272 note) do not apply. This final rule does not impose any new information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. section 3501 *et seq.*). However, the Office of Management and Budget (OMB) has previously approved the information collection requirements contained in the existing regulations at 40 CFR parts 9, 122, 123, and 412 under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.,* and has assigned OMB control number 2040–0250. The EPA ICR number for the original set of regulations is 1989.02.

The Congressional Review Act, 5 U.S.C 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2) and will be effective on July 24, 2007.

List of Subjects

40 CFR Part 122

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous substances, Reporting and recordkeeping requirements, Water pollution control.

40 CFR Part 412

Environmental protection, Feedlots, Livestock, Waste treatment and disposal, Water pollution control.

Dated: July 18, 2007.

Stephen L. Johnson,

Administrator.

■ For the reasons stated in the preamble, the Environmental Protection Agency amends 40 CFR parts 122 and 412 as follows:

PART 122—EPA ADMINISTERED PERMIT PROGRAMS: THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

■ 1. The authority citation for part 122 continues to read as follows:

Authority: The Clean Water Act, 33 U.S.C. 1251 *et seq.*

§ 122.21 [Amended]

■ 2. In § 122.21 paragraph (i)(1)(x), the date ''July 31, 2007'' is revised to read ''February 27, 2009.''

■ 3. Section 122.23 is amended by revising paragraphs (g)(1), (g)(2), and (g)(3)(iii) to read as follows:

§ 122.23 Concentrated animal feeding operations (applicable to State NPDES programs, see § 123.25).

* * * * *

(g) * * *

(1) *Operations defined as CAFOs prior to April 14, 2003.* For operations that are defined as CAFOs under regulations that are in effect prior to April 14, 2003, the owner or operator must have or seek to obtain coverage under an NPDES permit as of April 14, 2003, and comply with all applicable NPDES requirements, including the duty to maintain permit coverage in accordance with paragraph (h) of this section.

(2) *Operations defined as CAFOs as of April 14, 2003, that were not defined as CAFOs prior to that date.* For all operations defined as CAFOs as of April 14, 2003, that were not defined as CAFOs prior to that date, the owner or operator of the CAFO must seek to obtain coverage under an NPDES permit by a date specified by the Director, but no later than February 27, 2009.

(3) * * *

(iii) If an operational change that makes the operation a CAFO would not have made it a CAFO prior to April 14, 2003, the operation has until February 27, 2009, or 90 days after becoming defined as a CAFO, whichever is later.

* * * * *

§ 122.42 [Amended]

■ 4. In § 122.42 paragraph (e)(1), the two dates ''July 31, 2007'' are revised to read ''February 27, 2009.''

PART 412—CONCENTRATED ANIMAL FEEDING OPERATIONS (CAFO) POINT SOURCE CATEGORY

■ 1. The authority citation for part 412 continues to read as follows:

Authority: 33 U.S.C. 1311, 1314, 1316, 1317, 1318, 1342, 1361.

§ 412.31 [Amended]

■ 2. In § 412.31 paragraph (b)(3), the date ''July 31, 2007'' is revised to read ''February 27, 2009.''

§ 412.43 [Amended]

■ 3. In § 412.43 paragraph (b)(2), the date ''July 31, 2007'' is revised to read ''February 27, 2009.''

[FR Doc. E7–14258 Filed 7–23–07; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Part 390

Regulatory Guidance for Recording of Commercial Motor Vehicle Accidents Involving Fires

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

ACTION: Regulatory guidance.

SUMMARY: The FMCSA announces regulatory guidance concerning its definition of ''accident.'' The regulatory guidance is presented in a question-and-answer form. The guidance is generally applicable to drivers, commercial motor vehicles, and motor carrier operations subject to the Federal Motor Carrier Safety Regulations. All prior interpretations and regulatory guidance concerning the term ''accident'' issued previously in the **Federal Register**, as well as memoranda and letters, may no longer be relied upon as authoritative if they are inconsistent with the guidance published today. This guidance will provide the motor carrier industry and Federal, State, and local law enforcement officials with uniform information for use in determining whether certain vehicle fires must be recorded on the motor carrier's accident register and considered in applying the Agency's safety fitness procedures.

