

unambiguous language of subsection (2) from soliciting additional potentially mutually exclusive applications, despite its earlier explicit pledge to provide the opportunity for the filing of competing applications with respect to any analog television application accepted for filing. This interpretation was upheld in *Orion Communications, Ltd v. FCC*, 221 F.3d 196 (D.C. Cir. 2000) (Table).

Consistent with the determination to resolve competing NTSC applications by competitive bidding and the resulting obligation to insulate such applicants from having to compete for the construction permit against post-June 30, 1997 applicants, the Commission may not require NTSC applications within the scope of section 309(l) to resolve any interference conflicts with pending DTV expansion applicants or face dismissal or otherwise direct that the rights of this category of broadcast applicants are secondary to those of DTV expansion applicants. To do so would vitiate completely the special protections Congress expressly extended to “[c]ompeting applications \* \* \* for commercial radio or television stations filed with the Commission before July 1, 1997.” Congress, although clearly aware in 1997 of the impending transition to DTV, did not offer any guidance either in the statutory language or in the Conference Report as to how the Commission is to accommodate the competing spectrum needs of this group of applicants and of DTV expansion applicants. Even without such express guidance, however, the Commission must devise a solution faithfully effectuating the express protections afforded this category of competing commercial broadcast applications. Notwithstanding Diversified’s contention, the Commission’s original procedure, requiring the dismissal of certain NTSC applicants within the scope of section 309(l), contravened Congress’s manifest intent regarding these particular applicants. Its repeal in the *MO&O* was therefore compelled by the unambiguous language of section 309(l).

Diversified has advanced no argument that leads us to a different conclusion. Diversified claims that Section 309(l) was intended to resolve mutual exclusivity among analog television applications only, and that it was not intended to determine priority among competing analog and DTV expansion applications. Nothing in the statutory text suggests that DTV expansion applications were intended to be treated differently under Section 309(l), or that they were intended to be treated as MX with applications filed prior to July 1,

1997. Elsewhere in the statute Congress did expressly provide for different treatment of digital stations when, for example, in Section 309(j)(2), it expressly excluded certain digital stations from our competitive bidding authority. Congress made no provision for disparate treatment of DTV expansion applications under Section 309(l), however, and the unambiguous language of that provision compels the result we reached in the *MO&O*.

The Petition for Reconsideration filed January 17, 2002, by Diversified Broadcasting, Inc. *is denied*.

#### List of Subjects in 47 CFR Part 73

Television broadcasting.

Federal Communications Commission.

**Marlene H. Dortch,**

*Secretary.*

[FR Doc. 02-25071 Filed 10-1-02; 8:45 am]

**BILLING CODE 6712-01-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

**49 CFR Parts 350, 360, 365, 372, 382, 383, 386, 387, 388, 390, 391, and 393**

#### Motor Carrier Safety Regulations; Technical Amendments

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

**ACTION:** Final rule.

**SUMMARY:** The FMCSA is amending the Federal Motor Carrier Safety Regulations (FMCSRs) to update obsolete references and make certain grammatical corrections for clarity. In addition, we are correcting an error in the final rule on Brake Performance Requirements for Commercial Motor Vehicles published on August 9, 2002 in the *Federal Register*. FMCSA is not making any substantive changes to its regulations by these technical amendments.

**EFFECTIVE DATE:** This final rule is effective October 2, 2002.

**ADDRESSES:** Ms. Janet Nunn, Office of Policy Plans and Regulation (MC-PRR), 202-366-2797, U.S. Department of Transportation, Federal Motor Carrier Safety Administration, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:30 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Janet Nunn, (202) 366-2797.

**SUPPLEMENTARY INFORMATION:**

### Electronic Access

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### Summary of Changes

Title 49 of the Code of Federal Regulations (CFR), chapter III, subchapter B, contains the Federal Motor Carrier Safety Regulations (FMCSRs) for truck and bus safety. This final rule corrects inaccurate references, citations, and technical errors resulting from statutory changes in laws governing interstate commerce. It also makes other editorial revisions for clarity.

