vehicle rules in part 376;
- Payment of transportation charge rules in part 377;
- Overcharge, duplicate payment, and overcollection claims in part 378; and
- Preservation of records in part 379.

Motor carriers and shippers should be aware of the italicized text below related to contract carriage operations, “. . . A carrier providing transportation or service subject to jurisdiction under chapter 135 may enter into a contract with a shipper, . . . to provide specified services under specified rates and conditions. *If the shipper and carrier, in writing, expressly waive any or all rights and remedies under this part for the transportation covered by the contract, the transportation provided under the contract shall not be subject to the waived rights and remedies and may not be subsequently challenged on the ground that it violates the waived rights and remedies . . .*”⁴ [emphasis added]

The statutory reference to the waiver of “any or all rights and remedies” allows a shipper and a motor carrier to negotiate and enter into a private contract that establishes selected rights and remedies different from the general “motor carrier” rights and remedies otherwise provided under 49 U.S.C. 14101, 14706, and other statutes. The waiver provision gives the carrier and shipper the flexibility to select the rights and remedies they wish to establish by contract. They can choose to leave in place other rights and remedies to be governed by statutes and regulations applicable to “motor carriers.” “. . . New 49 U.S.C. 14101 (Providing transportation and service), taken from existing 49 U.S.C. 11101, would continue the basic common carrier obligation to provide transportation or service on reasonable request and to provide safe and adequate service, equipment, and facilities. It would expressly allow carriers to enter contracts for specific shipments (other than for residential household goods movements arranged and paid for directly by the householder) under which both parties may waive their ICA rights and remedies.”⁵

⁴ 49 U.S.C. 14101(b)(1).

⁵ Sen. Report 104–176 (1995) at 46, <https://www.gpo.gov/fdsys/pkg/CRPT-104srpt176/pdf/CRPT-104srpt176.pdf>.

See also *M. Fortunoff of Westbury Corp. v. Peerless Ins. Co.*, 432 F.3d 127 (2nd Cir. 2005) at 132–133 (emphasis in original):

Congress enacted the [ICC Termination Act] in 1995 and merged the separate classifications of common and contract carrier into one classification termed “motor carrier,” governing any “person providing motor vehicle transportation for compensation.” 49 U.S.C. 13102(12). The ICCTA provided that *all* motor carriers were to register under sec. 13902(a) as opposed to the old regime of separately registered common and contract carriers. Under [49 U.S.C.] 14101, registered motor carriers *must* provide common carriage services and *may* provide contract carriage services.

With respect to all revisions to the terms “common” and “contract,” FMCSA has attempted to simply set out the governing regulatory provisions for “motor carriers” (or for “for-hire motor carriers,” which captures the “for compensation” language in the statutory definition of “motor carrier” in 49 U.S.C. 13102(14)). This leaves a motor carrier and shipper the flexibility contemplated by the statute to choose “any or all” rights and remedies to be waived, while those not waived remain in full effect.

It should be noted that for-hire, exempt motor carriers transporting exempted (unregulated) commodities may not submit a claim to the FMCSA-mandated \$75,000 financial responsibility instrument held by an authorized property broker, their sureties, or their trust fund managers for payments owed to the exempted motor carrier, based on the authorized property broker’s failure to carry out its contracts, agreements, or arrangements for the supplying of exempt (unregulated) commodity transportation by exempt motor carriers. An exempt motor carrier is not authorized by FMCSA to operate under 49 U.S.C. subtitle IV, part B, and thus does not have legitimate access to the FMCSA-authorized property broker’s \$75,000 financial responsibility instrument. The \$75,000 financial instrument is only applicable when the FMCSA-authorized property broker fails to carry out its contracts, agreements, or arrangements for the supplying of authorized (regulated) commodity transportation by FMCSA-authorized motor carriers.

Section-by-Section Analysis

This section-by-section analysis describes the technical amendment provisions and corrections in numerical order.

Appendix A of Part 355—Guidelines for the Regulatory Review of Compatible State Laws and Regulations Affecting Interstate Motor Carrier Operations

FMCSA replaces a phrase that includes the terms common and contract with a phrase that no longer uses those two terms. Currently, the applicability section references the appendix’s requirements that each State shall review its laws and regulations to achieve compatibility with the FMCSRs. Each State’s “. . . requirements must apply to all segments of the motor carrier industry common, contract, and private carriers of property and for-hire carriers of passengers.” FMCSA replaces the phrase “motor carrier industry common, contract,” with the phrase “motor carrier industry, for-hire.”

For-Hire Motor Carrier of Property Routing Requirements in §§ 356.7—356.13

Four sections are being removed from part 356 as a result of FMCSA’s review of “common” and “contract” amendments. The ICCTA eliminated the need for for-hire motor carriers of property to apply to a Federal agency and be granted authority to drive on particular, specified, and declared highway routes. In considering how to change the term “common” to something else in §§ 356.7 to 356.13, FMCSA determined that each of these four sections is no longer applicable to anyone as each section only applied to property carriers that no longer need route authority. Therefore, FMCSA removes all four rule sections with the headings “*Tacking*,” “*Elimination of routing restrictions—regular route carriers*,” “*Elimination of gateways—regular and irregular route carriers*,” and “*Redesignated highways*.”

§ 365.105 Starting the Application Process: Form OP-1

FMCSA is updating the universal resource locators (URL) for Form OP-1 to accurately reflect where to obtain the forms. Since December 2015, new applicants must apply for a USDOT number and, if applicable, operating authority, by electronically filing Form MCSA-1, the URS online application. Registrants, who had operating authority before December 2015, may still use Form OP-1 to update their registration information, but the Agency did not update the URLs where the forms may be obtained.

§ 365.205 Contents of the Protest

FMCSA updates this section to replace an outdated phone number and add an additional way to contact FMCSA for help. FMCSA no longer uses

the 202 area code phone number listed in this section. FMCSA has replaced the 202 number with a toll-free telephone number and has added an online web form in which the public may contact FMCSA for further assistance in developing their evidence for filing a protest.

§ 365.413 Procedures for Changing the Name or Business Form of a Motor Carrier, Freight Forwarder, or Property Broker

FMCSA amends this section to add two additional ways for current registrants to contact FMCSA to change the name or business form of a registered motor carrier, freight forwarder, or property broker. For such registrants to make such changes, FMCSA has developed a two-page form MCSA-5889, “Motor Carrier Records Change Form,” Office of Management and Budget (OMB) No. 2126-0060, approved by OMB for use through July 31, 2018. FMCSA continues to allow the letter to be mailed, with the five required pieces of information in redesignated § 365.413(c)(1) through (5). But FMCSA now adds to the list of options the opportunity for form MCSA-5889 to be faxed to FMCSA at the number given, or scanned and submitted via the web form at <https://www.fmcsa.dot.gov/ask>.

Part 369—Reports of Motor Carriers

FMCSA makes several amendments related to the terms “common” and “contract” to part 369 applicable to annual reports of for-hire motor carriers. FMCSA modifies each paragraph (a) in §§ 369.1, 369.2, and 369.3 to replace the phrase “common and contract” with the phrase “for-hire, non-exempt motor” to comport with the elimination of the terms “common” and “contract” in the ICCTA.

§ 370.9 Disposition of Claims

The Agency makes one amendment related to the term “common” to Part 370 applicable to disposition of claims. Paragraph (b) is amended to replace “common carrier by motor vehicle of household goods as defined in § 375.103 of this chapter” with “household goods motor carrier as defined in § 375.103 of this subchapter” for use when settling a claim for loss or damage to household goods or an individual shipper’s property. This paragraph will continue to use the current defined term “household goods motor carrier” in § 375.103 that comes from the Household Goods Mover Oversight Enforcement and Reform Act of 2005 (August 10, 2005), and any person considered to be a household goods

motor carrier under regulations, determinations, and decisions of the FMCSA on August 10, 2005.

New § 373.100 and § 374.1 Applicability

FMCSA adds two new applicability sections to ensure the public understands that parts 373 and 374 are limited to for-hire motor carriers subject to jurisdiction under 49 U.S.C. subtitle IV, part B.

§ 373.101 Motor Carrier Bills of Lading

The Agency makes two amendments related to the term “common” applicable to motor carrier bills of lading. FMCSA revises the heading to add “for-hire, non-exempt” and is amending the undesignated introductory sentence to remove the term “common” for the same reasons as discussed above.

§ 373.103(a) & (b) Expense bills

FMCSA makes three amendments related to the term “common” applicable to expense bills issued by for-hire motor carriers of property and charter service expense bills issued by for-hire motor carriers performing “charter transportation of passengers” as defined in § 390.5. FMCSA is also revising the heading of this section to add “for-hire, non-exempt” and is amending paragraphs (a) and (b) to remove the term “common” for the same reasons as discussed above.

Part 374 Passenger Carrier Regulations

The Agency makes several amendments to part 374 entitled Passenger Carrier Regulations. As discussed above, FMCSA adds a new § 374.1 Applicability section to ensure the public understands that part 374 is limited to for-hire motor carriers subject to jurisdiction in the ICCTA. Second, throughout part 374, FMCSA removes all references to “common” in headers and rule text in §§ 374.101, 374.103, 374.105, 374.107, 374.109, 374.111, 374.113, 374.201, 374.301, 374.303, 374.401, 374.403, and 374.405.

Also, ICC never assigned a paragraph (b) to § 374.401, previously designated as 49 CFR 1064.1, when it was made final on November 16, 1979 (44 FR 65987) or in any amendments after 1979. With no paragraph (b), the section reads better and will be less confusing if paragraph (a) becomes an undesignated introductory phrase and paragraphs (a)(1), (2), and (3) are renamed as paragraphs (a), (b), and (c).

Additionally, at the end of § 374.401, FMCSA removes the outdated authority citation “(49 U.S.C. 10321, 5 U.S.C. 553),” as it is a remnant of the pre-

ICCTA statutes. Section 374.401’s authority derives from the general authority cited for most of part 374—49 U.S.C. 13301 and 14101; and 49 CFR 1.87.

Finally, the Agency amends four authority citations for incidental charter rights under subpart E to part 374 that are also outdated to show only ICCTA statutes—49 U.S.C. 13301, 13501, 13506, and their delegation under 49 CFR 1.87. In the first sentence in § 374.501, the outdated reference to “[49 U.S.C. 10932(c)]” is removed. The citation to 49 U.S.C. 13506 is correct and will remain in § 374.501.

Part 376 Applicability of Lease and Interchange of Property-Carrying Motor Vehicles

FMCSA makes several amendments related to the terms “common” and “contract” to part 376 applicable to the lease and interchange of property-carrying motor vehicles by for-hire motor carriers. In various places throughout part 376 that reference the term “motor common carrier” or “authorized common carrier” in the rule text, FMCSA removes all applicable references to “common.” The references to “common ownership” in part 376 have been retained as that concept is unaffected by this final rule.

