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[FR Doc. 97-25120 Filed 9-23-97; 8:45 am]

BILLING CODE 7555-01-P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Chapter III, Parts 365, 366, 372, 375, 387, and 390

RIN 2125-AE23

Motor Carrier Transportation; Technical Amendments

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule; technical amendments.

SUMMARY: This document makes technical amendments to FHWA's regulations regarding motor carrier transportation. The technical amendments are necessary to correct references within several parts and one of the appendices to subchapter B. These technical amendments will provide accurate references within the parts that were published on October 21, 1996, at 61 FR 54706, which transferred and redesignated certain motor carrier transportation regulations from 49 CFR Chapter X to the FHWA in 49 CFR Chapter III.

EFFECTIVE DATE: September 24, 1997.

FOR FURTHER INFORMATION CONTACT: Mr. Michael J. Falk, Office of the Chief Counsel, Motor Carrier Law Division, (202)366-1384, Federal Highway Administration, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION: On October 21, 1996, at 61 FR 54706, the FHWA and the Surface Transportation Board (STB) transferred and redesignated certain motor carrier transportation regulations from 49 CFR Chapter X to the FHWA in 49 CFR Chapter III. No substantive changes were made to the regulations. On April 1, 1997, at 62 FR 15417, the FHWA made technical amendments to former Interstate Commerce Commission (ICC) regulations which were transferred to the FHWA in accordance with section 204 of the ICC Termination Act of 1995 (ICCTA), Pub. L. 104-88, 109 Stat. 803. Additionally, final amendments to part 372 were published on July 16, 1997, at 62 FR 38035, which removed the notice

filing requirements for agricultural cooperative associations which conduct compensated transportation operations for nonmembers.

This document merely makes technical amendments to 49 CFR parts 365, 366, 372, 375, 387, 390, and appendix F to subchapter B in order to update outdated statutory references and internal redesignated regulation citations. Since all of these rules are in the review process, other necessary nomenclature and technical changes will be published at a later date. There are no substantive amendments being made at this time.

Rulemaking Analyses and Notices

This document makes only minor, non-substantive technical corrections to existing regulations. The rule replaces outdated statutory references and internal regulatory citations with the correct references. Therefore, the FHWA finds good cause to adopt the rule without prior notice or opportunity for public comment (5 U.S.C. 553(b)). The DOT's regulatory policies and procedures also authorize promulgation of the rule without prior notice because it is anticipated that such action would not result in the receipt of useful information. The FHWA is making the rule effective upon publication in the **Federal Register** because it imposes no new burdens and merely corrects existing internal references to regulations (5 U.S.C. 553(d)).

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

The FHWA has determined that this action is not a significant regulatory action within the meaning of Executive Order 12866 or significant within the meaning of Department of Transportation regulatory policies and procedures. Since this rulemaking action makes only technical corrections to the current regulations it is anticipated that the economic impact of this rulemaking will be minimal; therefore, a full regulatory evaluation is not required.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act, 5 U.S.C. 601-612, the FHWA has evaluated the effects of this rule on small entities. Based on the evaluation, and since this rulemaking action makes only technical corrections to the current regulations, the FHWA hereby certifies that this action will not have a significant impact on a substantial number of small entities.

Executive Order 12612 (Federalism Assessment)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this action does not have sufficient federalism implications to warrant the preparation of a federalism assessment.

Executive Order 12372 (Intergovernmental Review)

Catalog of Federal Domestic Assistance Program Number 20.217, Motor Carrier Safety. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this program.

Paperwork Reduction Act

This action does not contain a collection of information requirement for purposes of the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.*

National Environmental Policy Act

The agency has analyzed this action for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and has determined that this action would not have any effect on the quality of the environment.

Regulation Identification Number

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects

49 CFR Part 365

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

49 CFR Part 366

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

49 CFR Part 372

Agricultural commodities, Buses, Commercial zones, Freight forwarders, Highways and roads, Motor carriers of property, Reporting and recordkeeping requirements.

49 CFR Part 375

Advertising, Arbitration, Consumer protection, Freight, Insurance, Motor

carriers, Moving of household goods, Reporting and recordkeeping requirements.

49 CFR Part 387

Hazardous materials transportation, Highways and roads, Insurance, motor carriers, Penalties, Reporting and recordkeeping requirements, Surety bonds.