In the § 360.3(f) table, a filing fee has been added for applications involving the merger, transfer, or lease of operating rights of motor passenger and property carriers, property brokers, and household goods freight forwarders under 49 U.S.C. 10321 and 10926. The ICC Termination Act of 1995 (ICCTA) sunsetted the Interstate Commerce Commission (ICC) and transferred the ICC’s registration and insurance functions to the Secretary of Transportation, who delegated these functions to the Federal Highway Administration (FHWA) in 1996 and redelegated them to FMCSA in 2000. Filing fees related to these functions were initially assessed under ICC regulations codified in 49 CFR part 1002. In February 1999, FHWA adopted its own filing fee and fee collection regulations in a new part 360 (64 FR 7134, February 12, 1999). The preamble to this rule stated that “(i)n this rulemaking proceeding the FHWA is adopting the ICC’s fee regulations related to the recently transferred motor carrier functions without any substantive changes.” However, the rule inadvertently omitted the fee for transfers of operating authority codified at 49 CFR 1002.2(f)(25). Both FHWA and FMCSA have assessed this fee since 1996. Therefore, restoring the transfer fee to the fee table will impose no new burdens on the public.

We are also amending part 360 by revising § 360.3(g)(2) to clarify that a credit card may be required in situations involving dishonored checks.

In part 365, references to water carriers have been removed because the

ICCTA did not transfer to the Secretary authority to register water carriers. The ICCTA also required the Secretary to register all freight forwarders, not just household goods freight forwarders. We have changed part 365 to reflect that fact. We have also changed § 365.105(b) to add a reference to FMCSA's do-it-yourself Web site as a means of obtaining OP-1 application forms.

In § 387.39, we have modified two motor carrier financial responsibility forms to correct numerous obsolete references. These forms have been approved by the Office of Management and Budget under control number 2126-0008. Their current expiration date is June 30, 2003.

In § 390.27, the Virgin Islands has been included in the table. In addition, two new notes have been added to direct Canadian and Mexican carriers where to obtain information.

In § 391.41(a), a footnote has been added acknowledging a reciprocity agreement between the United States and Canada that provides for a valid Canadian commercial driver's license issued by a Canadian Province or Territory to be proof of medical fitness to drive commercial motor vehicles (CMVs) in the United States, except in certain limited circumstances.

Finally, a correction has been made to a final rule published on August 9, 2002 (67 FR 51770), pertaining to brake performance requirements for CMVs.

#### **Administrative Procedure Act**

This final rule was issued without using the notice and comment procedures contained at 5 U.S.C. 553(b), because these technical amendments merely correct and clarify existing regulations. They do not impose any new requirements on the regulated industry and are not substantive changes. For the same reasons, good cause exists under 5 U.S.C. 553(d) to dispense with the 30-day delay in the effective date requirement and the FMCSA is making the rule effective upon publication in the **Federal Register**.

#### **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 under Executive Order 12866 or within the meaning of Department of Transportation regulatory policies and procedures. Therefore, this document was not reviewed by the Office of Management and Budget.

#### **Regulatory Flexibility Act (5 U.S.C. 601-612)**

These technical amendments will not have an economically significant effect on a substantial number of small entities (*i.e.*, motor carriers), and therefore an economic analysis of this rule is not required.

#### **Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531 *et seq.*)**

This rule does not impose a Federal mandate resulting in increased expenditures either by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more (as adjusted for inflation) in any one year; nor does it significantly or uniquely affect small governments.

#### **Executive Order 12988 (Civil Justice Reform)**

This action meets applicable standards in section 3 of Executive Order 12988 to minimize litigation, eliminate ambiguity, and reduce burden.

#### **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 under Executive Order 13045.

#### **Executive Order 12630 (Taking of Private Property)**

This rule will not effect a taking of private property or otherwise have taking implications as specified in Executive Order 12630, governmental Actions and Interference with Constitutionally Protected Property Rights.

#### **Executive Order 13132 (Federalism)**

This final rule will not have federalism implications, as defined in Executive Order 13132, to warrant the preparation of a Federalism Assessment. It does not have 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 governments. Nothing in this document directly preempts any State law or regulations.

#### **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 of Federal program and activities do not apply to this action.

#### **Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35)**

This final rule does not contain any information collections that are subject to review by the Office of Management and Budget under the Paperwork Reduction Act.

#### **National Environmental Policy Act**

The FMCSA 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 does not have any effect on the quality of the environment.

