

relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.

*K. National Environmental Policy Act of 1969*

FMCSA analyzed this rule pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) (NEPA). The Agency believes this rule will not have a reasonably foreseeable significant effect on the quality of the human environment.

This conclusion stems from the fact that the existing regulation is outdated and beyond the scope of FMCSA's statutory authority, rendering it practically unenforceable. In effect, this action modernizes the CFR to accurately reflect current and long-standing practices. Consequently, the rescission of this regulation will retain the existing environmental baseline, resulting in no new environmental impacts.

#### Purpose and Need for Action

The purpose of this final rule is to remove an outdated regulation, 49 CFR part 356, as it no longer accurately reflects the Agency's current statutory authority. Under 49 U.S.C. 13902, FMCSA is not authorized to include routing limitations when granting operating authority to U.S. domiciled motor carriers; therefore, the regulations in part 356 are obsolete.

#### Alternatives

##### No Action Alternative/Current Rule

The current regulation prescribes routing limitations that are beyond the scope of FMCSA's statutory authority. Consequently, the current regulation has not been enforced. This rule would therefore retain the existing environmental baseline to the no action alternative.

##### Final Action/Preferred Alternative

This final rule will remove the obsolete regulation thereby streamlining the CFR and eliminating a source of possible confusion for stakeholders.

##### Affected Environment

There is no affected environment or environmental consequences as the current regulation is outdated and cannot be enforced. This final rule will retain the same environmental baseline.

##### Environmental Consequences

There are no environmental consequences because the current regulation is outdated and cannot be enforced.

#### List of Preparers and Reviewers

The following persons participated in the preparation of this EA:

Brian Dahlin, Chief, Regulatory Evaluation Division

*Education:* M.A. Economics (Duke University), B.S. Economics (University of Minnesota).

*Experience:* Over 20 years as a labor and transportation economist.

Sean Reid, Economist, Regulatory Evaluation Division

*Education:* M.A. Economics (Georgia State University), B.B.A. Economics (Georgia Southern University).

*Experience:* 5 years as an economist in Federal government.

Kathryn Sinniger, Chief Counsel, Division of Regulations and Legislation

*Education:* Juris Doctorate (William & Mary School of Law), B.A. Politics (Catholic University of America).

*Experience:* Over 25 years as regulatory attorney in Federal government.

#### List of Agencies and Persons Consulted

In the course of completing the NEPA compliance process for this rulemaking, FMCSA consulted with technical experts within the Agency familiar with the potential environmental consequences that could result from implementing the Final Action.

#### L. Rulemaking Summary

In accordance with 5 U.S.C. 553(b)(4), a summary of this rule may be found at [regulations.gov](https://www.regulations.gov), under the docket number.

#### List of Subjects in 49 CFR Part 356

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

#### PART 356—[REMOVED AND RESERVED]

■ Accordingly, under the authority in 49 U.S.C. 13902 and as discussed in the preamble, FMCSA removes and reserves 49 CFR part 356.

Issued under authority delegated in 49 CFR 1.87.

**Sue Lawless,**

*Assistant Administrator.*

[FR Doc. 2025–09709 Filed 5–27–25; 4:15 pm]

**BILLING CODE 4910–EX–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

#### 49 CFR Part 386

[Docket No. FMCSA–2025–0106]

RIN 2126–AC80

#### Civil Penalties Schedule Update

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

**ACTION:** Final rule.

**SUMMARY:** FMCSA amends the Federal Motor Carrier Safety Regulations (FMCSRs) to remove the reference to rules under the Department of Transportation's "Procedures for Transportation Workplace Drug and Alcohol Testing Program" from the civil penalty schedule in the FMCSRs. Instead, the civil penalty schedule will refer solely to the part of the Code of Federal Regulations (CFR) where this program is incorporated into the FMCSRs. Because the rule does not impose any new material requirements or increase compliance obligations, it is issued without prior notice and opportunity for comment, pursuant to the good cause exception in the Administrative Procedure Act (APA).