In § 376.1, FMCSA adds the clarifying phrase “. . . under 49 U.S.C. subtitle IV, part B:” to the introductory phrase in paragraph (a) to ensure the public understands these rules apply only to for-hire motor carriers subject to the ICCTA. In § 376.2, the term “motor common carrier” is amended to read as “motor carrier.”

In the first four instances of the term “common” in § 376.31, FMCSA replaces “common” with the term “motor.”

Part 377 Applicability of Payment of Transportation Charges

In the applicability paragraph of § 377.101, FMCSA removes the term “common”; spells out cash-on-delivery for the acronym (c.o.d.); and reorganizes the paragraph to better show the two exceptions to the applicability of part 377.

In §§ 377.103 and 377.105, the Agency replaces the term “common” with the term “motor” in each section.

Part 377 Subpart B, Applicability of Extension of Credit to Shippers by Carriers and Freight Forwarders

FMCSA makes several amendments related to the terms “common” and “contract” in subpart B of part 377 applicable to the extension of credit to shippers by for-hire motor carriers and freight forwarders. The Agency revises

the heading for subpart B of part 377. The current title includes the term “common” and the phrase “Water Common Carriers.” The Agency adds the phrase “for-hire, non-exempt” before the phrase “motor carrier” in the subpart B heading as well as in § 377.201(a) to ensure exempt for-hire carriers understand the subpart does not apply to their extensions of credit to shippers. As FMCSA has never been delegated responsibility for regulating water carriers, the phrase “Water Common Carriers” is eliminated from the heading for subpart B as well.

Also in § 377.201, FMCSA removes the exception for “Contract carrier operations” in paragraph (b)(1) and redesignates paragraphs (b)(2) and (3) as paragraphs (b)(1) and (2) for the reasons given above in the Background section. In § 377.217, the Agency replaces the term “common” with the term “motor.”

Part 378 Applicability of Overcharge, Duplicate Payment, and Overcollection Claims Processing

FMCSA makes two amendments related to the term “common” to part 378. In §§ 378.1 and 378.2, the Agency removes the term “common” in each of the two places it appears.

§§ 382.103 and 383.3 Controlled Substances and Alcohol Testing and Commercial Driver’s License (CDL) Rules, Applicability of an Exception for Farm Vehicle Employers and Drivers

FMCSA makes two amendments related to the terms “common” and “contract” that are applicable to drivers that may need a CDL to drive a commercial motor vehicle (CMV) in the United States and whether that CDL driver is subject to controlled substances and alcohol testing. In § 382.103, FMCSA revises paragraph (d)(3)(i)(C) which discusses that an operator of a farm vehicle cannot be a common or contract motor carrier. The Agency replaces the phrase “common or contract motor carrier” with the phrase “for-hire motor carrier, except for an exempt motor carrier as defined in § 390.5 of this subchapter.” Similarly, an exception for operators needing a CDL to drive a farm vehicle excludes operations by a common or contract motor carrier. It is found in § 383.3(d)(3)(i)(C). In this paragraph, the Agency is also replacing the phrase “common or contract motor carrier” with the phrase “for-hire motor carrier, except for an exempt motor carrier as defined in § 390.5 of this subchapter.”

These two changes will ensure that farmers, who also may operate as an exempt motor carrier, know that their farm vehicles might be excepted from

the CDL and drug and alcohol testing requirements if the farm vehicles they use meets all of the other three conditions of the exception under § 382.103(d)(3)(i) and the CDL definition in § 383.3(d)(3)(i)(C).

§ 382.305 Controlled Substances Testing Annual Random Percentage Rate

This amendment relates to the lowered minimum annual percentage rate for random controlled substances testing made effective for all testing in 2016 and later. FMCSA amends § 382.305(b)(2) to state that the minimum annual percentage rate for random controlled substances testing shall be 25 percent of the average number of driver positions, as it has been effective since January 1, 2016. On December 24, 2015 (80 FR 80446), FMCSA announced the reduction of the minimum annual percentage rate for random controlled substances testing for drivers of CMVs requiring a CDL from 50 percent of the average number of driver positions to 25 percent of the average number of driver positions, effective in calendar year 2016. The FMCSA Administrator has the discretion to decrease the minimum annual random testing percentage rate based on the reported positive random test rate for the entire motor carrier industry. Based on the controlled substances random test data in FMCSA's Management Information System (MIS) for calendar years 2011, 2012, and 2013, the positive rate for controlled substances random testing fell below the 1.0 percent threshold for 3 consecutive calendar years. As a result, the Agency lowered the controlled substances minimum annual percentage rate for random controlled substances testing to 25 percent of the average number of driver positions.

§ 383.5 School Bus Definition for Commercial Driver's License Standards

The current definition of a school bus in § 383.5 does not include a bus used as a common carrier. In part 383, the term "school bus" is used only in the requirements under § 383.123 for a CDL driver to get a license endorsement after successfully passing knowledge and skills tests. FMCSA is replacing "common" with the phrase "for-hire motor".

§ 383.77 Substitute for Driving Skills Tests for Drivers With Military CMV Experience

FMCSA removes the erroneous second iteration of the word "had" in § 383.77(a)(5), making the sentence read,

in part, as follows: "Has not had any conviction for a violation . . ."

§§ 383.131 and 383.133 CDL Test System Model Commercial Driver Manual

In §§ 383.131 and 383.133, FMCSA adds "or newer" after "July 2010" to allow each State to use newer manual editions to comply with the requirements. Each State must provide every CLP or CDL applicant an FMCSA pre-approved driver information manual as required by § 383.131. The manual must be comparable to the American Association of Motor Vehicle Administrators' (AAMVA's) "2005 CDL Test System Model Commercial Driver Manual," July 2010 or a newer version. FMCSA provides the manual as a reference for States, but does not require any specific manual published after July 2010, nor does it incorporate any manual by reference into the regulations.

§ 384.401 State Compliance With CDL Program

FMCSA amends § 384.401 to lower the withholding percentages of Federal-aid highway funds. Sec. 1404(j) of MAP-21 amended 49 U.S.C. 31314(c) changing the withholding percentages of Federal-aid highway funds based on State noncompliance with the CDL program. Federal-aid highway funds are apportioned to States under various sections of title 23 U.S.C. Amended sec. 1404(j) makes it necessary to revise the withholding provisions in § 384.401 to comply with amended 49 U.S.C. 31314(c). Specifically, MAP-21 changed the amount of Federal-aid highway funds to be withheld for noncompliance in paragraph (a) from 5 percent to 4 percent, and reduced the amount of such funds to be withheld for repeated noncompliance in paragraph (b) from 10 percent to 8 percent.

§ 384.407 Emergency CDL Grants

FMCSA removes § 384.407 because SAFETEA-LU did not renew the emergency CDL grant program in 49 U.S.C. 31107. Therefore, this section is no longer necessary.

§ 385.303 New Entrant Motor Carrier Safety Assurance Applications

FMCSA revises the universal resource locators (URL) to accurately reflect where to obtain the forms for new entrant motor carriers. Since December 2015, new applicants must apply for a USDOT number and if applicable, operating authority, by electronically filing Form MCSA-1, the URS online application. Registrants who had registered and been issued a USDOT

number before December 2015 may still use form MCS-150 and if applicable, Form OP-1, to update their registration information.

Similar to changes made earlier in this document for § 365.105, FMCSA is modifying how new entrant motor carriers may contact the Agency for application materials. In § 385.303, the Agency is changing a 703 area code fax number to a 202 area code fax number and is adding the option that new entrant motor carriers may locate application materials online at one of two Web pages, the precise location determined by whether they received a USDOT number before or after December 12, 2015.

Part 385, Appendix B Restoration of Inadvertently Edited Safety Fitness Paragraph

The Agency corrects an error made in 2005 to address an inadvertent change to a provision of appendix B to 49 CFR part 385. In the 1997 Safety Fitness Procedure; Safety Ratings final rule (62 FR 60035 at 60043 (Nov. 6, 1997)), paragraph (c) of the introductory text in app. B to part 385 read as follows: "To meet the safety fitness standard, a motor carrier must demonstrate to the FHWA that it has adequate safety management controls in place which function effectively to ensure acceptable compliance with the applicable safety requirements. A "safety fitness methodology" (SFRM) was developed by the FHWA, which uses data from compliance reviews (CRs) and roadside inspections to rate motor carriers."

In the same final rule, section II.(c), read as follows: "Critical regulations are those identified as such where noncompliance relates to management and/or operational controls. These are indicative of breakdowns in a carrier's management controls. An example of a critical regulation is § 395.3(a)(1), requiring or permitting a driver to drive more than 10 hours."

The reference to "FHWA" in paragraph (c) of the introductory text was changed to "FMCSA" in Miscellaneous Technical Amendments on Oct. 1, 2001 (66 FR 49867, at 49872) due to the establishment of the FMCSA by the Motor Carrier Safety Improvement Act of 1999.

In the 2003 Hours of Service for Drivers final rule (68 FR 22456 at 22513 (Apr. 28, 2003)), section II.(c) was amended by FMCSA—the only change was to modify the time period at the end to "11 hours" from "10 hours" reflecting the amended provisions of § 395.3(a)(1). No change was directed to be made in paragraph (c) of the introductory text. This change in

appendix B to 49 CFR part 385, section II.(c) was correctly published in the 2004 Code of Federal Regulations and no change was made in paragraph (c) of the introductory text. See 49 CFR part 385, app. B (10/01/2004 ed.), at pages 1023–24.

In the 2005 Hours of Service for Drivers final rule (70 FR 49978 at 50070 (Aug. 25, 2005)), FMCSA again directed that section II.(c) be revised to refer to “11 hours” even though that change had already been published in the CFR. But no change was directed to be made in paragraph (c) of the introductory text. Nonetheless, in the 2005 compilation of the CFR, the revised text of section II.(c) was published in two places: (1) in place of the text in paragraph (c) of the introductory text, which the Agency did not intend to change; and (2) in section II.(c), which was the only place that the final rule directed that a change be made. See 49 CFR part 385, app. B (10/01/2005 ed.),⁶ at pages 239–240.

This amendment corrects the error in the CFR and does not impose any new requirements; it just restores the proper paragraph (c) of the introductory text to read as set out in the regulatory text at the end of this document.

FMCSA is also republishing section II.(c) as it was correctly published in the 2004 and 2005 CFRs to give context.

FMCSR Errors Resulting From Electronic Logging Devices and Hours of Service Supporting Documents Final Rule

Four amendments are being made to the 2015 Electronic Logging Devices and Hours of Service Supporting Documents (ELD) final rule, December 16, 2015 (80 FR 78292, at 78381) below. The amendments are to two critical regulations in part 385, appendix B, the filing of various complaints under § 386.1, and adding an additional qualifying phrase to § 395.8(a)(1)(iii)(A)(3) about how to determine whether a commercial motor vehicle was manufactured before model year 2000.