#### **Small Business Regulatory Enforcement Fairness Act**

This final rule is exempt from congressional review under 5 U.S.C. 801, because these amendments merely update obsolete references and make minor editorial corrections to existing regulations where applicable.

#### **List of Subjects**

##### *49 CFR Part 350*

Grant programs—transportation, Highway safety, Motor carriers, Motor vehicle safety, Reporting and recordkeeping requirements.

##### *49 CFR Part 360*

Administrative practice and procedure, Insurance, Motor carriers.

##### *49 CFR Part 365*

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

##### *49 CFR Part 372*

Agricultural commodities, buses, Cooperatives, Freight forwarders, Motor carriers, Moving of household goods, Seafood.

##### *49 CFR Part 382*

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 386*

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

##### *49 CFR Part 387*

Buses, Freight, Freight forwarders, Hazardous materials transportation,

Highway safety, Insurance, Intergovernmental relations, Motor carriers, Motor vehicle safety, Moving of household goods, Penalties, Reporting and recordkeeping requirements, Surety bonds.

49 CFR Part 388

Highway safety, Intergovernmental relations, Motor carriers, Motor vehicle safety.

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, Highway safety, Motor carriers, Reporting and recordkeeping requirements, Safety, Transportation.

49 CFR Part 393

Highway safety, Motor carriers, Motor vehicle safety.

**The Amendments**

For the reasons set forth in the preamble, FMCSA amends Title 49 of the Code of Federal Regulations, chapter III, subchapter B, as set forth below.

**PART 350—COMMERCIAL MOTOR CARRIER SAFETY ASSISTANCE PROGRAM**

1. Revise the authority citation for part 350 to read as follows:

**Authority:** 49 U.S.C. 13902, 31100–31104, 31108, 31136, 31140–31141, 31161, 31310–31311, 31502; and 49 CFR 1.73.

**§ 350.201 [Amended]**

2. Amend § 350.201 as follows:  
 a. Amend paragraph (m) by removing “title” and add, in its place, “title 23”;  
 b. Amend paragraph (t)(1) by removing “parts 356 and” and add, in its place, “part”.

**§ 350.211 [Amended]**

3. Amend § 350.211 by revising the phrase “Ensure that” in paragraph (15) to read “the State will ensure that”.

**§ 350.213 [Amended]**

4. Amend § 350.213(b) introductory text by revising the last sentence to read as follows:

**§ 350.213 What must a State CVSP include?**

\* \* \* \* \*  
 (b) \* \* \* The narrative section must include a description of how the State

supports the activities identified in § 350.201(1) and (t).”

\* \* \* \* \*

**PART 360—FEES FOR MOTOR CARRIER REGISTRATION AND INSURANCE**

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

**Authority:** 31 U.S.C. 9701, 49 U.S.C. 13908(c) and 14504(c)(2); and 49 CFR 1.73.

**§ 360.3 [Amended]**

6. Amend § 360.3 as follows:  
 a. Amend § 360.3(a)(2) by inserting “, Insurance Compliance Division” before “(MC–ECI)”;  
 b. Amend paragraph (a)(2)(iii) introductory text by removing “Office of Data Analysis and Information Systems, Licensing and Insurance Division” and add, in its place, “Office of Enforcement and Compliance, Insurance Division (MC–ECI)”;  
 c. Amend § 360.3(f) by adding new paragraph (8) under Part I of the table to read as follows:

**§ 360.3 Filing fees.**

\* \* \* \* \*  
 (f) Schedule of filing fees.  
 \* \* \* \* \*

Type of proceeding		Fee
Part I: Licensing:		
* * *	* * * * *	
(8) .....	An application involving the merger, transfer, or lease of the operating rights of motor passenger and property carriers, property brokers, and household goods freight forwarders under 49 U.S.C. 10321 and 10926.	300

d. Amend § 360.3(g)(2) by revising the phrase “or a money order” to read “, money order, or credit card”.

**PART 365—RULES GOVERNING APPLICATIONS FOR OPERATING AUTHORITY**

7. 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; and 49 CFR 1.73.

**§ 365.101 [Amended]**

8. Amend § 365.101 as follows:  
 a. Amend § 365.101(b) by removing the words “household goods.”  
 b. Amend § 365.101 by removing and reserving paragraph (c).  
 c. Amend § 365.101(g) by removing the words “and water.”