**DATES:** Effective May 30, 2025.

Petitions for reconsideration of this final rule must be submitted to the FMCSA Administrator no later than June 30, 2025.

#### FOR FURTHER INFORMATION CONTACT:

Mary J. Lee, Office of Chief Counsel, FMCSA, 1200 New Jersey Avenue SE, Washington, DC 20590, (202) 366–0035, [mary.j.lee@dot.gov](mailto:mary.j.lee@dot.gov). If you have questions on viewing or submitting material to the docket, call Dockets Operations at (202) 366–9826.

**SUPPLEMENTARY INFORMATION:** FMCSA organizes this final rule as follows:

- I. Availability of Rulemaking Documents
- II. Background
- III. Abbreviations
- IV. Legal Basis
- V. International Impacts
- VI. Section-by-Section Analysis
- VII. Regulatory Analyses
  - A. E.O. 12866 (Regulatory Planning and Review), E.O. 13563 (Improving Regulation and Regulatory Review), and DOT Regulatory Policies and Procedures
  - B. E.O. 14192 (Unleashing Prosperity Through Deregulation)
  - C. Congressional Review Act
  - D. Regulatory Flexibility Act
  - E. Assistance for Small Entities
  - F. Unfunded Mandates Reform Act of 1995
  - G. Paperwork Reduction Act
  - H. E.O. 13132 (Federalism)

I. Privacy  
J. E.O. 13175 (Indian Tribal Governments)  
K. National Environmental Policy Act of 1969

## I. Availability of Rulemaking Documents

To view any documents mentioned as being available in the docket, go to <https://www.regulations.gov/docket/FMCSA-2025-0106/document> and choose the document to review. To view comments, click this final rule, then click “Browse Comments.” If you do not have access to the internet, you may view the docket online by visiting Dockets Operations at U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Dockets Operations.

## II. Background

FMCSA last updated 49 CFR part 386, which sets out the rules of practice for administrative adjudications, in 2005 (70 FR 28467, May 18, 2005). Appendix B to part 386 contains the civil penalty schedule for violations of the Agency’s regulations, including the FMCSRs. As part of the 2005 rulemaking, a reference to 49 CFR part 40 was added to Appendix B(a)(1), which specifies the penalty for recordkeeping violations. However, 49 CFR part 40 contains DOT’s drug and alcohol testing rules, which FMCSA does not directly administer. Instead, motor carriers are required to comply with part 40 through FMCSA’s incorporation of those requirements into the FMCSRs in part 382, which is already referenced in Appendix B(a)(1). In reviewing the regulatory history of this amendment, it appears that the reference to part 40 was added in error. The previous **Federal Register** notices relating to the rules of practice make no mention of 49 CFR part 40, nor does the discussion in the May 2005 final rule. See 61 FR 18866 (Apr. 29, 1996); 61 FR 54601 (Oct. 21, 1996); 65 FR 7753 (Feb. 16, 2000); 69 FR 61617 (Oct. 20, 2004); 70 FR 28467 (May 18, 2005). FMCSA is therefore removing this reference.

The regulation in question, 49 CFR part 386 Appendix B(a)(1), sets out penalties for recordkeeping violations. While FMCSA incorporates 49 CFR part 40 into its controlled substances and alcohol testing regulations in 49 CFR part 382, any recordkeeping violations related to such testing are enforced under the FMCSRs, specifically 49 CFR 382.701(e). The civil penalty schedule

already requires compliance with the recordkeeping regulations in part 382. Therefore, the inclusion of a reference to the 49 CFR part 40 regulations in FMCSA’s civil penalty schedule found at part 386, Appendix B(a)(1) is superfluous. As discussed above, it also appears to have been added without proper notice and opportunity for public comment and potentially in error. Consequently, FMCSA has determined this reference should be removed. Removing the reference to part 40 will have no effect on FMCSA’s enforcement programs, as any recordkeeping violations relating to controlled substances and alcohol testing would be cited under part 382. Further, removing the reference to part 40 here does not in any way change the Department’s general requirements under part 40 or those requirements as they are incorporated into the FMCSR’s in part 382. The remaining text in Appendix B(a)(1) would be unaffected by this change.