Part 385, Appendix B List of Critical and Acute Regulations

While reviewing the list of acute and critical regulations, found in appendix B of part 385, FMCSA discovered that the terminology used to identify two of the critical violations is confusing. In these provisions, the critical violations occur when a motor carrier fails to ensure that drivers (or third parties) submit records of duty status (or supporting documents); while there is still a

violation if those documents are submitted late, late submissions are not typically critical violations that could affect the motor carrier's safety rating. It is only when the motor carrier fails completely to require drivers to submit the documents that such an effect could occur. Thus, the two provisions described above that are identified as critical regulations in section VII. List of Acute and Critical Regulations in appendix B, are being revised to remove the words “in a timely manner,” as set out below:

- § 395.8(a)(2)(ii) Failure to require a driver to submit record of duty status (critical); and
- § 395.11(b) Failing to require a driver to submit supporting documents (critical)

This change reflects the way that FMCSA treats violations currently, and will therefore have no direct impact on motor carriers.

§ 386.1 Filing of Substantial Complaints, Filing of Harassment Complaints, and Filing of Coercion Complaints

In the same 2015 ELD rule, FMCSA changed § 386.1, *Scope of rules in this part*, to include references to complaints of substantial violation, coercion, and harassment. However, the Agency overlooked the recent addition of a new paragraph § 386.1(c) in its separate Coercion final rule⁷ published two weeks before the ELD rule, and made the amendatory instruction incorrectly. To correct this inadvertent error, this technical amendment adds new § 386.1(c)(1), (2), and (3), as was explained in the amendatory instructions of the ELD rule. New § 386.1(c)(1), (2), and (3) concern the filing of substantial complaints, the filing of harassment complaints, and the filing of coercion complaints, respectively. Similarly, the ELD rule failed to modify a reference to the coercion complaint process made necessary by the rule's restructuring of § 386.12. This rule corrects the applicable cross-reference in § 390.6(b)(1), replacing the reference to § 386.12(e) with § 386.12(c).

§ 391.42 Schedule for Use of Medical Examiners Listed on the National Registry

FMCSA removes § 391.42. The requirement that all medical examinations performed “on or after May 21, 2014 . . . must be conducted by a medical examiner” listed on the National Registry is not necessary as it duplicates the requirements in § 391.43.

§ 391.43 Medical Examination and Certificate of Physical Examination

FMCSA makes several amendments to a driver's medical exam, the form used to record the results of the exam, and the certificate issued upon completion of the exam. FMCSA amends § 391.43(a) to remove the reference to § 391.42, which is being deleted as discussed above.

The Agency also amends paragraph (f), first by removing paragraph (f)(1) because the use of the previous form authorized by that paragraph is no longer permitted. Second, the remaining text (from paragraph (f)(2) which went into effect on December 22, 2015) is revised to remove the effective date. Third, the latest approved version of Medical Examination Report (MER) Form, MCSA–5875 replaces the previous version.

Similar changes are made in paragraph (h) of § 391.43. First, FMCSA removes paragraph (h)(1) because the use of the previous form authorized by that paragraph is no longer permitted. Second, the Agency revises the remaining text (from paragraph (h)(2) which went into effect on December 22, 2015) to remove the effective date. Third, the Agency updates the version of Medical Examiner's Certificate (MEC) Form, MCSA–5876. Both the MER and MEC forms have been approved by OMB for use through August 31, 2018, under OMB number 2126–0006.

§ 392.9b Safety Registration

FMCSA revises the heading for paragraph (a) in § 392.9b, as well as the text within paragraph (a) to replace the term “USDOT Registration” with “safety registration.” This change should have been made as part of the Unified Registration System rule that was published on August 23, 2013 (78 FR 52608), and it should have gone into effect along with other changes to this section on November 1, 2013. FMCSA revises the term to conform to the terminology that is currently in place within the Unified Registration System, where there is no “USDOT Registration.” Rather, there are USDOT numbers, operating authority registration, and safety registration. As a result, this change should have no impact on the type of registrations that a motor carrier could receive from FMCSA.

§ 395.1 Restoration of Supporting Documents Exception for 100 Air-Mile Radius Drivers

FMCSA revises § 395.1(e)(1) to restore the supporting documents exception for 100 air-mile radius drivers inadvertently

⁶ See <https://www.gpo.gov/fdsys/pkg/CFR-2005-title49-vol5/pdf/CFR-2005-title49-vol5-part385-appB.pdf>.

⁷ November 30, 2015 (80 FR 74695, at 74709).

removed by a FAST Act final rule⁸ published on July 22, 2016. The ELD⁹ rule added the supporting documents exception for 100 air-mile radius drivers, but the FAST Act rule inadvertently removed it when FMCSA revised § 395.1(e)(1) to add new 49 U.S.C. 31502(f)(1) that exempts drivers of ready-mixed concrete delivery vehicles from keeping records of duty status under certain circumstances. FMCSA revises the introductory text of paragraph (e)(1) to restore it to read as set out in the regulatory text at the end of this document.

§ 395.8 *Driver's Record of Duty Status*

Since publication of the ELD rule in December 2015, FMCSA has received a significant number of questions asking how a motor carrier can determine whether a commercial motor vehicle was manufactured before model year 2000, thus allowing its driver to use paper records of duty status instead of the ELD required in most other cases. FMCSA amends § 395.8 to include an additional qualifying phrase to paragraph (a)(1)(iii)(A)(4) inserted after "model year 2000." The model year 2000 will be determined during roadside inspections "as reflected in the vehicle identification number as shown on the vehicle's registration." The vehicle identification number includes the model year. This will be particularly useful in light of the installation of truck-tractor glider kits. This technical correction eliminates any ambiguity.

§ 397.73 *Hazardous Material (HM) Public Information and Reporting Requirements*

FMCSA provides routing agencies with an alternative email address for reporting changes to their HM route registries. Each State and Indian tribe, through its routing agency, must provide information to FMCSA under § 397.73 identifying all non-radioactive hazardous material (NRHM) routing designations that exist within its jurisdiction. A similar requirement in § 397.103 requires reporting of preferred routes for highway route controlled shipments of radioactive materials. FMCSA is adding an optional, electronic way to send FMCSA the required information in both sections. Currently the regulation restricts transmittal to an address using certified mail, return receipt requested.

⁸ *Amendments To Implement Certain Provisions of the Fixing America's Surface Transportation Act or "FAST Act,"* July 22, 2016 (81 FR 47714, at 47721).

⁹ *Electronic Logging Devices and Hours of Service Supporting Documents Final rule,* December 16, 2015 (80 FR 78292, at 78381).

§ 397.101 *Highway-Route Controlled Quantity Shipments of Radioactive Materials*

Currently, § 397.101 requires each carrier that accepts for transportation a highway route controlled quantity of hazardous material, as defined in 49 CFR 173.403, to file certain information with FMCSA after accepting the package for transportation. FMCSA no longer uses this information, and therefore removes paragraph (g) from § 397.101.

§ 398.1 *Transportation of Migrant Workers*

FMCSA amends the definition of a migrant worker motor carrier to be consistent with the ICCTA's elimination of the terms "contract" and "common" in the phrases "contract carrier by motor vehicle" and "common carrier by motor vehicle." FMCSA revises the definition to read as set out in the regulatory text at the end of this document.

Rulemaking Analyses

Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

FMCSA has determined that this action is not a significant regulatory action within the meaning of Executive Order 12866, as supplemented by Executive Order 13563 (76 FR 3821, Jan. 18, 2011), or within the meaning of the DOT regulatory policies and procedures (44 FR 1103, Feb. 26, 1979). Thus, the Office of Management and Budget (OMB) did not review this document. We expect the final rule will have no costs; therefore, a full regulatory evaluation is unnecessary.

Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act (RFA) of 1980 (5 U.S.C. 601 *et seq.*), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121, 110 Stat. 857), FMCSA is not required to prepare a final regulatory flexibility analysis under 5 U.S.C. 604(a) for this final rule because the Agency has not issued a notice of proposed rulemaking prior to this action. FMCSA has determined that it has good cause to adopt the rule without notice and comment.

Unfunded Mandates Reform Act

The final rule will not impose an unfunded Federal mandate, as defined by the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1532, *et seq.*), that will result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of \$155 million (which is the value of \$100 million in

2015 after adjusting for inflation) or more in any 1 year.

E.O. 13132 (Federalism)

A final rule has implications for Federalism under section 1(a) of Executive Order 13132 if it has "substantial direct effects on the States, on the relationship between national government and the States, or on the distribution of power and responsibilities among various levels of government." FMCSA has determined that this rule will not have substantial direct effects on States, nor will it limit the policymaking discretion of States. Nothing in this document preempts or modifies any provision of State law or regulation, imposes substantial direct unreimbursed compliance costs on any State, or diminishes the power of any State to enforce its own laws. Accordingly, this rulemaking does not have Federalism implications warranting the application of E.O. 13132.

E.O. 12372 (Intergovernmental Review)

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

Indian Tribal Governments

This final rule does not have tribal implications under Executive Order 13175 titled, "Consultation and Coordination with Indian Tribal Governments," because it would 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.

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501 *et seq.*), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct, sponsor, or require through regulations. FMCSA determined that no new information collection requirements are associated with this final rule, nor are there any revisions to existing, approved collections of information. Therefore, the PRA does not apply to this final rule.

National Environmental Policy Act

FMCSA analyzed this final rule for the purpose of ascertaining the applicability of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and determined under our Environmental Procedures

Order 5610.1, issued March 1, 2004 (69 FR 9680), that this action would not have any effect on the quality of the environment. In addition, this final rule is categorically excluded from further analysis and documentation under the Categorical Exclusion (CE) in paragraph 6(b) of Appendix 2 of FMCSA Order 5610.1. This CE addresses minor editorial corrections such as those found in this rulemaking; therefore, preparation of an environmental assessment or environmental impact statement is not necessary.

FMCSA also analyzed this rule under the Clean Air Act, as amended (CAA), section 176(c) (42 U.S.C. 42 U.S.C. 7506(c)), and implementing regulations promulgated by the Environmental Protection Agency. Approval of this action is exempt from the CAA's general conformity requirement since it does not affect direct or indirect emissions of criteria pollutants.

E.O. 12898 (Environmental Justice)

This final rule is not subject to Executive Order 12898 (59 FR 7629, Feb. 16, 1994). Executive Order 12898 establishes Federal executive policy on environmental justice. Its main provision directs Federal agencies to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States. FMCSA determined that this rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not change the substance of any of the FMCSRs.