**§ 365.105 [Amended]**

9. Amend § 365.105 as follows:

a. Amend § 365.105(a) by removing “of household goods” immediately following “Form OP–1(FF) for freight forwarders”;

b. Revise § 365.105(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: <http://www.fmcsa.dot.gov/aboutus/fieldoffices>. The forms and information about filing procedures can be downloaded at: <http://www.fmcsa.dot.gov/factsfigs/formspubs>; and from the do-it-yourself website at: <http://www.diy.dot.gov>.

**§ 365.107 [Amended]**

10. Amend § 365.107 as follows:

a. Amend paragraph (e) introductory text by removing “household goods” before “freight forwarder”; and by removing “, water contract carrier”;

b. Remove paragraph (f) of § 365.107;

c. Redesignate paragraph (g) as paragraph (f);

d. Amend newly designated paragraph (f) by removing “and water.”

e. Redesignate the note at the end of § 365.107 as paragraph (g).

f. Amend newly designated paragraph (g) by inserting “and” after “Form OP–1 MX for Mexican property carriers”; removing “, and Form OP–(W) for water carriers”; and removing the last sentence.

**§ 365.109 [Amended]**

11. Amend § 365.109(a)(7) by removing “on file with the FMCSA and.”

**§ 365.401 [Amended]**

12. Amend § 365.401 as follows:

- a. Remove “water carriers.”;
- b. Remove “Interstate Commerce Commission” and add, in its place, “FMCSA”;
- c. Remove “1002.2(f)(25)” and add, in its place, “360.3(f)(8).”

**§ 365.403 [Amended]**

13. Amend § 365.403 as follows:
- a. Amend § 365.403(b)(1) by removing “and water”;
- b. Amend § 365.403(b)(2) by removing “household goods.”

**§ 365.405 [Amended]**

14. Amend § 365.405 as follows:
- a. Revise § 365.405(a)(1) to read as follows:

**§ 365.405 Applications.**

(a) *Procedural requirements.* (1) At least 10 days before consummation, an original and two copies of a properly completed Form OP-FC-1 and any attachments (*see* paragraph (b)(1)(viii) of this section) must be filed with the Federal Motor Carrier Safety Administration, Licensing Division (MC-RIS), 400 Seventh Street, SW., Room 8214, Washington, DC 20590.

\* \* \* \* \*

b. Amend § 365.405(a)(2) by removing the words “tarriffs (if applicable),”; by removing “1312”; and by removing the sentence “In addition, contract carriers must comply with the FMCSA’s regulations concerning contracts at 49 CFR part 1053.”;

c. Amend § 365.405(b)(1)(ii) by removing “that portion of”.

**§ 365.411 [Amended]**

15. Amend § 365.411(b) by removing “Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423” and add, in its place, “FMCSA Licensing Division (MC-RIS), 400 Seventh Street, SW., Room 8214, Washington, DC 20590.”

**§ 365.413 [Amended]**

16. Revise the heading of § 365.413 as set forth below:

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

**PART 372—EXEMPTIONS, COMMERCIAL ZONES, AND TERMINAL AREAS**

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

**Authority:** 49 U.S.C. 13504 and 13506; and 49 CFR 1.73.

**§ 372.303 [Amended]**

18. Amend § 372.303 by revising the heading as set forth below:

**§ 372.303 Terminal areas of motor carriers and freight forwarders at unincorporated communities served.**

**PART 377—PAYMENT OF TRANSPORTATION CHARGES**

19. 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 1.73

**§ 377.215 [Amended]**

20. Amend § 377.215 by removing from the heading of paragraph (c) the word “House” and add, in its place, “Household”

**PART 382—CONTROLLED SUBSTANCES AND ALCOHOL USE AND TESTING**

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

**Authority:** 49 U.S.C. 31133, 31136, 31301 *et seq.*, 31502; and 49 CFR 1.73.

**§ 382.305 [Amended]**

22. Amend § 382.305(i)(3) by removing the word “testing” immediately after the words “shall be” and adding, in its place, “tested.”