EFFECTIVE DATE: This regulatory guidance is effective on July 24, 2007.

FOR FURTHER INFORMATION CONTACT: Ms. Deborah M. Freund, Vehicle and Roadside Operations Division, Office of Bus and Truck Standards and Operations, (202) 366–4009, Federal Motor Carrier Safety Administration, 400 Seventh Street, SW., Washington, DC 20590–0001.

SUPPLEMENTARY INFORMATION:

Legal Basis

The Motor Carrier Safety Act of 1984 (Pub. L. 98–554, Title II, 98 Stat. 2832, October 30, 1984) (the 1984 Act) provides authority to regulate drivers, motor carriers, and vehicle equipment. It requires the Secretary to prescribe regulations on commercial motor vehicle safety. The regulations shall prescribe minimum safety standards for commercial motor vehicles. At a minimum, the regulations shall ensure that—(1) commercial motor vehicles are maintained, equipped, loaded, and operated safely; (2) the responsibilities imposed on operators of commercial motor vehicles do not impair their ability to operate the vehicles safely; (3)

the physical condition of operators of commercial motor vehicles is adequate to enable them to operate the vehicles safely; and (4) the operation of commercial motor vehicles does not have a deleterious effect on the physical condition of the operators. (49 U.S.C. 31136(a)) Section 211 of the 1984 Act also grants the Secretary broad power, in carrying out motor carrier safety statutes and regulations, to ''prescribe recordkeeping and reporting requirements'' and to ''perform other acts the Secretary considers appropriate.'' (49 U.S.C. 31133(a) (8) and (10))

The Administrator of FMCSA has been delegated authority under 49 CFR 1.73(g) to carry out the functions vested in the Secretary of Transportation by 49 U.S.C. chapter 311, subchapters I and III, relating to commercial motor vehicle programs and safety regulation.

This document provides regulatory guidance to the public with respect to the definition of ''accident'' in § 390.5 of the Federal Motor Carrier Safety Regulations (FMCSRs), and the recording of accidents as required under § 390.15 of the FMCSRs.

Members of the motor carrier industry and other interested parties may also access the guidance in this document through the FMCSA's Internet site at *http://www.fmcsa.dot.gov.*

Specific questions addressing any of the interpretive material published in this document should be directed to the contact person listed earlier under **FOR FURTHER INFORMATION CONTACT**, or the FMCSA Division Office in each State.

Basis for This Guidance

The regulatory guidance in this notice responds to questions concerning the definition of ''accident'' in 49 CFR 390.5: Are all fires on CMVs considered reportable accidents?

Section 390.5 defines ''accident'' as an occurrence involving a commercial motor vehicle operating on a highway in interstate or intrastate commerce which results in a fatality; bodily injury to a person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or one or more motor vehicles incurring disabling damage as a result of the accident, requiring the motor vehicles to be transported away from the scene by a tow truck or other motor vehicle. It excludes occurrences involving only boarding and alighting from a stationary motor vehicle or involving only the loading or unloading of cargo.

Fires were included in the original 1962 definition of ''recordable accident,'' but were not explicitly mentioned in later versions of the FMCSRs. The Interstate Commerce Commission's (ICC) final rule of August 25, 1962 (27 FR 8551) defined ''recordable accident,'' (for purposes of filing a form MCS–50T for accidents involving property-carrying vehicles or MCS–50B for accidents involving passenger-carrying vehicles) as

> Any occurrence in the interstate, foregin [sic], or intrastate operations of a motor carrier subject to Part II of the Interstate Commerce Act, which * * * results in the death or injury of a person, or in property damage * * * to an extent of $240.00 or more * * *.

The term included, but was not limited to, eight types of accidents. Item 4 was ''fire or explosion in or on a motor vehicle.''

A final rule of September 7, 1972 (37 FR 18079) eliminated the list of examples of types of accidents and focused on three different outcomes that would provide the criteria for reporting an accident. The Agency revised the injury criteria to cover only injuries requiring medical attention other than first aid at the accident scene, and increased the threshold for property damage reporting to $2,000. The Agency explained ''*Accidents which formerly fell into those special categories, such as those involving overturn of a vehicle, fire, or explosion, will continue to be reported if they result in death, personal injury, or property damage of $2,000 or more.*'' [emphasis added] The property damage threshold was later raised to $4,400 before being replaced with a ''disabling damage'' criterion in a final rule published on February 2, 1993 (58 FR 6726). That final rule also revised the injury criteria to cover bodily injury to a person who, as result of the injury, immediately receives medical treatment away from the scene of the accident.