E.O. 13211 (Energy Effects)

FMCSA has analyzed this final rule under Executive Order 13211 titled, "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 Executive Order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Therefore, no Statement of Energy Effects is required.

E.O. 13045 (Protection of Children)

Executive Order 13045 titled, "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. As discussed previously, this rule is not economically significant. Therefore, no analysis of the impacts on children is required. Nevertheless, as this final rule does not change the substance of any of the FMCSRs, FMCSA does not believe it will have any environmental health or safety impacts on children.

E.O. 12988 (Civil Justice Reform)

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

E.O. 12630 (Taking of Private Property)

This final rule will not effect a taking of private property or otherwise have taking implications under E.O. 12630 titled, "Governmental Actions and Interference with Constitutionally Protected Property Rights."

National Technology Transfer and Advancement Act

The National Technology Transfer and Advancement Act (15 U.S.C. 272 note) requires Federal agencies proposing to adopt technical standards to consider whether voluntary consensus standards are available. If the Agency chooses to adopt its own standards in place of existing voluntary consensus standards, it must explain its decision in a separate statement to OMB. Because this final rule does not adopt technical standards, there is no need to submit a separate statement to OMB on this matter.

Privacy Impact Assessment

Section 522(a)(5) of the Transportation, Treasury, Independent Agencies, and General Government Appropriations Act, 2005 (Pub. L. 108-447, Division H, Title I, 118 Stat. 2809 at 3268, Dec. 8, 2004) requires DOT and certain other Federal agencies to conduct a privacy impact assessment of each rule that will affect the privacy of individuals. Because this final rule will not affect the privacy of individuals, FMCSA did not conduct a separate privacy impact assessment.

List of Subjects

49 CFR Part 355

Highway safety, Intergovernmental relations, Motor carriers, Motor vehicle

safety, Reporting and recordkeeping requirements.

49 CFR Part 356

Administrative practice and procedure, Freight forwarders, Highways and roads, Motor carriers.

49 CFR Part 365

Administrative practice and procedure, Brokers, Buses, Freight forwarders, Maritime carriers, Mexico, Motor carriers, Moving of household goods.

49 CFR Part 369

Motor carriers, Reporting and recordkeeping requirements.

49 CFR Part 370

Freight forwarders, Investigations, Motor carriers.

49 CFR Part 373

Buses, Freight, Freight forwarders, Motor carriers, Moving of household goods.

49 CFR Part 374

Aged, Blind, Buses, Civil rights, Freight, Individuals with disabilities, Motor carriers, Smoking.

49 CFR Part 376

Motor carriers, Reporting and recordkeeping requirements.

49 CFR Part 377

Credit, Freight forwarders, Maritime carriers, Motor carriers, Moving of household goods.

49 CFR Part 378

Freight forwarders, Investigations, Motor carriers, Motor of household goods.

49 CFR Part 382

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

49 CFR Part 383

Administrative practice and procedure, Alcohol abuse, Drug abuse, Highway safety, Motor carriers.

49 CFR Part 384

Administrative practice and procedure, Alcohol abuse, Drug abuse, Highway safety, Motor carriers.

49 CFR Part 385

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

49 CFR Part 386

Administrative practice and procedure, Brokers, Freight forwarders, Hazardous materials transportation, Highway safety, Motor carriers, Motor vehicle safety, Penalties.

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 392

Alcohol abuse, Drug abuse, Highway safety, Motor carriers.

49 CFR Part 395

Highway safety, Motor carriers, 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.

49 CFR Part 398

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

In consideration of the foregoing, FMCSA is amending 49 CFR chapter III, subchapter B, parts 355, 356, 365, 369, 370, 373, 374, 376, 377, 378, 382, 383, 384, 385, 386, 390, 391, 392, 395, 397, and 398, as set forth below:

PART 355—COMPATIBILITY OF STATE LAWS AND REGULATIONS AFFECTING INTERSTATE MOTOR CARRIER OPERATIONS

■ 1. The authority citation for part 355 continues to read as follows:

Authority: 49 U.S.C. 504 and 31101 et seq.; and 49 CFR 1.87.

■ 2. Revise the applicability section of appendix A to part 355 to read as follows:

Appendix A to Part 355—Guidelines for the Regulatory Review

* * * * *

Applicability

The requirements must apply to all segments of the motor carrier industry, for-

hire and private carriers of property and for-hire carriers of passengers.

* * * * *

PART 356—MOTOR CARRIER ROUTING REGULATIONS

■ 3. The authority citation for part 356 continues to read as follows:

Authority: 5 U.S.C. 553; 49 U.S.C. 13301 and 13902; and 49 CFR 1.87.

§ 356.7 [Removed]

■ 4. Remove § 356.7.

§ 356.9 [Removed]

■ 5. Remove § 356.9.

§ 356.11 [Removed]

■ 6. Remove § 356.11.

§ 356.13 [Removed]

■ 7. Remove § 356.13.

PART 365—RULES GOVERNING APPLICATIONS FOR OPERATING AUTHORITY

■ 8. The authority citation for part 365 continues to read as follows:

Authority: 5 U.S.C. 553 and 559; 49 U.S.C. 13101, 13301, 13901–13906, 14708, 31138, and 31144; sec. 5524 of Pub. L. 114–94, 129 Stat. 1312, 1560; and 49 CFR 1.87.

■ 9. Amend § 365.105 by revising paragraph (b) to read as follows:

§ 365.105 Starting the application process: Form OP–1.

* * * * *

(b) Obtain forms at a FMCSA Division Office in each State or at one of the FMCSA Service Centers. Addresses and phone numbers for the Division Offices and Service Centers can be found at: https://www.fmcsa.dot.gov/mission/field-offices. The forms and information about filing procedures can be downloaded at: https://www.fmcsa.dot.gov/registration/registration-forms.

■ 10. Amend § 365.205 by revising paragraph (d) to read as follows:

§ 365.205 Contents of the protest.

* * * * *

(d) Protests must respond directly to the statutory standards for FMCSA review of the application. As these standards vary for particular types of applications, potential protestants should refer to the general criteria addressed at § 365.107 and may consult the FMCSA at 800–832–5660 or via the web form at https://www.fmcsa.dot.gov/ask for further assistance in developing their evidence.

■ 11. Amend § 365.413 by revising paragraph (b) and adding paragraph (c) to read as follows:

§ 365.413 Procedures for changing the name or business form of a motor carrier, freight forwarder, or property broker.

* * * * *

(b) Procedures. To accomplish these changes, a letter or signed copy of form MCSA–5889, “Motor Carrier Records Change Form,” OMB No. 2126–0060, must be submitted to the Federal Motor Carrier Safety Administration. It must be submitted in one of the following three ways.

(1) Scanned and submitted via the web form at https://www.fmcsa.dot.gov/ask;

(2) Faxed to (202–366–3477); or

(3) Mailed to the Federal Motor Carrier Safety Administration, Office of Registration and Safety Information (MC–RS), 1200 New Jersey Ave. SE., Washington, DC 20590–0001. The envelope should be marked “NAME CHANGE”.

(c) The registrant must provide:

(1) The docket number(s) and name of the carrier, freight forwarder, or property broker requesting the change;

(2) A copy of the articles of incorporation and the State certificate reflecting the incorporation;

(3) The name(s) of the owner(s) of the stock and the distribution of the shares;

(4) The names of the officers and directors of the corporation; and

(5) A statement that there is no change in the ownership, management, or control of the business. When this procedure is being used to transfer operating rights from a deceased or incapacitated spouse to the other spouse, documentation that the other spouse has the legal right to effect such change must be included with the request. The fee for filing a name change request is in § 360.3(f) of this chapter.

PART 369—REPORTS OF MOTOR CARRIERS

■ 12. The authority citation for part 369 continues to read as follows:

Authority: 49 U.S.C. 14123; 49 CFR 1.87.

■ 13. Amend § 369.1 by revising the heading and paragraph (a) to read as follows:

§ 369.1 Annual reports of for-hire, non-exempt motor carriers of property, motor carriers of household goods, and dual property carriers.

(a) Annual Report Form M. All class I and class II for-hire, non-exempt motor carriers of property, including household goods and dual property motor carriers, must file Motor Carrier Annual Report Form M (Form M). Carriers must file the annual report on or before March 31 of the year following

the year to which it relates. For classification criteria, see § 369.2.

* * * * *

■ 14. Amend § 369.2 by revising the heading and the introductory text of paragraph (a) to read as follows:

§ 369.2 Classification of carriers—for-hire, non-exempt motor carriers of property, household goods carriers, and dual property carriers.

(a) For-hire, non-exempt motor carriers of property are grouped into the following three classes:

* * * * *

■ 15. Amend § 369.3 by revising the heading and the introductory text of paragraph (a) to read as follows:

§ 369.3 Classification of carriers—for-hire, non-exempt motor carriers of passengers.

(a) For-hire, non-exempt motor carriers of passengers are grouped into the following two classes:

* * * * *

PART 370—PRINCIPLES AND PRACTICES FOR THE INVESTIGATION AND VOLUNTARY DISPOSITION OF LOSS AND DAMAGE CLAIMS AND PROCESSING SALVAGE

■ 16. The authority citation for part 370 continues to read as follows:

Authority: 49 U.S.C. 13301 and 14706; and 49 CFR 1.87.

■ 17. Amend § 370.9 by revising paragraph (b) to read as follows:

§ 370.9 Disposition of claims.

* * * * *

(b) When settling a claim for loss or damage, a household goods motor carrier as defined in § 375.103 of this subchapter shall use the replacement costs of the lost or damaged item as a base to apply a depreciation factor to arrive at the current actual value of the lost or damaged item.

PART 373—RECEIPTS AND BILLS

■ 18. The authority citation for part 373 continues to read as follows:

Authority: 49 U.S.C. 13301, 13531, and 14706; and 49 CFR 1.87.

■ 19. Add § 373.100 to read as follows:

§ 373.100 Applicability.

This subpart applies to motor carriers subject to 49 U.S.C. subtitle IV, part B (secs. 13101–14916).

■ 20. Amend § 373.101 by revising the heading and introductory text to read as follows:

§ 373.101 For-hire, non-exempt motor carrier bills of lading.

Every motor carrier subject to § 373.100 shall issue a receipt or bill of lading for property tendered for transportation in interstate or foreign commerce containing the following information:

* * * * *

■ 21. Amend § 373.103 by revising the heading and paragraphs (a) introductory text and (b) introductory text to read as follows:

§ 373.103 For-hire, non-exempt expense bills.

(a) *Property.* Every for-hire, non-exempt motor carrier shall issue a freight or expense bill for each shipment transported containing the following information:

* * * * *

(b) *Charter transportation of passenger service.* Every for-hire, non-exempt motor carrier providing charter transportation of passenger service shall issue an expense bill containing the following information:

* * * * *

PART 374—PASSENGER CARRIER REGULATIONS

■ 22. The authority citation for part 374 continues to read as follows:

Authority: 49 U.S.C. 13301 and 14101; and 49 CFR 1.87.