**§ 382.401 [Amended]**

22a. Amend § 382.401(d) by removing the word “employee’s” and adding in its place “employer’s”

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

23. Revise the authority citation for part 383 to read as follows:

**Authority:** 49 U.S.C. 521, 31136, 31301 *et seq.*, 31502; Sec. 214 of Pub. L. 106–159, 113 Stat. 1766; and 49 CFR 1.73.

**§ 383.3 [AMENDED]**

24. Amend § 383.3(f)(3)(i)(A) by removing “383.21(b)” and add, in its place, “383.21”.

**PART 386—RULES OF PRACTICE FOR MOTOR CARRIER, BROKER, FREIGHT FORWARDER, AND HAZARDOUS MATERIALS PROCEEDINGS**

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

**Authority:** 49 U.S.C. 113, chapters 5, 51, 59, 131–141, 145–149, 311, 313, and 315; sec. 206, Pub. L. 106–159, 113 Stat. 1763; and 49 CFR 1.45 and 1.73.

**§ 386.2 [Amended]**

26. Amend § 386.2 in the definition of *Civil forfeiture proceedings* by removing “FMCSA” and adding, in its place, “ICC”.

**§ 386.22 [Amended]**

27. Amend § 386.22 by removing in the first sentence “has filed an election not to contest under § 386.15(a), or”.

**§ 386.71 [Amended]**

28. Amend § 386.71 by removing “13502” and add, in its place, “31502”.

**§ 386.82 [Amended]**

29. Amend § 386.82(a)(4) by removing “386.72(b)(3)” and add, in its place, “386.72(b)(1)”

**Appendix B to Part 386 [Amended]**

30. Amend paragraph (f) of appendix B to part 386 by removing “\$27,500” and by adding, in its place “\$10,000”.

**PART 387—MINIMUM LEVELS OF FINANCIAL RESPONSIBILITY FOR MOTOR CARRIERS**

31. 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 1.73.

**§ 387.9 [Amended]**

32. In § 387.9, amend the table under the heading “Schedule of Limits—Public Liability,” column 1, in paragraphs (1) through (3), by removing “10,000” and add, in its place, “10,001”.

**§ 387.39 [Amended]**

33. In § 387.39, revise the form titled “Endorsement For Motor Carrier Policies of Insurance for Public Liability Under Section 18 of the Bus Regulatory Reform Act of 1982” to read as follows:



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

**ENDORSEMENT FOR  
MOTOR CARRIER POLICIES OF INSURANCE FOR PUBLIC LIABILITY  
UNDER SECTION 18 OF THE BUS REGULATORY REFORM ACT OF 1982**

Form Approved:  
OMB No.: 2126-0008

Issued to \_\_\_\_\_ of \_\_\_\_\_  
Dated at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_  
Amending Policy No. \_\_\_\_\_ Effective Date \_\_\_\_\_  
Name of Insurance Company \_\_\_\_\_

Countersigned by \_\_\_\_\_  
*Authorized Company Representative*

The policy to which this endorsement is attached provides primary or excess insurance, as indicated by "[X]," for the limits shown:

- [ ] This insurance is primary and the company shall not be liable for amounts in excess of \$ \_\_\_\_\_ for each accident.
- [ ] This insurance is excess and the company shall not be liable for amounts in excess of \$ \_\_\_\_\_ for each accident in excess of the underlying limit of \$ \_\_\_\_\_ for each accident.

Whenever required by the Federal Motor Carrier Safety Administration (FMCSA), the company agrees to furnish the FMCSA a duplicate of said policy and all its endorsements. The company also agrees, upon telephone request by an authorized representative of the FMCSA, to verify that the policy is in force as of a particular date. The telephone number to call is: \_\_\_\_\_.

Cancellation of this endorsement may be effected by the company of the insured by giving (1) thirty-five (35) days notice in writing to the other party (said 35 days notice to commence from the date the notice is mailed, proof of mailing shall be sufficient proof of notice), and (2) if the insured is subject to the FMCSA's registration requirements, by providing thirty (30) days notice to the FMCSA (said 30 days notice to commence from the date the notice is received by the FMCSA at its office in Washington, D.C.).

**DEFINITIONS AS USED IN THIS ENDORSEMENT**

**Accident** includes continuous or repeated exposure to conditions which result in Public Liability which the insured neither expected nor intended.  
**Bodily Injury** means injury to the body, sickness, or disease to any person, including death resulting from any of these.