49 CFR Part 390

Highway safety, Highway and roads, Motor carriers, Motor vehicle identification and marking, Reporting and recordkeeping requirements.

Issued on: September 17, 1997.

S. Reid Alsop,

Special Assistant to the Chief Counsel.

In consideration of the foregoing and under the authority of 49 U.S.C. 104 and 322, the FHWA amends title 49, Code of Federal Regulations, Chapter III, as set forth below:

PART 365—RULES GOVERNING APPLICATIONS FOR OPERATING AUTHORITY

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

Authority: 5 U.S.C. 553 and 559; 16 U.S.C. 1456; 49 U.S.C. 13101, 13301, 13901–13906, 14708, 31138, and 31144; 49 CFR 1.48.

2. In part 365, in the list below, for each section indicated in the left column, remove the word or words indicated in the middle column wherever they appear in the section, and add the words indicated in the right column:

Section	Remove	Add
365.101(e)	49 U.S.C. 10922(c)(2)(A)	49 U.S.C. 13902(b)(3).
365.101(f)	49 U.S.C. 10922(c)(2)(B)	49 U.S.C. 13902(b)(3).
365.107(c)	49 U.S.C. 10922(c)(2)(A)	49 U.S.C. 13902(b)(3).
365.107(e)(2)	49 U.S.C. 10101	49 U.S.C. 13101.
365.205(d)	§ 1160.4	§ 365.107.
365.405(a)(2)	1043	387, subpart C.
365.405(a)(2)	1044	366.
365.405(b)(1)(vii)	49 U.S.C. 10927	49 U.S.C. 13906.
365.405(b)(1)(viii)	§ 1181.4	§ 365.409.
365.405(b)(2)(ii)	49 U.S.C. 11343	49 U.S.C. 14303.
365.409(a)	49 U.S.C. 11343	49 U.S.C. 14303.
365.409(c)	§ 1181.2	§ 365.405.
365.413(a) intro	1181	365, subpart D.

PART 366—DESIGNATION OF PROCESS AGENT

3. The authority citation for part 366 is revised to read as follows:

Authority: 49 U.S.C. 13303, 13304, and 14704; 49 CFR 1.48.

4. In part 366, in the list below, for each section indicated in the left column, remove the word or words indicated in the middle column wherever they appear in the section, and add the words indicated in the right column:

Section	Remove	Add
366.1	49 CFR 1043.10(a)	49 CFR 387.319(a).
366.3	49 U.S.C. 10102(18)	49 U.S.C. 13102(16).
366.6	§ 1044.4	§ 366.4.

PART 372—EXEMPTIONS, COMMERCIAL ZONES, AND TERMINAL AREAS

5. The authority citation for part 372 continues to read as follows:

Authority: 49 U.S.C. 13504 and 13506; 49 CFR 1.48.

6. In part 372, in the list below, for each section indicated in the left column, remove the word or words indicated in the middle column wherever they appear in the section, and add the words indicated in the right column:

Section	Remove	Add
372.109 intro	§ 1047.22	§ 372.111.
372.111(b)(8)	49 U.S.C. 10526(a)(5)	49 U.S.C. 13506(a)(5).
372.111(b)(9)(iii)	§ 1047.21(a)	§ 372.109(a).
372, subpt C, note	[Remove note in its entirety]	None.

PART 375—TRANSPORTATION OF HOUSEHOLD GOODS IN INTERSTATE OR FOREIGN COMMERCE

7. The authority citation for part 375 is revised to read as follows:

Authority: 5 U.S.C. 553; 49 U.S.C. 13301 and 14104; 49 CFR 1.48.

8. In part 375, in the list below, for each section indicated in the left column, remove the word or words indicated in the middle column wherever they appear in the section, and add the words indicated in the right column:

Section	Remove	Add
375.2(a) intro	§ 1056.1(b)(1)	§ 375.1(b)(1).