■ 23. Add § 374.1 before subpart A to read as follows:

§ 374.1 Applicability.

This part applies to motor carriers subject to 49 U.S.C. subtitle IV, part B (secs. 13101–14916).

■ 24. Revise the heading for subpart A to read as follows:

Subpart A—Discrimination in Operations of Interstate Motor Carriers of Passengers

§ 374.101 [Amended]

■ 25. In § 374.101, remove the word “common”.

§ 374.103 [Amended]

■ 26. In § 374.103, remove the word “common”.

§ 374.105 [Amended]

■ 27. In § 374.105, remove the word “common”.

§ 374.107 [Amended]

■ 28. In § 374.107, remove the word “common” and the word “Common”.

§ 374.109 [Amended]

■ 29. In § 374.109, remove the word “common”.

§ 374.111 [Amended]

■ 30. In § 374.111, remove the word “common”.

§ 374.113 [Amended]

■ 31. In § 374.113, paragraph (a), remove the word “common”.

§ 374.201 [Amended]

■ 32. In § 374.201, remove the word “common”.

■ 33. Revise the heading for subpart C to read as follows:

Subpart C—Adequacy of Intercity Motor Carrier Passenger Service

§ 374.301 [Amended]

■ 34. In § 374.301, remove the word “common”.

§ 374.303 [Amended]

■ 35. In § 374.303, paragraph (a), remove the word “common”.

■ 36. Revise § 374.401 to read as follows:

§ 374.401 Minimum permissible limitations for baggage liability.

Motor carriers of passengers and baggage subject to 49 U.S.C. 13501 may not publish tariff provisions limiting their liability for loss or damage to baggage checked by a passenger transported in regular route or special operations unless:

(a) The amount for which liability is limited is \$250 or greater per adult fare; and

(b) The provisions permit the passenger, for an additional charge, to declare a value in excess of the limited amount, and allow the passenger to recover the increased amount (but not higher than the actual value) in event of loss or damage. The carriers may publish a maximum value for which they will be liable, but that maximum value may not be less than \$1,000. Appropriate identification must be attached securely by the passenger to each item of baggage checked, indicating in a clear and legible manner the name and address to which the baggage should be forwarded if lost and subsequently recovered. Identification tags shall be made immediately available by the carriers to passengers upon request.

(c) Carriers need not offer excess value coverage on articles listed in § 374.307(c)(3).

§ 374.403 [Amended]

■ 37. In § 374.403, paragraph (a), remove the word “common”.

§ 374.405 [Amended]

■ 38. In § 374.405, remove the word “common”.

Subpart E—Incidental Charter Rights

■ 39. The authority citation for subpart E to part 374 is revised to read as follows:

Authority: 49 U.S.C. 13301, 13501, 13506; and 49 CFR 1.87.

§ 374.501 [Amended]

■ 40. Amend § 374.501 by removing “[49 U.S.C. 10932(c)]”.

PART 376—LEASE AND INTERCHANGE OF VEHICLES

■ 41. The authority citation for part 376 continues to read as follows:

Authority: 49 U.S.C. 13301 and 14102; and 49 CFR 1.87.

■ 42. Amend § 376.1 by revising the introductory text and paragraph (c) to read as follows:

§ 376.1 Applicability.

The regulations in this part apply to the following actions by motor carriers registered with the Secretary to transport property under 49 U.S.C. subtitle IV, part B:

* * * * *

(c) The interchange of equipment between for-hire motor carriers in the performance of transportation regulated by the Secretary.

§ 376.2 [Amended]

■ 43. Amend § 376.2 by removing the term “common” in paragraph (c).

■ 44. Amend § 376.31 as follows:

■ a. Revise the introductory text; and

■ b. Revise the introductory text of paragraph (d), the first sentence of paragraph (d)(1), and the first sentence of paragraph (d)(2).

The revisions read as follows:

§ 376.31 Interchange of equipment.

Authorized for-hire motor carriers may interchange equipment under the following conditions:

* * * * *

(d) Identification of equipment. The authorized for-hire motor carrier receiving the equipment shall identify equipment operated by it in interchange service as follows:

(1) The authorized for-hire motor carrier shall identify power units in accordance with FMCSA’s requirements in 49 CFR part 390 (Identification of Vehicles). * * *

(2) Unless a copy of the interchange agreement is carried on the equipment, the authorized for-hire motor carrier shall carry a statement with each vehicle during interchange service

certifying that it is operating the equipment. * * *
* * * * *

PART 377—PAYMENT OF TRANSPORTATION CHARGES

■ 45. The authority citation for part 377 continues to read as follows:

Authority: 49 U.S.C. 13101, 13301, 13701, 13702, 13706, 13707, and 14101; and 49 CFR 1.87.

■ 46. Revise § 377.101 to read as follows:

§ 377.101 Applicability.

(a) Applicability. The rules and regulations in this part apply to the transportation by motor vehicle of cash-on-delivery (c.o.d.) shipments by all for-hire motor carriers of property subject to 49 U.S.C. 13702.

(b) Exceptions. (1) The rules in this part do not apply to transportation which is auxiliary to or supplemental of transportation by railroad and performed on railroad bills of lading.

(2) The rules in this part do not apply to transportation which is performed for freight forwarders and on freight forwarder bills of lading.

§ 377.103 [Amended]

■ 47. Amend § 377.103 by removing the term “common” and adding in its place the term “motor”.

§ 377.105 [Amended]

■ 48. Amend § 377.105 by removing the term “common” and adding in its place the term “motor”.

■ 49. Revise the heading to subpart B of part 377 to read as follows:

Subpart B—Extension of Credit to Shippers by For-Hire, Non-Exempt Motor Carriers and Household Goods Freight Forwarders

■ 50. Revise § 377.201 to read as follows:

§ 377.201 Scope.

(a) General. These regulations apply to the extension of credit in the transportation of property under Federal Motor Carrier Safety Administration regulation by for-hire, non-exempt motor carriers and household goods freight forwarders subject to 49 U.S.C. subtitle IV, part B, except as otherwise provided.

(b) Exceptions. These regulations do not apply to—

(1) Transportation for—

(i) The United States or any department, bureau, or agency thereof;

(ii) Any State or political subdivision thereof; or

(iii) The District of Columbia.

(2) Property transportation incidental to passenger operations.

§ 377.217 [Amended]

■ 51. Amend § 377.217 by removing the term “common” and adding in its place the term “motor”.

PART 378—PROCEDURES GOVERNING THE PROCESSING, INVESTIGATION, AND DISPOSITION OF OVERCHARGE, DUPLICATE PAYMENT, OR OVERCOLLECTION CLAIMS

■ 52. The authority citation for part 378 continues to read as follows:

Authority: 49 U.S.C. 13321, 14101, 14704 and 14705; and 49 CFR 1.87.

§ 378.1 [Amended]

■ 53. Amend § 378.1 by removing the term “common”.

§ 378.2 [Amended]

■ 54. Amend § 378.2 by removing the term “common” in paragraph (a).

PART 382—CONTROLLED SUBSTANCES AND ALCOHOL USE AND TESTING

■ 55. The authority citation for part 382 continues to read as follows:

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

■ 56. Amend § 382.103 by revising paragraph (d)(3)(i)(C) to read as follows:

§ 382.103 Applicability.

* * * * *

(d) * * *

(3) * * *

(i) * * *

(C) Not used in the operations of a for-hire motor carrier, except for an exempt motor carrier as defined in § 390.5 of this subchapter;

* * * * *

§ 382.305 [Amended]

■ 57. In § 382.305, amend paragraph (b)(2) by removing “50 percent” and adding in its place “25 percent”.

PART 383—COMMERCIAL DRIVER’S LICENSE STANDARDS; REQUIREMENTS AND PENALTIES

■ 58. The authority citation for part 383 continues to read as follows:

Authority: 49 U.S.C. 521, 31136, 31301 et seq., and 31502; secs. 214 and 215 of Pub. L. 106–159, 113 Stat. 1748, 1766, 1767; sec. 1012(b) of Pub. L. 107–56, 115 Stat. 272, 297, sec. 4140 of Pub. L. 109–59, 119 Stat. 1144, 1746; sec. 32934 of Pub. L. 112–141, 126 Stat. 405, 830; sec. 7208 of Pub. L. 114–94, 129 Stat. 1312, 1593; and 49 CFR 1.87.

■ 59. Amend § 383.3 by revising paragraph (d)(1)(iii) to read as follows:

§ 383.3 Applicability.

* * * * *

(d) * * *
(1) * * *

(iii) Not used in the operations of a for-hire motor carrier, except for an exempt motor carrier as defined in § 390.5 of this subchapter;

* * * * *

■ 60. Amend § 383.5 by revising the definition of *School bus* to read as follows:

§ 383.5 Definitions.

* * * * *

School bus means a CMV used to transport pre-primary, primary, or secondary school students from home to school, from school to home, or to and from school-sponsored events. School bus does not include operations of a for-hire motor carrier.

* * * * *

■ 61. Amend § 383.77 by revising paragraph (a)(5) to read as follows:

§ 383.77 Substitute for driving skills tests for drivers with military CMV experience.

* * * * *

(a) * * *

(5) Has not had any conviction for a violation of military, State or local law relating to motor vehicle traffic control (other than a parking violation) arising in connection with any traffic accident, and has no record of an accident in which he/she was at fault; and

* * * * *

§ 383.131 [Amended]

■ 62. Amend § 383.131 by removing all references to “July 2010” and adding in its place the phrase “July 2010 or newer”.

§ 383.133 [Amended]

■ 63. Amend § 383.133 by removing all references to “July 2010” and adding in its place the phrase “July 2010 or newer”.

PART 384—STATE COMPLIANCE WITH COMMERCIAL DRIVER'S LICENSE PROGRAM

■ 64. The authority citation for part 384 is continues to read as follows:

Authority: 49 U.S.C. 31136, 31301, *et seq.*, and 31502; secs. 103 and 215 of Pub. L. 106–59, 113 Stat. 1753, 1767; and 49 CFR 1.87.

■ 65. Revise § 384.401 to read as follows:

§ 384.401 Withholding of funds based on noncompliance.

(a) *Following the first year of noncompliance.* An amount up to 4 percent of the Federal-aid highway funds required to be apportioned to any State under each of sections 104(b)(1),

(b)(3), and (b)(4) of title 23 U.S.C. shall be withheld from a State on the first day of the fiscal year following such State's first year of noncompliance under this part.

(b) *Following second and subsequent year(s) of noncompliance.* An amount up to 8 percent of the Federal-aid highway funds required to be apportioned to any State under each of sections 104(b)(1), (b)(3), and (b)(4) of title 23 U.S.C. shall be withheld from a State on the first day of the fiscal year following such State's second or subsequent year(s) of noncompliance under this part.

