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List of Subjects in 47 CFR Part 73

Television, Digital television broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.622 [Amended]

2. Section 73.622(b), the Table of Digital Television Allotments under California, is amended by removing DTV Channel 14 and adding DTV Channel 34 at Redding.

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 00-30012 Filed 11-22-00; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Part 390

[Docket No. FMCSA-2000-8209]

RIN 2126-AA57

Motor Carrier Identification Report

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

ACTION: Interim final rule.

SUMMARY: The FMCSA amends the Federal Motor Carrier Safety Regulations (FMCSRs) to revise the requirements for filing the Motor Carrier Identification Report (MCS-150). A motor carrier is currently required to file this report before it begins to operate. As a result of this Interim final rule (IFR), the FMCSA will require each motor carrier to file an update of the report every 24 months. A motor carrier that submits similar information to a State as part of its annual vehicle registration requirement under the Performance and

Registration Information Systems Management (PRISM) program will be in compliance if it files it with the appropriate State commercial motor vehicle (CMV) registration office. Section 217 of the Motor Carrier Safety Improvement Act of 1999 requires periodic updating, not more often than once every two years, of the motor carrier identification report filed by each motor carrier operating in interstate or foreign commerce.

DATES: This rule is effective on December 26, 2000. Comments must be received on or before January 23, 2001.

ADDRESSES: You can mail or deliver comments to the U.S. Department of Transportation, Dockets Management Facility, Room PL-401, 400 Seventh Street, SW., Washington, DC 20590, or submit comments electronically at <http://dms.dot.gov>. Please include the docket number that appears in the heading of this document. You can examine and copy this document and all comments received at the same Internet address or at the Docket Management Facility from 9 a.m. to 5 p.m., e.t., Monday through Friday, except Federal Holidays. If you want to know that we received your comments, please include a self-addressed, stamped postcard or include a copy of the acknowledgment page that appears after you submit comments electronically.

FOR FURTHER INFORMATION CONTACT: Ms. Deborah M. Freund, Office of Bus and Truck Standards and Operations, FMCSA, (202) 366-1790, or Mr. Charles E. Medalen, Office of Chief Counsel, (202) 366-1354, FMCSA, 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

Background

In order to provide proper safety oversight of the regulated motor carrier community, the agency responsible for implementing and enforcing motor carrier safety regulations must know the characteristics of the individual motor carriers that comprise it. Section 217 of the Motor Carrier Safety Improvement Act of 1999 (Pub. L. 106-159, 113 Stat. 1748, Dec. 9, 1999) (MCSIA) directed the Secretary of Transportation to: require periodic updating, not more frequently than once every 2 years, of the motor carrier identification report, form MCS-150, filed by each motor carrier conducting operations in interstate or foreign commerce.

This IFR responds to the congressional direction.

The FMCSA and its predecessor agencies have considered the issue of requiring a motor carrier to report certain identifying and demographic information several times over the years. On June 25, 1986 (51 FR 23088), the FHWA (the agency responsible for motor carrier safety before January 2000), issued a notice of proposed rulemaking (NPRM) to establish a procedure to assign safety ratings to each motor carrier that is subject to the FMCSRs and that operates in interstate or foreign commerce. The NPRM proposed that each unrated motor carrier file a questionnaire as an initial step in the safety review process. At that time, the agency anticipated that each unrated motor carrier would complete the questionnaire within the next three years. The questionnaire would have included information such as the motor carrier's legal and trade name, its business address, whether the motor carrier conducted operations in interstate or foreign commerce, the States where the motor carrier operated, the types of cargo carried, numbers of drivers and power units operated, accident and incident experience, and proof of financial responsibility.