Section	Remove	Add
375.2(a)(2)	49 U.S.C. 11711	49 U.S.C. 14708.
375.2(a)(3)	§ 1056.18	§ 375.18.
375.2(b)(2)	49 CFR part 1056	49 CFR part 375.
375.3(a)	§ 1056.1(b)(1)	§ 375.1(b)(1).
375.3(b)	§ 1056.1(b)(1)	§ 375.1(b)(1).
375.4(a)	§ 1056.1(b)(1)	§ 375.1(b)(1).
375.5(a) intro	§ 1056.1(b)(1)	§ 375.1(b)(1).
375.6(a)	§ 1056.1(b)(1)	§ 375.1(b)(1).
375.6(a)	§ 1056.6(b)	§ 375.6(b).
375.6(b)(4)	§ 1056.9(b)	§ 375.9(b).
375.7(a) intro	§ 1056.1(b)(4)	§ 375.1(b)(4).
375.8(a)(1)	§ 1056.1(b)(1)	§ 375.1(b)(1).
375.8(a)(1)	§ 1056.1(b)(2)	§ 375.1(b)(2).
375.8(a)(3)	§ 1056.5(b)	§ 375.5(b).
375.11(a)	§ 1056.1(b)(1)	§ 375.1(b)(1).
375.12(a)	§ 1056.11(a)	§ 375.11(a).
375.12(a)	§ 1056.1(b)(1)	§ 375.1(b)(1).
375.13(a)	§ 1056.1(a)	§ 375.1(a).
375.15(a)	§ 1056.1(b)(1)	§ 375.1(b)(1).
375.15(b)	part 1005	part 370.
375.15(b)	§ 1056.1(b)(1)	§ 375.1(b)(1).
375.16(a) intro	§ 1056.1(b)(1)	§ 375.1(b)(1).
375.16(b)	§ 1056.15	§ 375.15.
375.17(a)	§ 1056.1(b)(3)	§ 375.1(b)(3).
375.17(c)	§ 1056.1(b)(1)	§ 375.1(b)(1).
375.17(c)	§ 1056.1(b)(3)	§ 375.1(b)(3).
375.18(a)	§ 1056.1(b)	§ 375.1(b).
375.19	49 CFR 1056(b)(1)	49 CFR 375.1(b)(1).

PART 387—MINIMUM LEVELS OF FINANCIAL RESPONSIBILITY FOR MOTOR CARRIERS

9. The authority citation for part 387 continues to read as follows:

Authority: 49 U.S.C. 13101, 13301, 13906, 14701, 31138, and 31139; and 49 CFR 1.48.

10. In part 387, in the list below, for each section indicated in the left column, remove the word or words indicated in the middle column wherever they appear in the section, and add the words indicated in the right column:

Section	Remove	Add
387.301(a)(1)	§ 1043.2	§ 387.303.
387.301(a)(1)	§ 1043.2(b)(2)	§ 387.303(b)(2).
387.301(a)(2)	§ 1043.2(b)(2) [in 2 places]	§ 387.303(b)(2) [in 2 places].
387.301(b)	§ 1043.2	§ 387.303.
387.303(b)(1)	§ 1043.1(a)(1)	§ 387.301(a)(1).
387.303(b)(1)(l)	§ 1043.2(b)(2)(d)	§ 387.303(b)(2).
387.303(b)(2)	§ 1043.1(a)(2)	§ 387.301(a)(2).
387.303(b)(2) table note	§ 1043.2(b)(2)(d)	§ 387.303(b)(2).
387.303(b)(4)	49 U.S.C. 10530 and 49 CFR part 1171	49 U.S.C. 13902(c) and 49 CFR part 368.
387.303(b)(4)	49 CFR 1043.8	49 CFR 387.315.
387.303(b)(4)	§ 1043.1(a)(1)	§ 387.301(a)(1).
387.303(b)(4)	§ 1043.7(a)(6)	§ 387.313(a)(6).
387.303(b)(4)	§ 1043.7(d)	§ 387.313(d).
387.309(a)(2)	§ 1043.2	§ 387.303.
387.309(b)	49 U.S.C. 10927	49 U.S.C. 13906.
387.311(a)	§ 1043.2(b)(1) [in 4 places]	§ 387.303(b)(1) [in 4 places].
387.311(a)	§ 1043.2(b)(2) [in 3 places]	§ 387.303(b)(2) [in 3 places].
387.311(a) note	§ 1043.2(b)(1)	§ 387.303(b)(1).
387.311(b)	§ 1043.2(c) [in 2 places]	§ 387.303(c) [in 2 places].
387.313(a)(2)	§ 1043.2(b)(1)	§ 387.303(b)(1).
387.313(a)(2)	§ 1043.2 (b)(1) or (b)(2)	§ 387.303 (b)(1) or (b)(2).
387.313(a)(2)	§ 1043.2(c)	§ 387.303(c).
387.313(a)(2)	§ 1043.2(b)(4)	§ 387.303(b)(4).
387.313(a)(2) note	§ 1043.6 [in 2 places]	§ 387.311 [in 2 places].
387.313(a)(2) note	1043.7	387.313.
387.313(a)(3)	§ 1043.2(b)(1) or (b)(2) [in 2 places]	§ 387.303(b)(1) or (b)(2) [in 2 places].
387.313(a)(3)	§ 1043.2(b)(4)	§ 387.303(b)(4).
387.313(a)(4)	§ 1043.2 (b)(1) or (b)(2)	§ 387.303 (b)(1) or (b)(2).
387.313(a)(4)	§ 1043.2(b)(1)	§ 387.303(b)(1).
387.313(d)	49 U.S.C. 10927	49 U.S.C. 13906.