§ 384.407 [Removed and Reserved]

■ 66. Remove and reserve § 384.407.

PART 385—SAFETY FITNESS PROCEDURES

■ 67. The authority citation for part 385 continues to read as follows:

Authority: 49 U.S.C. 113, 504, 521(b), 5105(d), 5109, 13901–13905, 31133, 31135, 31136, 31137, 31144, 31148, and 31502; Sec. 113(a), Pub. L. 103–311; Sec. 408, Pub. L. 104–88, 109 Stat. 803, 958; Sec. 350, Pub. L. 107–87; and 49 CFR 1.87.

■ 68. Revise § 385.303 to read as follows:

§ 385.303 How does a motor carrier register with the FMCSA?

A motor carrier may contact the FMCSA by internet (www.fmcsa.dot.gov); or Washington, DC headquarters by mail at, Federal Motor Carrier Safety Administration, 1200 New Jersey Ave. SE., Washington, DC 20590–0001; fax 202–366–3477; or telephone 1–800–832–5660, and request the application materials for a new entrant motor carrier. Forms can also be downloaded from <https://www.fmcsa.dot.gov/registration/registration-forms>. A motor carrier which does not already have a USDOT number must apply online via the Unified Registration System (URS) at www.fmcsa.dot.gov/urs.

■ 69. Amend appendix B to part 385 as follows:

■ a. Revise paragraph (c) of the introductory text.

■ b. Republish section II.(c).

■ c. In section VII, revise the entries for §§ 395.8(a)(2)(ii) and 395.11(b).

The revisions read as follows:

Appendix B to Part 385—Explanation of Safety Rating Process

* * * * *

(c) To meet the safety fitness standard, a motor carrier must demonstrate to the FMCSA that it has adequate safety management controls in place which function effectively to ensure acceptable

compliance with the applicable safety requirements. A “safety fitness methodology” (SFRM) was developed by the FMCSA, which uses data from compliance reviews (CRs) and roadside inspections to rate motor carriers.

* * * * *

II. Converting CR Information Into a Safety Rating

* * * * *

(c) Critical regulations are those identified as such where noncompliance relates to management and/or operational controls. These are indicative of breakdowns in a carrier's management controls. An example of a critical regulation is § 395.3(a)(1), requiring or permitting a property-carrying commercial motor vehicle driver to drive more than 11 hours.

* * * * *

VII. List of Acute and Critical Regulations

* * * * *

§ 395.8(a)(2)(ii) Failure to require a driver to submit record of duty status (critical).

* * * * *

§ 395.11(b) Failing to require a driver to submit supporting documents (critical).

* * * * *

PART 386—RULES OF PRACTICE FOR FMCSA PROCEEDINGS

■ 70. The authority citation for part 386 is revised to read as follows:

Authority: 49 U.S.C. 113; 49 U.S.C. chapters 5, 51, 59, 131–141, 145–149, 311, 313, and 315; Sec. 204, Pub. L. 104–88, 109 Stat. 803, 941 (49 U.S.C. 701 note); Sec. 217, Pub. L. 105–159, 113 Stat. 1748, 1767; Sec. 206, Pub. L. 106–159, 113 Stat. 1763; subtitle B, title IV of Pub. L. 109–59; Sec. 701 of Pub. L. 114–74, 129 Stat. 584, 599; and 49 CFR 1.81 and 1.87.

■ 71. Amend § 386.1 by revising paragraph (c) to read as follows:

§ 386.1 Scope of rules in this part.

* * * * *

(c)(1) The rules in § 386.12(a) govern the filing of a complaint of a substantial violation and the handling of the complaint by the appropriate Division Administrator.

(2) The rules in § 386.12(b) govern the filing by a driver and the handling by the appropriate Division Administrator of a complaint of harassment in violation of § 390.36 of this subchapter.

(3) The rules in § 386.12(c) govern the filing by a driver and the handling by the appropriate Division Administrator of a complaint of coercion in violation of § 390.6 of this subchapter.

PART 390—FEDERAL MOTOR CARRIER SAFETY REGULATIONS; GENERAL

■ 72. The authority citation for part 390 is revised 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, 1677–1678; sec. 212, 217, Pub. L. 106–159, 113 Stat. 1748, 1766, 1767; sec. 229, Pub. L. 106–159 (as transferred by sec. 4114 and amended by secs. 4130–4132, Pub. L. 109–59, 119 Stat. 1144, 1726, 1743–1744); sec. 4136, Pub. L. 109–59, 119 Stat. 1144, 1745; sec. 32101(d) and 32934, Pub. L. 112–141, 126 Stat. 405, 778, 830; sec. 2, Pub. L. 113–125, 128 Stat. 1388; sec. 5518, 5524, Pub. L. 114–94, 129 Stat. 1312, 1558, 1560; and 49 CFR 1.81, 1.81a, and 1.87.

■ 73. Amend § 390.6 by revising paragraph (b)(1) to read as follows:

§ 390.6 Coercion prohibited.

* * * * *

(b) * * *

(1) A driver who believes he or she was coerced to violate a regulation described in paragraph (a)(1) or (2) of this section may file a written complaint under § 386.12(c) of this subchapter.

* * * * *

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

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

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

§ 391.42 [Removed]

■ 75. Remove § 391.42.

■ 76. Amend § 391.43 by revising paragraphs (a), (f), and (h) to read as follows:

§ 391.43 Medical examination; certificate of physical examination.

(a) Except as provided by paragraph (b) of this section, the medical examination must be performed by a medical examiner listed on the National Registry of Certified Medical Examiners under subpart D of part 390 of this chapter.

* * * * *

(f) The medical examination shall be performed, and its results shall be recorded on the Medical Examination Report Form, MCSA–5875, set out below:

BILLING CODE 4910-EX-P

Form MCSA-5875

OMB No. 2126-0006

Public Burden Statement

A Federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB Control Number. The OMB Control Number for this information collection is 2126-0006. Public reporting for this collection of information is estimated to average approximately 25 minutes per response, including the time for reviewing instructions, gathering the data needed, and completing and reviewing the collection of information. All responses to this collection of information are mandatory. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: Information Collection Clearance Officer, Federal Motor Carrier Safety Administration, MC-FRA, 1200 New Jersey Avenue, SE, Washington, D.C. 20590.



U.S. Department of Transportation
Federal Motor Carrier
Safety Administration

Medical Examination Report Form
(for Commercial Driver Medical Certification)

MEDICAL RECORD #

(or sticker)

SECTION 1. Driver Information (to be filled out by the driver)

PERSONAL INFORMATION

Last Name: _____ First Name: _____ Middle Initial: _____ Date of Birth: _____ Age: _____
 Street Address: _____ City: _____ State/Province: _____ Zip Code: _____
 Driver's License Number: _____ Issuing State/Province: _____ Phone: _____ Gender: M F
 E-mail (optional): _____ CLP/CDL Applicant/Holder*: Yes No
 Driver ID Verified By**: _____
 Has your USDOT/FMCSA medical certificate ever been denied or issued for less than 2 years? Yes No Not Sure

*CLP/CDL Applicant/Holder: See instructions for definitions.

**Driver ID Verified By: Record what type of photo ID was used to verify the identity of the driver, e.g., CDL, driver's license, passport

DRIVER HEALTH HISTORY

Have you ever had surgery? If "yes," please list and explain below. Yes No Not Sure

Are you currently taking medications (prescription, over-the-counter, herbal remedies, diet supplements)?
If "yes," please describe below. Yes No Not Sure

(Attach additional sheets if necessary)

This document contains sensitive information and is for official use only. Improper handling of this information could negatively affect individuals. Handle and secure this information appropriately to prevent inadvertent disclosure by keeping the documents under the control of authorized persons. Properly dispose of this document when no longer required to be maintained by regulatory requirements.

Form MCSA-5875

OMB No. 2126-0006

Last Name: _____ First Name: _____ DOB: _____ Exam Date: _____

DRIVER HEALTH HISTORY (continued)

Do you have or have you ever had:	Not				Not		
	Yes	No	Sure		Yes	No	Sure
1. Head/brain injuries or illnesses (e.g., concussion)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	16. Dizziness, headaches, numbness, tingling, or memory loss	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
2. Seizures, epilepsy	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	17. Unexplained weight loss	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
3. Eye problems (except glasses or contacts)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	18. Stroke, mini-stroke (TIA), paralysis, or weakness	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
4. Ear and/or hearing problems	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	19. Missing or limited use of arm, hand, finger, leg, foot, toe	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
5. Heart disease, heart attack, bypass, or other heart problems	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	20. Neck or back problems	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
6. Pacemaker, stents, implantable devices, or other heart procedures	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	21. Bone, muscle, joint, or nerve problems	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
7. High blood pressure	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	22. Blood clots or bleeding problems	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
8. High cholesterol	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	23. Cancer	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
9. Chronic (long-term) cough, shortness of breath, or other breathing problems	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	24. Chronic (long-term) infection or other chronic diseases	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
10. Lung disease (e.g., asthma)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	25. Sleep disorders, pauses in breathing while asleep, daytime sleepiness, loud snoring	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
11. Kidney problems, kidney stones, or pain/problems with urination	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	26. Have you ever had a sleep test (e.g., sleep apnea)?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
12. Stomach, liver, or digestive problems	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	27. Have you ever spent a night in the hospital?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
13. Diabetes or blood sugar problems Insulin used	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	28. Have you ever had a broken bone?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
14. Anxiety, depression, nervousness, other mental health problems	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	29. Have you ever used or do you now use tobacco?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
15. Fainting or passing out	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	30. Do you currently drink alcohol?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
				31. Have you used an illegal substance within the past two years?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
				32. Have you ever failed a drug test or been dependent on an illegal substance?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Other health condition(s) not described above: Yes No Not Sure

Did you answer "yes" to any of questions 1-32? If so, please comment further on those health conditions below. Yes No Not Sure

(Attach additional sheets if necessary)

CMV DRIVER'S SIGNATURE

I certify that the above information is accurate and complete. I understand that inaccurate, false or missing information may invalidate the examination and my Medical Examiner's Certificate, that submission of fraudulent or intentionally false information is a violation of 49 CFR 390.35, and that submission of fraudulent or intentionally false information may subject me to civil or criminal penalties under 49 CFR 390.37 and 49 CFR 386 Appendices A and B.
Driver's Signature: _____ Date: _____

SECTION 2. Examination Report (to be filled out by the medical examiner)

DRIVER HEALTH HISTORY REVIEW

Review and discuss pertinent driver answers and any available medical records. Comment on the driver's responses to the "health history" questions that may affect the driver's safe operation of a commercial motor vehicle (CMV).