## III. Abbreviations

APA Administrative Procedure Act  
DOT Department of Transportation  
CFR Code of Federal Regulations  
ICC Interstate Commerce Commission  
FHWA Federal Highway Administration  
FMCSA Federal Motor Carrier Safety Administration  
FMCSRs Federal Motor Carrier Safety Regulations  
FR Federal Register  
MCSIA Motor Carrier Safety Improvement Act of 1999  
OMB Office of Management and Budget  
PIA Privacy Impact Assessment  
PTA Privacy Threshold Assessment  
UMRA Unfunded Mandates Reform Act of 1995  
U.S.C. United States Code

## IV. Legal Basis

Congress delegated certain powers to regulate interstate commerce to DOT in numerous pieces of legislation, notably in section 6 of the Department of Transportation Act (DOT Act) (Pub. L. 85–670, 80 Stat. 931 (1966)). Section 6(e) of the DOT Act transferred the authority to regulate the qualifications and maximum hours-of-service of employees, the safety of operations, and the equipment of motor carriers in interstate commerce, previously given to the Interstate Commerce Commission (ICC) in the Motor Carrier Act of 1935 (Pub. L. 74–255, 49 Stat. 543), to the Federal Highway Administration (FHWA). The administrative powers to enforce chapter 315 were also transferred from the ICC to DOT in 1966, and appear in chapter 5 of title 49 U.S.C. Congress subsequently granted DOT additional statutory authorities, including the authority to assess civil

penalties for violations of recordkeeping and reporting regulations under 49 U.S.C. 521(b)(2)(B).

The Motor Carrier Safety Improvement Act of 1999 (MCSIA) (Pub. L. 106–159, 113 Stat. 1748 (Dec. 9, 1999)) established FMCSA as an operating administration within the Department of Transportation, effective January 1, 2000. Pursuant to MCSIA, certain responsibilities previously assigned to FHWA were assigned to FMCSA, including the administrative adjudication of civil penalties assessed for violations of the FMCSRs, and FMCSA retains those responsibilities. The authority for the FMCSRs currently appears in chapter 315 of title 49, U.S.C., and the regulations appear generally at 49 CFR parts 350 through 399, and in the commercial regulations (49 CFR parts 360–379) and the Hazardous Materials Regulations (49 CFR parts 171–180).

The Administrative Procedure Act (APA) specifically provides exceptions to its notice and comment rulemaking procedures when an Agency finds there is good cause to dispense with them, and incorporates the finding, and a brief statement of reasons therefore, in the rules issued (5 U.S.C. 553(b)(B)). Good cause exists when an Agency determines that notice and public comment procedures are impractical, unnecessary, or contrary to the public interest. The amendment made in this final rule serves to remove an erroneous reference and to improve clarity for stakeholders. It is technical in nature and does not impose any new material requirements or increase compliance obligations. For these reasons, FMCSA finds good cause that notice and public comment on this final rule are unnecessary.

In addition, FMCSA finds that this amendment falls within the APA exception for rules of Agency organization, procedure, or practice. The Agency amends part 386, titled “Rules of Practice for FMCSA Proceedings,” to clarify that penalties assessed for recordkeeping violations related to the Agency’s controlled substances and alcohol testing are only assessed under FMCSA’s regulations at 49 CFR part 382, not under the Department-wide testing rules in 49 CFR part 40. These amendments fall within the exception to the APA’s notice and comment rulemaking procedures for “rules of agency organization, procedure, or practice,” (5 U.S.C. 553(b)(A)), and are therefore excepted from the notice and public comment requirements.

The APA also allows Agencies to make rules effective immediately with

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

## V. International Impacts

Motor carriers and drivers are subject to the laws and regulations of the countries that they operate in, unless an international agreement states otherwise. Drivers and carriers should be aware of the regulatory differences between nations.

## VI. Section-by-Section Analysis

This section-by-section analysis describes the changes to the regulatory text in numerical order.

### Appendix B to Part 386—Penalty Schedule: Violations and Monetary Penalties

FMCSA removes the words “part 40 of this title and” from paragraph (a)(1).

## VII. Regulatory Analyses

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

FMCSA has considered the impact of this final rule under E.O. 12866 (58 FR 51735, Oct. 4, 1993), Regulatory Planning and Review, E.O. 13563 (76 FR 3821, Jan. 21, 2011), Improving Regulation and Regulatory Review, and DOT Regulatory Policies and Procedures. The Office of Information and Regulatory Affairs within the Office of Management and Budget (OMB) determined that this final rule is not a significant regulatory action under section 3(f) of E.O. 12866, as supplemented by E.O. 13563, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. Accordingly, OMB has not reviewed it under that E.O.

FMCSA amends the regulations to remove the reference to 49 CFR part 40 from the civil penalty schedule in Appendix B to 49 CFR part 386. FMCSA does not impose civil penalties for violations of part 40, so removing this reference will have no impact on regulated entities or on the Agency's enforcement of penalties for violations of the regulations. FMCSA does not expect that any regulated entities will change their behavior as a result of this rule, and therefore the final rule will not result in any impacts to regulated entities other than removing unnecessary language from the CFR. It could result in some cost savings by reducing the amount of time to become

familiar with the regulations. FMCSA assumes any realized cost savings to be de minimis. FMCSA does not have data to estimate the reduction in costs that would result from this final rule.

### B. E.O. 14192 (Unleashing Prosperity Through Deregulation)

E.O. 14192 (90 FR 9065, Jan. 31, 2025), Unleashing Prosperity Through Deregulation, requires that for “each new [E.O. 14192 regulatory action] issued, at least ten prior regulations be identified for elimination.”<sup>1</sup>

Implementation guidance for E.O. 14192 issued by OMB (Memorandum M–25–20, Mar. 26, 2025) defines two different types of E.O. 14192 actions: an E.O. 14192 deregulatory action, and an E.O. 14192 regulatory action.<sup>2</sup>

An E.O. 14192 deregulatory action is defined as “an action that has been finalized and has total costs less than zero.” This final rulemaking is expected to have total costs less than zero because it will result in a more streamlined Code of Federal Regulations, and therefore is considered an E.O. 14192 deregulatory action. The cost savings of this rulemaking could not be quantified.

### C. Congressional Review Act

This rule is not a *major rule* as defined under the Congressional Review Act (5 U.S.C. 801–808).<sup>3</sup>

### D. Regulatory Flexibility Act (Small Entities)

Pursuant to the Regulatory Flexibility Act 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 regulatory flexibility analysis under 5 U.S.C. 604(a) for this final rule because FMCSA has not issued a notice of proposed rulemaking prior to this action.

<sup>1</sup> Executive Office of the President. *Executive Order 14192 of January 31, 2025. Unleashing Prosperity Through Deregulation*. 90 FR 9065–9067. Feb. 6, 2025.

<sup>2</sup> Executive Office of the President. Office of Management and Budget. *Guidance Implementing Section 3 of Executive Order 14192, Titled “Unleashing Prosperity Through Deregulation.”* Memorandum M–25–20. March 26, 2025.

<sup>3</sup> A *major rule* means any rule that OMB finds has resulted in or is likely to result in (a) an annual effect on the economy of \$100 million or more; (b) a major increase in costs or prices for consumers, individual industries, geographic regions, Federal, State, or local government agencies; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets (5 U.S.C. 804(2)).

### E. Assistance for Small Entities

In accordance with section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121, 110 Stat. 857), FMCSA wants to assist small entities in understanding this final rule so they can better evaluate its effects on themselves and participate in the rulemaking initiative. If the final rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

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

### F. Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) (UMRA) requires Federal agencies to assess the effects of their discretionary regulatory actions. The Act addresses actions that may result in the expenditure by a State, local, or Tribal government, in the aggregate, or by the private sector of \$206 million (which is the value equivalent of \$100 million in 1995, adjusted for inflation to 2024 levels) or more in any 1 year. Because this rule will not result in such an expenditure, a written statement is not required.

### G. Paperwork Reduction Act

This final rule contains no new information collection requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

### H. E.O. 13132 (Federalism)

A rule has implications for federalism under section 1(a) of E.O. 13132 if it has “substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and

responsibilities among the various levels of government.”

FMCSA has determined that this rule will not have substantial direct costs on or for States, nor will it limit the policymaking discretion of States. Nothing in this document preempts any State law or regulation. Therefore, this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Impact Statement.

I. Privacy

The Consolidated Appropriations Act, 2005,<sup>4</sup> requires the Agency to assess the privacy impact of a regulation that will affect the privacy of individuals. This rule will not require the collection of personally identifiable information.

The Privacy Act (5 U.S.C. 552a) applies only to Federal agencies and any non-Federal agency that receives records contained in a system of records from a Federal agency for use in a matching program.

The E-Government Act of 2002,<sup>5</sup> requires Federal agencies to conduct a Privacy Impact Assessment (PIA) for new or substantially changed technology that collects, maintains, or disseminates information in an identifiable form. No new or substantially changed technology will collect, maintain, or disseminate information as a result of this rule. Accordingly, FMCSA has not conducted a PIA.

In addition, the Agency will complete a Privacy Threshold Assessment (PTA) to evaluate the risks and effects the final rule might have on collecting, storing,

and sharing personally identifiable information. The PTA will be submitted to FMCSA’s Privacy Officer for review and preliminary adjudication and to DOT’s Privacy Officer for review and final adjudication.

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

This rule does not have Tribal implications under E.O. 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.

*K. National Environmental Policy Act of 1969*

FMCSA analyzed this final rule pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and determined this action is categorically excluded from further analysis and documentation in an environmental assessment or environmental impact statement under FMCSA Order 5610.1 (69 FR 9680), Appendix 2, paragraph (6)(b). The categorical exclusion in paragraphs (6)(b) and (6)(u) cover regulations which are editorial or procedural, such as those updating addresses or establishing application procedures, and procedures for acting on petitions for waivers, exemptions and reconsiderations, including technical or other minor amendments to existing FMCSA regulations, and regulations implementing rules of practice, respectively. The Agency believes this final rule will not have a reasonably

foreseeable significant effect on the quality of the human environment.

**List of Subjects in 49 CFR Part 386**

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

Accordingly, FMCSA revises 49 CFR chapter III, part 386 to read as follows:

**PART 386—RULES OF PRACTICE FOR FMCSA PROCEEDINGS**

■ 1. The authority citation for part 386 continues to read as follows:

**Authority:** 28 U.S.C. 2461 note; 49 U.S.C. 113, 1301 note, 31306a; 49 U.S.C. chapters 5, 51, 131–141, 145–149, 311, 313, and 315; and 49 CFR 1.81, 1.87.

■ 2. Amend appendix B to part 386 by revising paragraph (a)(1) to read as follows:

**APPENDIX B TO PART 386—PENALTY SCHEDULE: VIOLATIONS AND MONETARY PENALTIES**

\* \* \* \* \*

(a)(1) Recordkeeping. A person or entity that fails to prepare or maintain a record required by parts 382, subpart A, B, C, D, E, or F, 385, and 390 through 399 of this subchapter, or prepares or maintains a required record that is incomplete, inaccurate, or false, is subject to a maximum civil penalty of \$1,584 for each day the violation continues, up to \$15,846.

\* \* \* \* \*

Issued under authority delegated in 49 CFR 1.87.

**Sue Lawless,**  
*Assistant Administrator.*

[FR Doc. 2025–09703 Filed 5–27–25; 4:15 pm]

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<sup>4</sup>Public Law 108–447, 118 Stat. 2809, 3268, note following 5 U.S.C. 552a (Dec. 4, 2014).

<sup>5</sup>Public Law 107–347, sec. 208, 116 Stat. 2899, 2921 (Dec. 17, 2002).