Section	Remove	Add
387.317	§ 1043.1(d)	§ 387.301(d).
387.321	§ 1043.2(b)	§ 387.303(b).
387.321	§§ 1043.5, 1043.6, 1043.7, 1043.8, 1043.9 and 1043.10	§§ 387.309 through 387.319.
387.321	§ 1043.8(a)	§ 387.315(a).
387.321	49 U.S.C. 10523 and 10526	49 U.S.C. 13503 and 13506.
387.323(c)	§ 1043.2(b)(1)	§ 387.303(b)(1).
387.323(c)	§ 1043.2(b)(2)	§ 387.303(b)(2).
387.403(a)	§ 1084.3	§ 387.405.
387.403(b)	§ 1084.3	§ 387.405.
387.403(b)	49 CFR 1043.2(b)(2)	49 CFR 387.303(b)(2).
387.405	49 CFR 1043.2	49 CFR 387.303.
387.407(a)	§ 1084.3	§ 387.405.
387.407(a)	49 CFR part 1043	49 CFR part 387, subpart C.
387.411(b)	49 U.S.C. 10927(c)	49 U.S.C. 13906(c).
387.413(a)	49 CFR part 1043	49 CFR part 387, subpart C.
387.417(a)	49 CFR 1043.10(a)	49 CFR 387.319(a).
387.417(b)	§ 1084.7(d)	§ 387.413(d).
387.419	49 CFR 1043.12	49 CFR 387.323.

PART 390—FEDERAL MOTOR CARRIER SAFETY REGULATIONS; GENERAL

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

Authority: 49 U.S.C. 13301, 13902, 31132, 31133, 31136, 31502, 31504; sec. 204, Pub. L. 104–88, 109 Stat. 803, 941; 49 U.S.C. 201 note; and 49 CFR 1.48.

12. In part 390, in the list below, for each section indicated in the left column, remove the word or words indicated in the middle column wherever they appear in the section, and add the words indicated in the right column:

Section	Remove	Add
390.5, Exempt intracity zone	ICC in 49 CFR part 1048, revised as of October 1, 1975	FHWA in 49 CFR part 372, subpart B.
390.21(a)	49 CFR part 1058	49 CFR part 390, subpart D.
390.401(a)	§ 1058.2	§ 390.403.

Appendix F to Subchapter B—Commercial Zones

13. In subchapter B, appendix F, in the list below, for each section indicated in the left column, remove the word or words indicated in the middle column wherever they appear in the section, and add the words indicated in the right column:

Section	Remove	Add
Appendix F: Intro Note	49 CFR part 1048	49 CFR part 372, subpart B.
Sec. 1(a)	§ 1048.101	§ 372.241.
Sec. 5(a)	§ 1048.101	§ 372.241.
Sec. 11(a)	§ 1048.101	§ 372.241.
Sec. 11(b)	§ 1048.1(b)(1) [in 2 places]	§ 372.201 [in 2 places].
Sec. 12(a)	§ 1048.101	§ 372.241.
Sec. 12(b)	§ 1048.1(b)(1) [in 2 places]	§ 372.201 [in 2 places].
Sec. 34	§ 1048.101	§ 372.241.
Sec. 38(a)	§ 1048.101	§ 372.241.
Sec. 39(a)	§ 1048.101	§ 372.241.
Sec. 45 intro	§ 1048.101	§ 372.241.