(Attach additional sheets if necessary)

Form MCSA-5875

OMB No. 2126-0006

Last Name: _____ First Name: _____ DOB: _____ Exam Date: _____

TESTING

Pulse rate: _____ Pulse rhythm regular: Yes No Height: ___ feet ___ inches Weight: ___ pounds

Blood Pressure	Systolic	Diastolic	Urinalysis	Sp. Gr.	Protein	Blood	Sugar
Sitting			Urinalysis is required. Numerical readings must be recorded.				
Second reading (optional)							
Other testing if indicated			<i>Protein, blood, or sugar in the urine may be an indication for further testing to rule out any underlying medical problem.</i>				
<input type="text"/> <input type="text"/> <input type="text"/>							

Vision
Standard is at least 20/40 acuity (Snellen) in each eye with or without correction. At least 70° field of vision in horizontal meridian measured in each eye. The use of corrective lenses should be noted on the Medical Examiner's Certificate.

Acuity

	Uncorrected	Corrected	Horizontal Field of Vision
Right Eye:	20/____	20/____	Right Eye: ____ degrees
Left Eye:	20/____	20/____	Left Eye: ____ degrees
Both Eyes:	20/____	20/____	

Applicant can recognize and distinguish among traffic control signals and devices showing red, green, and amber colors Yes No

Monocular vision

Referred to ophthalmologist or optometrist?

Received documentation from ophthalmologist or optometrist?

Hearing
Standard: Must first perceive whispered voice at not less than 5 feet OR average hearing loss of less than or equal to 40 dB, in better ear (with or without hearing aid).

Check if hearing aid used for test: Right Ear Left Ear Neither

Whisper Test Results

Record distance (in feet) from driver at which a forced whispered voice can first be heard

Right Ear			Left Ear		
500 Hz	1000 Hz	2000 Hz	500 Hz	1000 Hz	2000 Hz
_____	_____	_____	_____	_____	_____
Average (right): _____			Average (left): _____		

PHYSICAL EXAMINATION

The presence of a certain condition may not necessarily disqualify a driver, particularly if the condition is controlled adequately, is not likely to worsen, or is readily amenable to treatment. Even if a condition does not disqualify a driver, the Medical Examiner may consider deferring the driver temporarily. Also, the driver should be advised to take the necessary steps to correct the condition as soon as possible, particularly if neglecting the condition could result in a more serious illness that might affect driving.

Check the body systems for abnormalities.

Body System	Normal	Abnormal	Body System	Normal	Abnormal
1. General	<input type="radio"/>	<input type="radio"/>	8. Abdomen	<input type="radio"/>	<input type="radio"/>
2. Skin	<input type="radio"/>	<input type="radio"/>	9. Genito-urinary system including hernias	<input type="radio"/>	<input type="radio"/>
3. Eyes	<input type="radio"/>	<input type="radio"/>	10. Back/Spine	<input type="radio"/>	<input type="radio"/>
4. Ears	<input type="radio"/>	<input type="radio"/>	11. Extremities/joints	<input type="radio"/>	<input type="radio"/>
5. Mouth/throat	<input type="radio"/>	<input type="radio"/>	12. Neurological system including reflexes	<input type="radio"/>	<input type="radio"/>
6. Cardiovascular	<input type="radio"/>	<input type="radio"/>	13. Gait	<input type="radio"/>	<input type="radio"/>
7. Lungs/chest	<input type="radio"/>	<input type="radio"/>	14. Vascular system	<input type="radio"/>	<input type="radio"/>

Discuss any abnormal answers in detail in the space below and indicate whether it would affect the driver's ability to operate a CMV. Enter applicable item number before each comment.

(Attach additional sheets if necessary)

Form MCSA-5875

OMB No. 2126-0006

Last Name: _____	First Name: _____	DOB: _____	Exam Date: _____
------------------	-------------------	------------	------------------

Please complete only one of the following (Federal or State) Medical Examiner Determination sections:

MEDICAL EXAMINER DETERMINATION (Federal)

Use this section for examinations performed in accordance with the Federal Motor Carrier Safety Regulations (49 CFR 391.41-391.49):

- Does not meet standards (specify reason): _____
- Meets standards in 49 CFR 391.41; qualifies for 2-year certificate
- Meets standards, but periodic monitoring required (specify reason): _____
 - Driver qualified for: 3 months 6 months 1 year other (specify): _____
 - Wearing corrective lenses Wearing hearing aid Accompanied by a waiver/exemption (specify type): _____
 - Accompanied by a Skill Performance Evaluation (SPE) Certificate Qualified by operation of 49 CFR 391.64 (Federal)
 - Driving within an exempt intracity zone (see 49 CFR 391.62) (Federal)
 - Determination pending (specify reason): _____
 - Return to medical exam office for follow-up on (must be 45 days or less): _____
 - Medical Examination Report amended (specify reason): _____

(if amended) Medical Examiner's Signature: _____ Date: _____
 - Incomplete examination (specify reason): _____

If the driver meets the standards outlined in 49 CFR 391.41, then complete a Medical Examiner's Certificate as stated in 49 CFR 391.43(h), as appropriate.

I have performed this evaluation for certification. I have personally reviewed all available records and recorded information pertaining to this evaluation, and attest that to the best of my knowledge, I believe it to be true and correct.

Medical Examiner's Signature: _____

Medical Examiner's Name (please print or type): _____

Medical Examiner's Address: _____ City: _____ State: _____ Zip Code: _____

Medical Examiner's Telephone Number: _____ Date Certificate Signed: _____

Medical Examiner's State License, Certificate, or Registration Number: _____ Issuing State: _____

MD DO Physician Assistant Chiropractor Advanced Practice Nurse

Other Practitioner (specify): _____

National Registry Number: _____ Medical Examiner's Certificate Expiration Date: _____

Form MCSA-5875

OMB No. 2126-0006

Last Name: _____ First Name: _____ DOB: _____ Exam Date: _____

MEDICAL EXAMINER DETERMINATION (State)

Use this section for examinations performed in accordance with the Federal Motor Carrier Safety Regulations (49 CFR 391.41-391.49) with any applicable State variances (which will only be valid for intrastate operations):

- Does not meet standards in 49 CFR 391.41 with any applicable State variances (specify reason): _____
 - Meets standards in 49 CFR 391.41 with any applicable State variances
 - Meets standards, but periodic monitoring required (specify reason): _____
- Driver qualified for: 3 months 6 months 1 year other (specify): _____
- Wearing corrective lenses Wearing hearing aid Accompanied by a waiver/exemption (specify type): _____
- Accompanied by a Skill Performance Evaluation (SPE) Certificate Grandfathered from State requirements (State) _____

If the driver meets the standards outlined in 49 CFR 391.41, with applicable State variances, then complete a Medical Examiner's Certificate, as appropriate.

I have performed this evaluation for certification. I have personally reviewed all available records and recorded information pertaining to this evaluation, and attest that to the best of my knowledge, I believe it to be true and correct.

Medical Examiner's Signature: _____

Medical Examiner's Name (please print or type): _____

Medical Examiner's Address: _____ City: _____ State: _____ Zip Code: _____

Medical Examiner's Telephone Number: _____ Date Certificate Signed: _____

Medical Examiner's State License, Certificate, or Registration Number: _____ Issuing State: _____

MD DO Physician Assistant Chiropractor Advanced Practice Nurse

Other Practitioner (specify): _____

National Registry Number: _____ Medical Examiner's Certificate Expiration Date: _____

Instructions for Completing the Medical Examination Report Form (MCSA-5875)

I. Step-By-Step Instructions

Driver:

Section 1: Driver information

- **Personal Information:** Please complete this section using your name as written on your driver's license, your current address and phone number, your date of birth, age, gender, driver's license number and issuing state.
 - **CLP/CDL Applicant/Holder:** Check "yes" if you are a commercial learner's permit (CLP) or commercial driver's license (CDL) holder, or are applying for a CLP or CDL. CDL means a license issued by a State or the District of Columbia which authorizes the individual to operate a class of a commercial motor vehicle (CMV). A CMV that requires a CDL is one that: (1) has a gross combination weight rating or gross combination weight of 26,001 pounds or more inclusive of a towed unit with a gross vehicle weight rating (GVWR) or gross vehicle weight (GVW) of more than 10,000 pounds; or (2) has a GVWR or GVW of 26,001 pounds or more; or (3) is designed to transport 16 or more passengers, including the driver; or (4) is used to transport either hazardous materials requiring hazardous materials placards on the vehicle or any quantity of a select agent or toxin.
 - **Driver ID Verified By:** The Medical Examiner/staff completes this item and notes the type of photo ID used to verify the driver's identity such as, commercial driver's license, driver's license, or passport, etc.
 - **Question: Has your USDOT/FMCSA medical certificate ever been denied or issued for less than two years?** Please check the correct box "yes" or "no" and if you aren't sure check the "not sure" box.
- **Driver Health History:**
 - **Have you ever had surgery:** Please check "yes" if you have ever had surgery and provide a written explanation of the details (type of surgery, date of surgery, etc.)
 - **Are you currently taking medications (prescription, over-the-counter, herbal remedies, diet supplements):** Please check "yes" if you are taking any diet supplements, herbal remedies, or prescription or over the counter medications. In the box below the question, indicate the name of the medication and the dosage.
 - **#1-32:** Please complete this section by checking the "yes" box to indicate that you have, or have ever had, the health condition listed or the "No" box if you have not. Check the "not sure" box if you are unsure.
 - **Other Health Conditions not described above:** If you have, or have had, any other health conditions not listed in the section above, check "Yes" and in the box provided and list those condition(s).
 - **Any yes answers to questions #1-32 above:** If you have answered "yes" to any of the questions in the Driver Health History section above, please explain your answers further in the box below the question. For example, if you answered "yes" to question #5 regarding heart disease, heart attack, bypass, or other heart problem, indicate which type of heart condition. If you checked "yes" to question #23 regarding cancer, indicate the type of cancer. Please add any information that will be helpful to the Medical Examiner.
- **CMV Driver Signature and Date:** Please read the certification statement, sign and date it, indicating that the information you provided in Section 1 is accurate and complete.