On December 19, 1988 (53 FR 50961), the FHWA issued a final rule requiring, among other things, that each motor carrier that had not received a safety rating from the FHWA must file a one-time Motor Carrier Identification Report, MCS-150. Each new motor carrier was required to file the form within 90 days after it began to operate. A motor carrier that received a safety rating from the FHWA did not have to file, since the agency got the information when it performed a safety review. The form served four purposes: (1) To identify motor carriers previously unknown to the FHWA; (2) to update the agency's motor carrier census [now known as the Motor Carrier Management Information System, or MCMIS]; (3) to require the motor carrier to certify that it is familiar with the FMCSRs; and (4) to assist the FHWA in setting priorities for performing safety reviews. The requirement to file the MCS-150 was codified at 49 CFR 385.21. Section 385.23 of the final rule stated that a motor carrier that failed to file the MCS-150, or provided false or misleading information could be liable for a civil or criminal penalty.

On July 17, 1989 (54 FR 29912, FHWA Docket No. MC-89-6), the FHWA published an advance notice of proposed rulemaking (ANPRM) that, among other things, requested comments on the adequacy of the one-time filing of information in the MCS-150. The agency stated that it was

considering the possible use of a postcard-type form to update the information each year.

The agency listed 12 items of information that it could request a motor carrier to report and/or correct, including its name, USDOT number, address, whether the motor carrier was still operating in interstate commerce, the principal commodity transported, whether it transported hazardous materials, the number of vehicles operated (straight trucks, truck tractors, semi- or full trailers, buses), and the total number of miles operated annually in the United States. The agency reviewed the comments submitted at that time but delayed taking further action on the postcard update because the issue did not appear to demand immediate attention.

The Transportation Lawyers Association (TLA) filed a petition on March 2, 1994, requesting that the FHWA initiate a rulemaking to require motor carriers to file the MCS-150 every two years and within 20 days following a change of its name, control, ownership, or its principal place of business. The TLA also recommended that the FHWA amend the MCS-150 to include information on revenue, mileage, and accident data. On August 26, 1996 (61 FR 43816), the agency published an NPRM concerning development of a comprehensive Motor Carrier Replacement Information/Registration System (also known as the Unified Carrier Register (UCR)). That notice responded to congressional direction in Section 103 of the ICC Termination Act (49 U.S.C. 13908). Among the many issues raised in that ANPRM, the agency asked for comment on the possibility of periodic updating of the information in the MCS-150 and other forms, and the appropriate frequency of those updates. Because the ANPRM covered a range of issues beyond the scope of the TLA petition, the agency decided neither to grant nor deny the petition, but rather to file it as a comment to that August, 1996 docket. Although several commenters addressed the question of an update cycle for the information contained in the MCS-150, their responses varied widely. Some asserted that the data should be "continuous and current," others advocated a periodic update to take place no more often than annually, while still others believed it should be updated only on an as-needed basis. However, a number of the commenters mentioned they would like to be able to update the information online. An NPRM for the UCR is under development.

On June 16, 1998 (63 FR 32801) the FHWA published an NPRM that dealt with CMV marking. Among other things, it proposed to require each new motor carrier to submit its MCS-150 before it began to operate. The agency received no adverse comments to this provision of the NPRM. The final rule that was published on June 2, 2000 (65 FR 35287) and became effective on July 3, 2000 (to be codified at 49 CFR 390.19) requires a motor carrier to submit this form before it begins operating in interstate commerce.

The MCS-150: What It Is, How It Is Used

The MCS-150 is a single-page report. A motor carrier must provide basic information, *e.g.*, name, address, telephone number, cargo classifications, any types of hazardous materials carried, numbers and types of equipment (trucks, tractors, trailers, passenger vehicles) used, number of drivers, and types of operations. A motor carrier can obtain a hard copy form from the FMCSA Office of Research, Technology and Information Management, 400 Seventh Street, SW., Washington, DC 20590, or from any of the four FMCSA Service Centers or fifty-two Division Offices. The form is printed so it may be folded and mailed, postage-paid by the FMCSA. A motor carrier can also obtain it from the Internet through the Federal Motor Carrier Safety Administration web page at: <http://www.fmcsa.dot.gov/factsfigs/formspubs.htm> under "DOT Number—Application Form." The motor carrier may fill out the MCS-150 on the screen, print it, and submit it by mail or by facsimile. (A for-hire motor carrier should submit the MCS-150 along with its application for operating authority to the appropriate address shown on that form, or may submit it separately to the address mentioned on the web page.) The FMCSA is working on providing electronic filing of the MCS-150.