It has been the position of FMCSA and its predecessor agencies that the definition of ''accident'' applies to both collision and non-collision incidents involving commercial motor vehicles. If a fire or explosion results in a fatality, an injury, or disabling damage to a motor vehicle, it must be considered a recordable accident based on the current regulatory definition under 49 CFR 390.5. Therefore, this notice should not be construed to be a revision of the criteria for recording CMV accidents. Rather, its purpose is to emphasize the importance of recording CMV accidents as defined under Section 390.5 that do not necessarily involve collisions.

FMCSA acknowledges the potential impact on motor carriers' Safety Status Measurement System (SafeStat) scores that could result from States uploading reports about fires into the Agency's Motor Carrier Management Information System. However, in the interest of safety, we believe that we need to gather data on the prevalence of fires, and that motor carriers must be responsible for documenting these events and taking action to prevent injuries and fatalities associated with CMV fires. The inclusion of fires in the Accident Safety Evaluation Area (SEA) of SafeStat would, at its worst, only increase the likelihood of an on-site review of the carrier's safety management practices, depending on the number of these events.

Regulatory Guidance

PART 390—FEDERAL MOTOR CARRIER SAFETY REGULATIONS; GENERAL

Sections Interpreted

Section 390.5 Definitions

Question: Does an explosion or fire in a commercial motor vehicle (CMV) that has not collided with other vehicles or stationary objects meet the definition of an ''accident'' under § 390.5?

Guidance:

Fires have been included in the definition of ''accidents'' since 1962. However, in an effort to simplify the regulatory text, the agency removed the specific references to fires, rollovers, and other noncollision accidents in 1972. As the agency indicated, however, its intent was to include all of these items as accidents (37 FR 18079, September 7, 1972).

A fire or explosion in a CMV operating on a highway in interstate or intrastate commerce would be considered an ''accident'' if it resulted in a fatality; bodily injuries requiring the victim to be transported immediately to a medical facility away from the scene; or disabling damage requiring the CMV to be towed. A collision is not a pre-requisite to an ''accident'' under § 390.5.

Any CMV fires that meet the accident criteria in 49 CFR 390.5—that is, fires that occur in a commercial motor vehicle in transport on a roadway customarily open to the public which result in a fatality, bodily injury requiring immediate medical attention away from the scene of the accident, or disabling damage requiring a vehicle to be towed—will be considered in the safety fitness determination. As indicated in Appendix B to 49 CFR Part 385, FMCSA will continue to consider preventability when a motor carrier contests a safety rating by presenting compelling evidence that the recordable rate is not a fair means of evaluating its accident factor.

With regard to fires, preventability will be determined according to the following: If a motor carrier, that exercises normal judgment and foresight could have anticipated the possibility of the fire that in fact occurred, and avoided it by taking steps within its control—short of suspending operations—which would not have risked causing another kind of mishap, the fire was preventable.

Issued on: July 17, 2007.

John H. Hill,

Administrator.

[FR Doc. E7–14092 Filed 7–23–07; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA–2007–28707]

RIN 2127–AJ59

Federal Motor Vehicle Safety Standards; Occupant Crash Protection

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

ACTION: Final rule; denial of petition for rulemaking.

SUMMARY: This final rule establishes specific test procedures for installing child restraints to a child restraint anchorage system, commonly referred to as a ''LATCH'' system, in a front passenger seating position in vehicles certified to meet advanced air bag requirements through the use of a suppression system or a low risk deployment (LRD) system.[1] The test procedures ensure that the child restraints are installed in a repeatable and reproducible manner.

Because vehicle manufacturers need sufficient time to certify that their vehicles meet FMVSS No. 208 suppression or LRD requirements when tested with these procedures, the compliance date of this final rule is September 1, 2008. NHTSA will apply these test procedures to vehicles manufactured on or after September 1, 2008 that have a LATCH system in a frontal seating position and that are certified to meet advanced air bag requirements through the use of a suppression or LRD system.