**Motor Carrier** means a for-hire carrier of passengers by motor vehicle.  
**Property Damage** means damage to or loss of use of tangible property  
**Public Liability** means liability for bodily injury or property damage.

The insurance policy to which this endorsement is attached provides automobile liability insurance and is amended to assure compliance by the insured, within the limits stated herein, as a for-hire motor carrier of passengers with Section 18 of the Bus Regulatory Reform Act of 1982 and the rules and regulations of the Federal Motor Carrier Safety Administration.

However, all terms, conditions, and limitations in the policy to which the endorsement is attached shall remain in full force and effect as binding between the insured and the company. The insured agrees to reimburse the company for any payment made by the company on account of any accident, claim, or suit involving a breach of the terms of the policy, and for any payment that the company would not have been obligated to make under the provisions of the policy except for the agreement contained in this endorsement.

In consideration of the premium stated in the policy to which this endorsement is attached, the insurer (the company) agrees to pay, within the limits of liability described herein, any final judgment received against the insured for public liability resulting from negligence in the operation, maintenance or use of motor vehicles subject to financial responsibility requirements of Section 18 of the Bus Regulatory Reform Act of 1982 regardless of whether or not each motor vehicle is specifically described in the policy and whether or not such negligence occurs on any route or in any territory authorized to be served by the insured or elsewhere. Such insurance as is afforded, for public liability, does not apply to injury to or death of the insured's employees while engaged in the course of their employment, or property transported by the insured, designated as cargo. It is understood and agreed that no condition, provision, stipulation, or limitation contained in the policy, this endorsement, or any other endorsement thereon, or violation thereof, shall relieve the company from liability or from the payment of any final judgment, within the limits of liability herein described, irrespective of the financial condition, insolvency or bankruptcy of the insured.

It is further understood and agreed that, upon failure of the company to pay any final judgment recovered against the insured as provided herein, the judgment creditor may maintain an action in any court of competent jurisdiction against the company to compel such payment.

The limits of the company's liability for the amounts prescribed in this endorsement apply separately to each accident and any payment under the policy because of any one accident shall not operate to reduce the liability of the company for the payment of final judgments resulting from any other accident.

The Bus Regulatory Reform Act of 1982 requires limits of financial responsibility according to vehicle seating capacity, it is the MOTOR CARRIER'S obligation to obtain the required limits of financial responsibility. THE SCHEDULE OF LIMITS SHOWN ON THE REVERSE SIDE DOES NOT PROVIDE COVERAGE. The limits shown in the schedule are for information purposes only.

**SCHEDULE OF LIMITS**

**PUBLIC LIABILITY  
For-hire motor carriers of passengers operating in interstate or foreign commerce**

Vehicle Seating Capacity	Effective Dates	
	Nov. 19, 1983	Nov. 19, 1985
(1) Any vehicle with a seating capacity of 16 passengers or more.	\$2,500,000	\$5,000,000
(2) Any vehicle with a seating capacity of 15 passengers or less.	\$ 750,000	\$1,500,000

Form MCS-90B  
(6/2003)

34. In § 387.39, revise the form titled "Motor Carrier Public Liability Surety Bond Under Section 18 of the Bus

Regulatory Reform Act of 1982" to read as follows:



Form Approved: OMB No.: 2126-0008

MOTOR CARRIER PUBLIC LIABILITY SURETY BOND UNDER SECTION 18 OF THE BUS REGULATORY REFORM ACT OF 1982

PARTIES Surety Company and Principal Place of Business Address Motor Carrier Principal, FMCSA Docket No., and Principal Place of Business Address

PURPOSE This is an agreement between the Surety and the Principal under which the Surety, its successors and assignees, agree to be responsible for the payment of any final judgment or judgments against the Principal for public liability and property damage claims in the sums prescribed herein, subject to the governing provisions and following conditions.

GOVERNING PROVISIONS (1) Section 18 of the Bus Regulatory Reform Act of 1982 (2) Rules and regulations of the Federal Motor Carrier Safety Administration (FMCSA)

CONDITIONS The Principal is or intends to become a motor carrier of passengers subject to the applicable governing provisions relating to financial responsibility for the protection of the public.

This bond assures ensures compliance by the Principal with the applicable governing provisions, and shall inure to the benefit of any person or persons who shall recover a final judgment or judgments against the Principal for public liability or property damage claims (excluding injury to or death of the Principal's employees while engaged in the course of their employment, and loss of or damage to property of the Principal, and the cargo transported by the Principal). If every final judgment shall be paid for such claims resulting from the negligent operation, maintenance, or use of motor vehicles in transportation subject to the applicable governing provisions, then this obligation shall be void, otherwise it will remain in full effect.

Within the limits described herein, the Surety extends to such losses regardless of whether such motor vehicles are specifically described herein and whether occurring on the route or in the territory authorized to be served by the Principal or elsewhere.

The liability of the Surety for each motor vehicle subject to the applicable governing provisions for each accident shall not exceed \$ \_\_\_\_\_, and shall be a continuing one notwithstanding any recovery thereunder.

The surety agrees, upon telephone request by an authorized representative of the FMCSA, to verify that the surety bond is in force as of a particular date. The telephone number to call is \_\_\_\_\_.

This bond is effective from \_\_\_\_\_ (12:01 a.m., standard time, at the address of the Principal as stated herein) and shall continue in force until terminated as described herein. The Principal or the Surety may at any time terminate this bond by giving (1) thirty-five (35) days notice in writing to the other party (said 35 days notice to commence from the date the notice is mailed, proof of mailing shall be sufficient proof of notice), and (2) if the Principal is subject to the FMCSA's registration requirements, by providing thirty (30) days notice to the FMCSA (said 30 days notice to commence from the date notice is received by the FMCSA at its office in Washington, D.C.). The Surety shall not be liable for the payment of any judgment or judgments against the Principal for public liability or property damage claims resulting from accidents which occur after the termination of this bond as described herein, but such termination shall not affect the liability of the Surety from the payment of any such judgment or judgments resulting from accidents which occur during the time the bond is in effect.

(AFFIX CORPORATE SEAL) Date Surety City State By

ACKNOWLEDGMENT OF SURETY

STATE OF \_\_\_\_\_ COUNTY OF \_\_\_\_\_

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me personally came \_\_\_\_\_ who, being by me duly sworn, did depose and say that he resides in \_\_\_\_\_; that he/she is \_\_\_\_\_ of the \_\_\_\_\_, the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the board of directors of said corporation; that he signed his name thereto by like order, and he duly acknowledged to me that he executed the same for and on behalf of said corporation.

Title of official administering oath

(OFFICIAL SEAL)

Surety Company File No. \_\_\_\_\_ Form MCS-82B (6/2003)

**§ 387.303 [Amended]**

35. Amend § 387.303, paragraph (b)(2) table, column 1, in paragraphs (a) through (c), by removing “10,000” and add, in its place, “10,001”.

**PART 388—COOPERATIVE AGREEMENTS WITH STATES**

36. The authority citation for part 388 continues to read as follows:

**Authority:** 49 U.S.C. 113 and 502; 49 CFR 1.73.

37. In part 388, remove “Regional Director of Motor Carriers” wherever it appears and add, in its place, “Field Administrator”.

**PART 390—FEDERAL MOTOR CARRIER SAFETY REGULATIONS; GENERAL**

38. 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. 701 note); sec. 217, Pub. L. 105–159, 113 Stat. 1748, 1767; and 49 CFR 1.73.

**§ 390.27 [Amended]**

39. In § 390.27:  
 a. Amend the table, in the middle column, under the heading **Territory included**, in the territory covered by the Eastern Service Center, by inserting “Virgin Islands,” before **WV**;

b. Amend § 390.27 by adding notes 1 and 2 at the end of the table to read as follows:

**§ 390.27 Locations of motor carrier safety service centers.**

\* \* \* \* \*

**Note 1:** Canadian carriers, for information regarding proper service center, contact a FMCSA division (State office in AK, ME, MI, MT, NY, ND, VT, or WA).

**Note 2:** Mexican carriers, for information regarding proper service center, contact a FMCSA division (State) office in AZ, CA, NM, or TX.