The FMCSA enters the information from the MCS-150 into the Motor Carrier Management Information System (MCMIS) and assigns the motor carrier a U.S. DOT identification number. The FMCSA uses the information contained in the MCMIS to track motor carrier safety performance and to assess nationwide motor carrier safety trends. The MCMIS contains motor carrier data from a variety of sources: roadside inspections, accident reports, safety and compliance reviews, and enforcement actions. Federal and State field personnel use the MCMIS to target potentially unsafe motor carriers for attention, including compliance reviews. For example, a motor carrier

could be selected for a compliance review if a high percentage of its vehicles were placed out-of-service during a roadside safety inspection, or if it experienced an above average number of accidents.

The FMCSA also uses MCMIS for analytical purposes, including monitoring nationwide trends and evaluating program effectiveness. The demographic and operational information provided on the MCS-150 enables the agency to determine the safety performance of specific classes of motor carrier operations, by types of freight and passenger transportation provided, and by categories of cargoes transported. This enables the FMCSA to develop strategies to effectively address sector-specific safety issues. The information on types of passenger and freight transportation equipment operated, and the number of drivers used, facilitates the development of vehicle-type-specific safety performance information.

Motor passenger and freight transportation operations can change substantially over time. However, there currently is no requirement for most motor carriers to update this information. This severely limits the agency's ability to maintain accurate information about the motor carriers that it regulates, to gather data used to assess motor carriers' safety performance, and to assess the effectiveness of the agency's programs and activities. For-hire motor carriers, household goods freight forwarders, and property brokers are required to advise the FMCSA when there is a change in business form (*i.e.*, transfer of operating rights, reincorporation or merger, etc.) or a change in its legal or trade name. This requirement is codified at 49 CFR 365.413. A for-hire motor carrier may, also, at its option, notify the FMCSA if it ceases operations and wants to have its operating authority revoked.

The FMCSA's ability to address safety concerns with individual motor carriers, as well as to gauge the safety of the motor carrier industry as a whole, is dependent upon the agency's access to accurate and up-to-date carrier-specific information. The agency computes safety performance metrics based on the number of power units operated (SafeStat algorithm) to prioritize safety compliance reviews for motor carriers. (This issue was discussed in an April 1998 report, "New Entrant Safety Research," prepared for the agency by the John A. Volpe National Transportation Systems Center, available at <http://ai.volpe.dot.gov> and in the docket.) Up-to-date and accurate information is also necessary for the

FMCSA to be able to gauge benefits and costs of its programs and activities on the safety performance of motor carriers on a national scale. The agency believes that the initial and biennial updates required under Section 217 of the MCSIA strike a reasonable balance between the value and the cost of providing the agency with current information.

As part of its preparation for the development of a Unified Carrier Register, the FMCSA has been harmonizing data on for-hire motor carriers in the Licensing and Insurance (L&I) database (formerly maintained by the Interstate Commerce Commission) with MCMIS. The agency is also addressing the problem of incomplete MCS-150 forms. It has made good progress on both activities. However, the one-time addition of this information does not address the fundamental concern that Section 217 focuses upon: the need for regular, periodic updates to provide the best information for the agency to carry out its mission.

FMCSA Decision

After careful consideration of the issues involved, the FMCSA has determined it is in the best interest of motor carrier safety to publish an IFR that will require a motor carrier to provide a biennial update of information contained in the MCS-150.

There are two reasons for requiring a motor carrier to update the information on the MCS-150 every two years, the most frequent interval authorized by Section 217 of the MCSIA. First, the two-year update cycle significantly improves the quality of the agency's data bases and its ability to optimally target inspection and enforcement resources cited under Section 3 of the MCSIA. The motor carrier industry is extremely dynamic: the number of motor carriers in the MCMIS expands by close to one percent per month. At present, more than 525,000 carriers are on file in the MCMIS system and an average of 4,200 more are added each month. The FMCSA performs quarterly assessments of its programs and activities to improve the safety of the motor carrier industry. The agency believes that an update cycle longer than two years simply will not provide the agency with the basic data it needs to perform its safety mission efficiently or effectively.

Second, recent congressional direction in the Transportation Equity Act of the 21st Century (TEA-21)(Pub. L. 105-178, 112 Stat. 107, June 9, 1998) and the MCSIA require the FMCSA to issue a number of new regulations that

may have a significant impact on motor carrier safety. Some of those requirements apply to specific segments of the motor carrier industry, such as passenger transportation in CMVs designed to transport between 9 and 15 passengers, including the driver. It is critical for the agency to be able to determine the safety performance of specific categories of transportation providers. Additionally, the agency must be able to provide well-founded estimates of the potential benefits and costs of the regulations it promulgates. Having up-to-date and accurate information on the number and basic characteristics of regulated entities is critical to fulfilling this requirement.

Update Schedule

Today's IFR requires all motor carriers to file a new MCS-150 every 24 months. However, to make the procedure simple for motor carriers and manageable for the agency, the IFR sets staggered filing dates. Each motor carrier determines the month and the year in which it must file based on its USDOT number.

The Month. If a motor carrier's USDOT number ends in 1, it must file the MCS-150 update by the end of January, and every second January afterwards; if the USDOT number ends in 2, 3, 4, 5, 6, 7, 8 or 9, the carrier must file by the end of February, March, April, May, June, July, August or September, respectively, and biennially after that; and if the USDOT number ends in 0, the update must be filed by the end of October, and every two years after that.

The Year. If the next to the last digit in the motor carrier's USDOT number is odd, the carrier must file its MCS-150 update in an odd-numbered year; if even, in an even-numbered year. For purposes of this rule, zero is considered an even number.

Section 217 restricts the frequency of MCS-150 updates to no more than every two years, which limits the burden imposed by the requirement. As the system starts-up, some relatively new carriers, however, must submit their first update less than two years after initially filing the MCS-150. For example, a carrier that submitted an MCS-150 at the end of November, 1999, and received a USDOT number ending in 97, will file an update by the end of July 2001 (the seventh month of the first odd-numbered year)—a cycle of 20 months. If a new carrier with a USDOT number ending in 53 filed its MCS-150 in August, 2000, it will have to re-file by the end of March, 2001—a cycle of about 7 months. On the other hand, the staggered update system can also produce initial cycles much longer than

two years. A motor carrier that submitted its MCS-150 in January, 1999, and received a USDOT number ending in 60 would not have to update its information until the end of October, 2002 (tenth month of the first even-numbered year)—a (one-time) cycle of about 45 months. And a carrier that filed its MCS-150 ten or more years ago would have an even longer first cycle. However, after the first round of updates is complete, all motor carriers will be on a firm 24-month update schedule. Due to the minimal time and effort to update the MCS-150 and the difficulty in determining how many motor carriers will be affected by this schedule, FMCSA finds that this IFR is consistent with the intent of Sec. 217.

Special situations. There are two situations where, because of the special circumstances surrounding the need for information, a motor carrier will update the information in the MCS-150 more frequently than the two-year refiling interval specified in Section 217. They are: (1) Verifications of information made during the course of compliance reviews, and (2) a motor carrier registering its CMVs in States participating in the PRISM program.

Compliance reviews. FMCSA safety investigators must have up-to-date motor carrier information to properly perform record selection and exposure-based safety analyses when they conduct compliance reviews (CRs). For that reason, the FMCSA has had a longstanding practice of requiring safety investigators to begin the CR by asking the motor carrier to verify the information contained in its MCMIS record. Since the information obtained during a CR may lead to enforcement action, it is clearly in the interest both of the motor carrier and the agency that it be accurate. Because a CR is an audit with respect to a specific party, it is not considered an information-gathering activity subject to the Paperwork Reduction Act. The agency does not believe that requesting a motor carrier to review MCS-150 information during the course of a CR is inconsistent with the requirements of Section 217.

Motor carriers in PRISM States. The PRISM program links State commercial motor vehicle registration to the safety fitness of motor carriers. PRISM began as a mandate by Congress to explore the potential of linking the commercial vehicle registration process to motor carrier safety. The intent of Congress as stated in Section 4003 of the Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991 was to "link the motor carrier safety information network system of the Department of Transportation and similar State

systems with the motor vehicle registration and licensing systems of the States” to achieve two purposes: (1) Determine the safety fitness of the motor carrier prior to issuing license plates; and (2) cause the carrier to improve its safety performance through an improvement process and, where necessary, the application of registration sanctions. The program has been authorized for national implementation under Section 4004 of TEA-21. It is a key element in the FMCSA’s motor carrier enforcement and safety compliance program. The States participating in PRISM receive special grants to implement the program.

The commercial vehicle registration process of the States provides the framework for the PRISM program. It serves two vital functions. First, it establishes a system of accountability by ensuring that no one receives a license plate for a vehicle without identifying the carrier responsible for the safety of the vehicle during the registration year. Second, the use of registration sanctions (denial, suspension and revocation) serve as a powerful incentive for unsafe carriers to improve their safety performance. The vehicle registration process ensures that all carriers engaged in interstate commerce are uniquely identified through a USDOT number when they register their vehicles. The safety fitness of each carrier can then be checked prior to issuing vehicle registrations. The State can refuse to register vehicles of an unfit carrier (as defined by the FMCSRs).

The FMCSA has given PRISM States access to the MCMIS database so they may issue USDOT numbers to interstate motor carriers as part of their commercial vehicle registration requirements. In addition, PRISM States require motor carriers to annually update information similar to that contained in the MCS-150 to reflect current operations. Some States enter this information directly, others forward it to the FMCSA for data entry. As of September 1, 2000, 16 States participate in the PRISM program. By the end of September, 2001, we expect a total of 21 States to participate.

In summary, the PRISM program responds to congressional direction. It serves a specific safety purpose by preventing motor carriers with significant and persistent safety deficiencies from registering their CMVs, a fundamental requirement for operating on public highways. The FMCSA has determined that, if a motor carrier in a PRISM State files information similar to what is required in the FMCSA’s MCS-150 annually with the State commercial vehicle

registration office, this meets the periodic filing requirement of this rule and no additional filing with the FMCSA is necessary.

The IFR does not change the requirement of 49 CFR 390.19(e) that a motor carrier must file this information, and must not furnish misleading information or make false statements.

Implementation Schedule

Until now, a motor carrier was required to file the MCS-150 once, at the time it began to operate in interstate commerce. Under the IFR, it will be required to file every 24 months. Even though the agency does not expect motor carriers to experience difficulties in complying with this new rule, it still represents a change from the status quo. The new requirement for updating the MCS-150 also requires a significant change to the FMCSA’s operations and resources required to accomplish this activity. Historically, the FMCSA has received approximately 50,000 forms annually. Since the MCMIS currently contains over 500,000 unique motor carrier entries, and half of them would submit updated information each year of a 24-month update cycle, the agency’s data entry and verification workload will increase by approximately 400 percent. The FMCSA has been preparing for this significant increase in activity, and expects to have the resources in place by late 2000 so it can complete the necessary planning and testing of procedures to accommodate the increased volume of data entry and verification.

In order to ease the burden on both motor carriers and the FMCSA, the new biennial update system will be distributed over the first 10 months of the calendar year. The first cycle will begin in January, 2001. Those motor carriers with an odd-number in the next-to-last digit of their USDOT number would be required to file in calendar year 2001, and those with an even number in the next-to-last digit of their USDOT number would be required to file in calendar year 2002. In each cycle, motor carriers with a USDOT number ending with the numeral 1 must file by January 31 every other year. Carriers with a number ending in 2 are to file by February 28 or 29, and so forth, through 0, the number for filing in October. During the final two months of each year, FMCSA staff will complete the necessary verification of the information filed.

For the initial phase of the implementation period, the FMCSA will allow motor carriers that would be required to file their MCS-150 by the end of January or February, 2001, to file

by the end of March, 2001. The agency believes that providing this additional time is appropriate to ensure that motor carriers will have the opportunity to become aware of this new requirement, and to ensure that the agency is prepared to handle it.

Rulemaking Analyses and Notices

The FMCSA has determined it is appropriate to make this rule effective on December 26, 2000. The Administrative Procedure Act (APA) [5 U.S.C. 551 *et seq.*] allows an agency to waive the requirement for notice and comment before promulgating a rule when those procedures are “impracticable, unnecessary, or contrary to the public interest” [5 U.S.C. 553(b)].

In this case, prior notice and opportunity for comment are unnecessary. Section 217 directs the FMCSA in detail to amend 49 CFR 385.21 (now recodified as § 390.19) to require periodic updating of the MCS-150, and to complete the initial update of MCS-150 data within one year of the date of enactment of the MCSIA. Section 217 provides that periodic updates shall be required not more than biennially. This IFR simply promulgates the requirements of Section 217. It differs from the statute only in setting an orderly schedule for the updates. Resource limitations of the new FMCSA prevent it from implementing the update of more than half a million Motor Carrier Identification Reports as rapidly as Congress anticipated, yet the information is essential in meeting agency goals and the burden on filers is small. All of the substance of Section 217 is being adopted without change. Because the statutory mandate is specific, the rule follows it so closely, and the burden on motor carriers is extremely small, public comment would not be expected to provide information that would affect the outcome of the rulemaking proceeding. Accordingly, the FMCSA finds good cause to waive prior notice of and opportunity for comment on this rule.

However, the agency will consider comments received by the comment deadline in evaluating whether any changes to this IFR are needed. Since the 60-day comment period on this IFR ends before the first updated report must be filed, corrections or improvements that are brought to our attention can be incorporated into the rule early in the 2001 filing cycle. Comments received after the comment closing date will be filed in the docket and will be considered to the extent practicable. In addition to late comments, the FMCSA will also continue to file relevant information in

the docket as it becomes available after the comment period closing date. Please continue to review the docket for new material.

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

The FMCSA has determined that this action is not a significant regulatory action within the meaning of Executive Order 12866, and is not significant within the meaning of the Department of Transportation's regulatory policies and procedures (DOT Order 2100.5 dated May 22, 1980; 44 FR 11034, February 26, 1979). The current requirement for motor carriers to file a single MCS-150 before beginning operations limits the agency's ability to maintain current information on the industry that it regulates, and to accurately gauge the safety outcomes of its programs and activities. This IFR responds to the requirement of Section 217 of the MCSIA by requiring motor carriers operating in interstate or foreign commerce to provide an update of the information filed with the FMCSA on their most recent MCS-150 no more often than every two years. As discussed in the next section, the IFR imposes so little additional burden that a full regulatory evaluation is unnecessary.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (5 U.S.C. 601-612), the agency has considered the effects of this IFR on small entities. The FMCSA is revising its requirement for filing the MCS-150 to respond to direction contained in Section 217 of the MCSIA. Motor carriers are required to file their MCS-150 updates according to a schedule determined by the next-to-last digit (whether the update would be filed during an odd-numbered or even-numbered year) and the last digit (the filing month) of their assigned USDOT number.

As of April, 2000, the FMCSA estimates there are 430,173 motor carriers operating between 1 and 20 powered units (trucks, truck-tractors, buses, and motorcoaches), and another 84,272 that operate an unspecified number of powered units.

The agency has estimated that it takes 20 minutes to complete the MCS-150 the first time it is filed. However, the agency estimates the biennial update would take considerably less time because most of the information is likely to be the same and motor carriers would already have had the experience of completing the form at least once before. For the purpose of this IFR, the agency estimates that the biennial update

would take 10 minutes. The agency considers the time necessary for motor carriers to comply with this provision to be *de minimis*: the time requirement is estimated to be extremely small, especially in comparison to the filing of other information required from businesses in their normal course of operations. Furthermore, if the motor carrier uses the postage-paid return form provided by the agency, it will not incur costs for mailing or facsimile transmission costs. Therefore, in compliance with the Regulatory Flexibility Act, the FMCSA certifies that this rule will not have a significant economic impact on a substantial number of small entities.

Executive Order 13132 (Federalism)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 13132. It has been determined that this rulemaking does not have a substantial direct effect on States, nor would it limit the policymaking discretion of the States. Nothing in this document directly preempts any State law or regulation.

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

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501-3520), a Federal agency must obtain approval from the Office of Management and Budget (OMB) for each collection of information it conducts, sponsors, or requires through regulations. An analysis of this rule has been made by the FMCSA, and it has been determined that it will affect the information collection burden associated with the currently-approved information collection covered by OMB Control No. 2126-0013 (formerly 2125-0544). The OMB approved the most recent update of this information collection on October 4, 1999. The approval period runs through October 31, 2002.

For a motor carrier filing an MCS-150 for the first time, the FMCSA estimates it takes approximately 20 minutes to gather the information and complete the form. The FMCSA estimates that there are approximately 50,000 new motor carriers annually who must file their initial MCS-150. Until now, a motor carrier has only been required to

complete and file this form once, when it begins to operate CMVs in interstate commerce. The IFR requires a motor carrier to provide an update of the information every two years, starting January, 2001. For most motor carriers, it is likely that much of the information contained on the MCS-150 will remain unchanged. The FMCSA estimates that the updates required during calendar year 2000, and the biennial update starting January, 2001, would require 10 minutes. Because the agency is implementing a regulation that will require motor carriers to file this information more frequently, the FMCSA is required to submit this proposed collection of information, as revised, to OMB for review and approval. The FMCSA seeks public comment on this proposed information collection requirement.

An NPRM concerning CMV marking, published on June 16, 1998 (63 FR 32801) solicited public comments on these information collection requirements as a component of the NPRM action. The OMB previously received a summary of the comments that address the MCS-150. Comments were neutral to favorable; in fact, several commenters asked the FMCSA to consider requiring motor carriers to provide regular updates of information contained in the MCS-150.

Estimated Annual Reporting Burden:
Number of respondents: 535,000 motor carriers.

Burden hours: Biennial update: $535,000 \times 50\%$ (biennial) $\times 10$ minutes per update = 44,583 hours; Annual initial MCS-150 filings: $50,000 \times 20$ minutes/60 = 16,667 burden hours. Total estimated annual burden: 61,250 hours.

National Environmental Policy Act

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

Unfunded Mandates Reform Act of 1995

This rule does not impose a Federal mandate resulting in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year. 2 U.S.C. 1531 *et seq.*

Executive Order 12630 (Taking of Private Property)

This rule will not effect a taking of private property or otherwise have taking implications under E.O. 12630,

Governmental Actions and Interference with Constitutional Protected Property Rights.

Executive Order 12988 (Civil Justice Reform)

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

Executive Order 13045 (Protection of Children)

We have analyzed this action under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or safety that may disproportionately affect children.

List of Subjects in 49 CFR Part 390

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

In consideration of the foregoing, the FMCSA amends title 49, Code of Federal Regulations, Chapter III, as follows:

PART 390—[AMENDED]

1. Revise the authority citation for part 390 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. 701 note); sec. 217, Pub. L. 105-159, 113 Stat. 1748, 1767; and 49 CFR 1.73.

2. Amend § 390.19 by revising paragraph (a) and adding paragraph (g) to read as follows:

§ 390.19 Motor carrier identification report.

(a) Each motor carrier that conducts operations in interstate commerce must file a Motor Carrier Identification Report, Form MCS-150 at the following times:

- (1) Before it begins operations; and
- (2) Every 24 months, according to the following schedule:

USDOT Number ending in:	Must file by last day of:
1	January.
2	February.
3	March.
4	April.
5	May.
6	June.
7	July.
8	August.
9	September.
0	October.