[1] The LRD option involves deployment of the air bag in the presence of a Child Restraint Air Bag Interaction (CRABI) test dummy, representing a 12-month-old child, in a rear-facing child restraint.

DATES: The amendments made by this final rule are effective September 1, 2007. The compliance date for this final rule is September 1, 2008.

Petitions for reconsideration: Petitions for reconsideration of this final rule must be received not later than September 7, 2007.

ADDRESSES: Note that NHTSA's address has changed. Petitions for reconsideration of this final rule must refer to the docket number set forth above and be submitted to the Administrator, National Highway Traffic Safety Administration, 1200 New Jersey Avenue, SE., West Building, Washington, DC. 20590, with a copy to Docket Management, 1200 New Jersey Avenue, SE., West Building, Ground Floor, Room W12–140, Washington, DC 20590. Note that all comments received will be posted without change to *http://dms.dot.gov,* including any personal information provided. Please see the Privacy Act heading under Rulemaking Analyses and Notices.

Docket: For access to the docket to read background documents, go to *http://dms.dot.gov,* or to 1200 New Jersey Avenue, SE., West Building, Ground Floor, Room W12–140, Washington, DC. 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

FOR FURTHER INFORMATION CONTACT: Ms. Carla Cuentas, Office of Crashworthiness Standards, Light Duty Vehicle Division (telephone 202–366–4583, fax 202–493–2739). For legal issues, contact Ms. Deirdre Fujita, Office of Chief Counsel (telephone 202–366–2992, fax 202–366–3820). Both of these officials can be reached at the National Highway Traffic Safety Administration, 1200 New Jersey Avenue, SE., West Building, Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Background

Federal Motor Vehicle Safety Standard (FMVSS) No. 208, ''Occupant crash protection'' (49 CFR 571.208), requires passenger vehicles to be equipped with safety belts and frontal air bags for the protection of vehicle occupants in crashes. On May 12, 2000, NHTSA published a final rule to require that air bags be designed to provide improved frontal crash protection for all occupants, by means that include advanced air bag technology (''Advanced Air Bag Rule,'' 65 FR 30680, Docket No. NHTSA 00–7013). Under the Advanced Air Bag Rule, manufacturers are provided several compliance options in order to minimize the risk to infants and small children from deploying air bags, including options to suppress an air bag in the presence of a child restraint system (CRS) or to provide an LRD system.

Manufacturers choosing to rely on an air bag suppression system or LRD system to minimize the risk to children in a CRS must ensure that the vehicle complies with the suppression or LRD requirements when tested with the CRSs specified in Appendix A of the standard (see S19, S21 and S23 of FMVSS No. 208). On November 19, 2003, NHTSA revised Appendix A by adding two CRSs that are equipped with components that attach to a vehicle's LATCH[2] system (68 FR 65179, Docket No. NHTSA 03–16476). Vehicles that have a LATCH system in a front designated seating position and are certified as meeting the suppression or LRD requirements must meet the requirements when tested with the CRSs installed on the LATCH system.[3]

[2] ''LATCH'' stands for ''Lower Anchors and Tethers for Children,'' a term that was developed by industry to refer to the standardized user-ready child restraint anchorage system that vehicle manufacturers must install in vehicles pursuant to FMVSS No. 225, *Child Restraint Anchorage Systems* (49 CFR 571.225). The LATCH system is comprised of two lower anchorages and one tether anchorage. Each lower anchorage is a rigid round rod or bar onto which the connector of a child restraint system can be attached. The upper anchorage is configured to permit the attachment of a tether hook of a CRS. FMVSS No. 225 (paragraph S5(d)) does not permit vehicle manufacturers to install LATCH systems in front designated seating positions unless the vehicle has an air bag on-off switch meeting the requirements of S4.5.4 of FMVSS No. 208.

[3] The compliance date of the provision specifying testing with CRSs equipped with components that attach to a LATCH system (hereinafter referred to as ''LATCH-equipped CRSs'') was originally delayed from September 1, 2004 to September 1, 2006 (69 FR 51598, Docket 18905) and was later delayed to September 1, 2007 (71 FR 51129, Docket