**PART 391—QUALIFICATIONS OF DRIVERS**

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

**Authority:** 49 U.S.C. 322, 504, 31133, 31136, and 31502; and 49 CFR 1.73.

**§ 391.41 [Amended]**

41. Amend § 391.41(a) by adding a footnote at the end to read as follows:

**§ 391.41 Physical qualifications for drivers.**

(a) \* \* \* \* \*

The United States and Canada entered into a Reciprocity Agreement, effective March 30,

1999, recognizing that a Canadian commercial driver’s license is proof of medical fitness to drive. Therefore, Canadian commercial motor vehicle (CMV) drivers are no longer required to have in their possession a medical examiner’s certificate if the driver has been issued, and possesses, a valid commercial driver’s license issued by a Canadian Province or Territory. However, Canadian drivers who are insulin-using diabetics, who have epilepsy, or who are hearing impaired as defined in § 391.41(b)(11) are not qualified to drive CMVs in the United States. Furthermore, Canadian drivers who do not meet the medical fitness provisions of the Canadian National Safety Code for Motor Carriers but who have been issued a waiver by one of the Canadian Provinces or Territories are not qualified to drive CMVs in the United States.

**§ 391.49 [Amended]**

42. Amend § 391.49(a) by removing “State Director” and adding, in its place, “Division Administrator”.

**§ 391.65 [Amended]**

43. Amend § 391.65(a)(2)(vii), in the certificate, under (Signature of Driver), by removing “391.3(c)” and adding, in its place, “390.5”.

**PART 393—PARTS AND ACCESSORIES NECESSARY FOR SAFE OPERATION**

44. The authority citation for part 393 continues to read as follows:

**Authority:** 49 U.S.C. 1041(b) of Pub. L. 102–240, 105 Stat. 1914, 49 U.S.C. 31136, and 31502; and 49 CFR 1.73.

**§ 393.48 [Amended]**

45. Amend § 393.48(c)(2) by removing the authority citation following paragraph (c)(2).

**§ 393.52 [Amended]**

46. Remove “53.5” and add, in its place, “43.5” in § 393.52(d)—Vehicle brake performance table, in second column, under heading “Braking force as a percentage of gross vehicle or combination weight.”

**§ 393.86 [Amended]**

47. Amend § 393.86(b)(3), in the heading, by removing “(g)” and adding, in its place, “(b)”.

Issued on: September 25, 2002.

**Allan M. Fisher,**

*Associate Administrator for Administration and Chief Financial Officer.*

[FR Doc. 02–24728 Filed 9–27–02; 3:15 pm]

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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Parts 600 and 660**

[Docket No. 020904208 2208–01; I.D. 082702B]

**RIN 0648–AP85**

**Magnuson-Stevens Act Provisions; Fisheries Off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Groundfish Fishery Management Measures; Corrections**

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

**ACTION:** Correction to emergency rule latitude/longitude coordinates for the Darkblotched Rockfish Conservation Area (DBCA) in the Pacific Coast groundfish fishery.

**SUMMARY:** This document contains corrections to DBCA latitude/longitude coordinates implemented by emergency rulemaking in the Pacific Coast groundfish fishery and published on September 13, 2002.

**DATES:** Effective September 10, 2002, through March 12, 2003.

**FOR FURTHER INFORMATION CONTACT:** Carrie Nordeen (Northwest Region, NMFS); phone: 206–526–6140; fax: 206–526–6736; e-mail: carrie.nordeen@noaa.gov,.

**SUPPLEMENTARY INFORMATION:** An emergency rule was recommended by the Pacific Fishery Management Council (Pacific Council) in consultation with Pacific Coast Treaty Tribes and the States of Washington, Oregon, and California at its June 17 - 21, 2002, meeting in Foster City, California. This emergency rule established the DBCA to protect darkblotched rockfish, an overfished species, while allowing limited entry trawl harvest of healthy groundfish stocks outside of the DBCA. The specifications and management measures for the current fishing year (January 1 - December 31, 2002) were initially published in the **Federal Register** as an emergency rule for January 1 - February 28, 2002 (67 FR 1540, January 11, 2002), and as a proposed rule for all of 2002 (67 FR 1555, January 11, 2002), then finalized effective March 1, 2002 (67 FR 10490, March 7, 2002). The final rule was subsequently amended at 67 FR 15338, April 1, 2002, at 67 FR 18117, April 15, 2002, at 67 FR 30604, May 7, 2002, at 67 FR 40870, June 14, 2002, at 67 FR