(3) If the next-to-last digit of its USDOT number is odd, the motor carrier shall file its update in every odd-numbered calendar year. If the next-to-last digit of the USDOT number is even, the motor carrier shall file its update in every even-numbered calendar year.

(4) Notwithstanding the schedule set forth in paragraph (a)(2) of this section, a motor carrier that would be required to file the MCS-150 by the end of January or February, 2001 must file the form by the end of March, 2001.

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(g) A motor carrier that registers its vehicles in a State that participates in the Performance and Registration Information Systems Management (PRISM) program (authorized under section 4004 of the Transportation Equity Act for the 21st Century [(Public Law 105-178, 112 Stat. 107)]) is exempt from the requirements of this section, provided it files all the required information with the appropriate State office.

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Issued on: November 16, 2000.
Clyde J. Hart, Jr.,
Acting Deputy Administrator.
 [FR Doc. 00-30032 Filed 11-22-00; 8:45 am]
BILLING CODE 4910-EX-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 223 and 224

[Docket No. 001103310-0310-01; I.D. 061199B]

Endangered and Threatened Species: Puget Sound Populations of Pacific Hake, Pacific Cod, and Walleye Pollock

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of determination.

SUMMARY: NMFS has completed an Endangered Species Act (ESA) status review for Pacific cod (*Gadus macrocephalus*), Pacific hake (*Merluccius productus*), and walleye pollock (*Theragra chalcogramma*) populations from the eastern North Pacific Ocean between Puget Sound, Washington, and southeast Alaska. After reviewing available scientific and commercial information, NMFS has determined that none of the petitioned populations in Puget Sound constitute "species" under the ESA. The agency concludes that these populations are

part of larger distinct population segments (DPSs) that qualify as species under the ESA but do not warrant listing as threatened or endangered at this time. However, NMFS is adding the Georgia Basin Pacific hake DPS to the agency's list of candidate species because of remaining uncertainties about its stock structure and status.

DATES: Effective November 24, 2000.

ADDRESSES: Protected Resource Division, NMFS, 525 NE Oregon Street, Suite 500, Portland, OR 97232. Reference materials regarding this determination can be obtained via the Internet at www.nwr.noaa.gov/1salmon/salmesa/pubs.htm.

FOR FURTHER INFORMATION CONTACT: Garth Griffin, NMFS, Northwest Region (503) 231-2005, or Marta Nammack, NMFS, Office of Protected Resources (301) 713-1401.

SUPPLEMENTARY INFORMATION:

Petition Background

On February 8, 1999, the Secretary of Commerce received a petition from Sam Wright of Olympia, Washington to list and designate critical habitat for 18 species of marine fishes in Puget Sound, Washington, under the ESA. On June 21, 1999 (64 FR 33037), the agency accepted the petition for seven of these species, including three members of the family Gadidae (gadids): Pacific cod, Pacific hake, and walleye pollock (also referred to as cod, hake, and pollock). The petitioner requested listings for "species/populations or evolutionary [sic] significant units" in Puget Sound, Washington. Under the ESA, a listing determination can address a species, subspecies, or a distinct population segment (DPS) of a species (16 U.S.C. 1532 (15)). The term "evolutionarily significant unit" is currently defined only for Pacific salmonid DPSs (56 FR 58612, November 20, 1991). Therefore, for definitions of these petitioned species, NMFS relied on the DPS framework described in the joint NMFS/USFWS policy (61 FR 4722, February 7, 1996), see "Consideration as a 'Species' Under the ESA" section.

To ensure a comprehensive review, NMFS requested comments from any party having relevant information concerning (1) biological or other relevant data that may help identify gadid DPSs; (2) the range, distribution, and size of these species' populations in Puget Sound and coastal waters of Washington and British Columbia; (3) current or planned activities and their possible impact on these species; and (4) efforts being made to protect these species in Washington and British Columbia. NMFS also requested