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Medical Examiner:**Section 2: Examination Report**

- **Driver Health History Review:** Review answers provided by the driver in the driver health history section and discuss any “yes” and “not sure” responses. In addition, be sure to compare the medication list to the health history responses ensuring that the medication list matches the medical conditions noted. Explore with the driver any answers that seem unclear. Record any information that the driver omitted. As the Medical Examiner conducting the driver's physical examination you are required to complete the entire medical examination even if you detect a medical condition that you consider disqualifying, such as deafness. Medical Examiners are expected to determine the driver's physical qualification for operating a commercial vehicle safely. Thus, if you find a disqualifying condition for which a driver may receive a Federal Motor Carrier Safety Administration medical exemption, please record that on the driver's Medical Examiner's Certificate, Form MCSA-5876, as well as on the Medical Examination Report Form, MCSA-5875.
- **Testing:**
 - **Pulse rate and rhythm, height, and weight:** record these as indicated on the form.
 - **Blood Pressure:** record the blood pressure (systolic and diastolic) of the driver being examined. A second reading is optional and should be recorded if found to be necessary.
 - **Urinalysis:** record the numerical readings for the specific gravity, protein, blood and sugar.
 - **Vision:** The current vision standard is provided on the form. When other than the Snellen chart is used, give test results in Snellen-comparable values. When recording distance vision, use 20 feet as normal. Record the vision acuity results and indicate if the driver can recognize and distinguish among traffic control signals and devices showing red, green, and amber colors; has monocular vision; has been referred to an ophthalmologist or optometrist; and if documentation has been received from an ophthalmologist or optometrist.
 - **Hearing:** The current hearing standard is provided on the form. Hearing can be tested using either a whisper test or audiometric test. Record the test results in the corresponding section for the test used.
- **Physical Examination:** Check the body systems for abnormalities and indicate normal or abnormal for each body system listed. Discuss any abnormal answers in detail in the space provided and indicate whether it would affect the driver's ability to safely operate a commercial motor vehicle.

In this next section, you will be completing either the Federal or State determination, not both.

- **Medical Examiner Determination (Federal):** Use this section for examinations performed in accordance with the FMCSRs (49 CFR 391.41-391.49). Complete the medical examiner determination section completely. When determining a driver's physical qualification, please note that English language proficiency (49 CFR part 391.11: General qualifications of drivers) is not factored into that determination.
 - **Does not meet standards:** Select this option when a driver is determined to be not qualified and provide an explanation of why the driver does not meet the standards in 49 CFR 391.41.
 - **Meets standards in 49 CFR 391.41; qualifies for 2-year certification:** Select this option when a driver is determined to be qualified and will be issued a 2-year Medical Examiner's Certificate.

- **Meets standards, but periodic monitoring is required:** Select this option when a driver is determined to be qualified but needs periodic monitoring and provide an explanation of why periodic monitoring is required. Select the corresponding time frame that the driver is qualified and if selecting other, specify the time frame.
 - **Determination that driver meets standards:** Select all categories that apply to the driver's certification (e.g., wearing corrective lenses, accompanied by a waiver/exemption, driving within an exempt intracity zone, etc.).
- **Determination pending:** Select this option when more information is needed to make a qualification decision and specify a date, on or before the 45 day expiration date, for the driver to return to the medical exam office for follow-up. This will allow for a delay of the qualification decision for as many as 45 days. If the disposition of the pending examination is not updated via the National Registry on or before the 45 day expiration date, FMCSA will notify the examining medical examiner and the driver in writing that the examination is no longer valid and that the driver is required to be re-examined.
 - **MER amended:** A Medical Examination Report Form (MER), MCSA-5875, may only be amended while in determination pending status for situations where new information (e.g., test results, etc.) has been received or there has been a change in the driver's medical status since the initial examination, but prior to a final qualification determination. Select this option when a Medical Examination Report Form, MCSA-5875, is being amended; provide the reason for the amendment, sign and date. In addition, initial and date any changes made on the Medical Examination Report Form, MCSA-5875. A Medical Examination Report Form, MCSA-5875, cannot be amended after an examination has been in determination pending status for more than 45 days or after a final qualification determination has been made. The driver is required to obtain a new physical examination and a new Medical Examination Report Form, MCSA-5875, should be completed.
- **Incomplete examination:** Select this when the physical examination is not completed for any reason (e.g., driver decides they do not want to continue with the examination and leaves) other than situations outlined under determination pending.
- **Medical Examiner information, signature and date:** Provide your name, address, phone number, occupation, license, certificate, or registration number and issuing state, national registry number, signature and date.
- **Medical Examiner's Certificate Expiration Date:** Enter the date the driver's Medical Examiner's Certificate (MEC) expires.
- **Medical Examiner Determination (State):** Use this section for examinations performed in accordance with the FMCSRs (49 CFR 391.41-391.49) with any applicable State variances (which will only be valid for intrastate operations). Complete the medical examiner determination section completely.
 - **Does not meet standards in 49 CFR 391.41 with any applicable State variances:** Select this option when a driver is determined to be not qualified and provide an explanation of why the driver does not meet the standards in 49 CFR 391.41 with any applicable State variances.
 - **Meets standards in 49 CFR 391.41 with any applicable State variances:** Select this option when a driver is determined to be qualified and will be issued a 2-year Medical Examiner's Certificate.
 - **Meets standards, but periodic monitoring is required:** Select this option when a driver is determined to be qualified but needs periodic monitoring and provide an explanation of why periodic monitoring is required. Select the corresponding time frame that the driver is qualified and if selecting other, specify the time frame.
 - **Determination that driver meets standards:** Select all categories that apply to the driver's certification (e.g., wearing corrective lenses, accompanied by a waiver/exemption, etc.).

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- **Medical Examiner information, signature and date:** Provide your name, address, phone number, occupation, license, certificate, or registration number and issuing state, national registry number, signature and date.
 - **Medical Examiner's Certificate Expiration Date:** Enter the date the **driver's** Medical Examiner's Certificate (MEC) expires.
- II. If updating an existing exam, you must resubmit the new exam results, via the Medical Examination Results Form, MCSA-5850, to the National Registry, and the most recent dated exam will take precedence.**
- III. To obtain additional information regarding this form go to the Medical Program's page on the Federal Motor Carrier Safety Administration's website at <http://www.fmcsa.dot.gov/regulations/medical>.**

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(h) The medical examiner's certificate shall be completed in accordance with the following Form MCSA-5876, Medical Examiner's Certificate:

information will be available from the FMCSA, consolidated by the FMCSA, and published annually in whole or as updates in the **Federal Register**. Each State or Indian tribe may also publish this information in its official register of State or tribal regulations.

* * * * *

§ 397.101 [Amended]

■ 84. Amend § 397.101 by removing paragraph (g).

■ 85. Amend § 397.103 by revising paragraph (c)(1) to read as follows:

§ 397.103 Requirements for State routing designations.

* * * * *

(c) * * *

(1) The State gives written notice to the Federal Motor Carrier Safety Administration:

(i) By email to *HMRouting@dot.gov*; or

(ii) By certified mail, return receipt requested, to the Federal Motor Carrier Safety Administration, Office of Enforcement and Compliance (MC-EC), 1200 New Jersey Ave., SE., Washington, DC 20590-0001. Attention: National Hazardous Materials Route Registry.

* * * * *

PART 398—TRANSPORTATION OF MIGRANT WORKERS

■ 86. The authority citation for part 398 continues to read as follows:

Authority: 49 U.S.C. 13301, 13902, 31132, 31133, 31136, 31502, and 31504; sec. 204, Pub. L. 104-88, 109 Stat. 803, 941 (49 U.S.C. 701 note); sec. 212, Pub. L. 106-159, 113 Stat. 1748, 1766; and 49 CFR 1.87.

■ 87. Amend § 398.1 by revising paragraph (b) to read as follows:

§ 398.1 Definitions.

* * * * *

(b) *Carrier of migrant workers by motor vehicle.* “Carrier of migrant worker by motor vehicle” means any person, including any for-hire, non-exempt motor carrier conducting contract carriage operations as defined in 49 U.S.C. 13102(4)(B), but not including any for-hire, non-exempt motor carrier subject to other requirements in 49 U.S.C. subtitle IV, part B besides contract carriage operations, who or which transports in interstate or foreign commerce at any one time three or more migrant workers to or from their employment by any motor vehicle other than a passenger automobile or station wagon, except a migrant worker transporting himself/herself or his/her immediate family.

* * * * *

Issued under authority delegated in 49 CFR 1.87 on: September 15, 2016.

T.F. Scott Darling, III,
Administrator.

[FR Doc. 2016-22996 Filed 9-30-16; 11:15 am]

BILLING CODE 4910-EX-P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 593

[Docket No. NHTSA-2016-0081]

List of Nonconforming Vehicles Decided To Be Eligible for Importation

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: This document revises the list of vehicles not originally manufactured to conform to the Federal Motor Vehicle Safety Standards (FMVSS) that NHTSA has decided to be eligible for importation. This list is published in an appendix to the agency’s regulations that prescribe procedures for import eligibility decisions. The list has been revised to add all vehicles that NHTSA has decided to be eligible for importation since October 1, 2015, and to remove all previously listed vehicles that are now more than 25 years old and need no longer comply with all applicable FMVSS to be lawfully imported. NHTSA is required by statute to publish this list annually in the **Federal Register**.

DATES: Effective October 4, 2016.

FOR FURTHER INFORMATION CONTACT: George Stevens, Office of Vehicle Safety Compliance, NHTSA, (202) 366-5308.

SUPPLEMENTARY INFORMATION: Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable FMVSS shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable FMVSS. Where there is no substantially similar U.S.-certified motor vehicle, 49 U.S.C. 30141(a)(1)(B) permits a nonconforming motor vehicle to be admitted into the United States if its safety features comply with, or are capable of being altered to comply with,

all applicable FMVSS based on destructive test data or such other evidence as the Secretary of Transportation decides to be adequate.

Under 49 U.S.C. 30141(a)(1), import eligibility decisions may be made “on the initiative of the Secretary of Transportation or on petition of a manufacturer or importer registered under [49 U.S.C. 30141(c)].” The Secretary’s authority to make these decisions has been delegated to NHTSA. The agency publishes notices of eligibility decisions as they are made.

Under 49 U.S.C. 30141(b)(2), a list of all vehicles for which import eligibility decisions have been made must be published annually in the **Federal Register**. On October 1, 1996, NHTSA added the list as an appendix to 49 CFR part 593, the regulations that establish procedures for import eligibility decisions (61 FR 51242). As described in the notice, NHTSA took that action to ensure that the list is more widely disseminated to government personnel who oversee vehicle imports and to interested members of the public. See 61 FR 51242-43. In the notice, NHTSA expressed its intention to annually revise the list as published in the appendix to include any additional vehicles decided by the agency to be eligible for importation since the list was last published. See 61 FR 51243. The agency stated that issuance of the document announcing these revisions will fulfill the annual publication requirements of 49 U.S.C. 30141(b)(2). *Ibid.*

Regulatory Analyses and Notices

A. Executive Order 12866, Regulatory Planning and Review

Executive Order 12866, “Regulatory Planning and Review” (58 FR 51735, October 4, 1993), provides for making determinations about whether a regulatory action is “significant” and therefore subject to Office of Management and Budget (OMB) review and to the requirements of the Executive Order. The Executive Order defines a “significant regulatory action” as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of \$100 million or more or adversely affects in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees,