

EPA-APPROVED KENTUCKY NON-REGULATORY PROVISIONS

Name of non-regulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/ effective date	EPA approval date	Explanations
* Huntington—Ashland 8-Hour Ozone Section 110(a)(1) Maintenance Plan.	* A portion of Greenup County.	* May 27, 2008 .....	* 4/14/11 [Insert citation of publication].	* For the 1997 8-hour ozone NAAQS.
Lexington 8-Hour Ozone Section 110(a)(1) Maintenance Plan Section 110(a)(1).	Fayette and Scott Counties.	May 27, 2008 .....	4/14/11 [Insert citation of publication].	For the 1997 8-hour ozone NAAQS.
Edmonson County 8-Hour Ozone Section 110(a)(1) Maintenance Plan.	Edmonson County .....	May 27, 2008 .....	4/14/11 [Insert citation of publication].	For the 1997 8-hour ozone NAAQS.
Owensboro 8-Hour Ozone Section 110(a)(1) Maintenance Plan.	Daviess County and a portion of Hancock County.	May 27, 2008 .....	4/14/11 [Insert citation of publication].	For the 1997 8-hour ozone NAAQS.

[FR Doc. 2011-9092 Filed 4-13-11; 8:45 am]

BILLING CODE 6560-50-P

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**42 CFR Part 5**

**Negotiated Rulemaking Committee on Designation of Medically Underserved Populations and Health Professional Shortage Areas; Notice of Meeting**

**AGENCY:** Health Resources and Services Administration, HHS.

**ACTION:** Negotiated Rulemaking Committee meeting.

**SUMMARY:** In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of the following meeting of the Negotiated Rulemaking Committee on Designation of Medically Underserved Populations and Health Professional Shortage Areas.

**DATES:** Meetings will be held on May 18, 2011, 9:30 a.m. to 6 p.m.; May 19, 2011, 9 a.m. to 6 p.m.; and May 20, 2011, 9 a.m. to 3 p.m.

**ADDRESSES:** Meetings will be held at the Legacy Hotel and Meeting Centre, 1775 Rockville Pike, Rockville, Maryland 20852, (301) 881-2300.

**FOR FURTHER INFORMATION CONTACT:** For more information, please contact Nicole Patterson, Office of Shortage Designation, Bureau of Health Professions, Health Resources and Services Administration, Room 9A-18, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443-9027, E-mail: [npatterson@hrsa.gov](mailto:npatterson@hrsa.gov) or visit <http://www.hrsa.gov/advisorycommittees/shortage/>.

**SUPPLEMENTARY INFORMATION:**

*Status:* The meeting will be open to the public.

*Purpose:* The purpose of the Negotiated Rulemaking Committee on Designation of Medically Underserved Populations and Health Professional Shortage Areas (Committee) is to establish criteria and a comprehensive methodology for Designation of Medically Underserved Populations and Primary Care Health Professional Shortage Areas, using a Negotiated Rulemaking (NR) process. It is hoped that use of the NR process will yield a consensus among technical experts and stakeholders on a new rule for designation of medically underserved populations and primary care health professions shortage areas, which would be published as an Interim Final Rule in accordance with Section 5602 of the Affordable Care Act, Public Law 111-148.

*Agenda:* The meeting will be held on Wednesday, May 18; Thursday, May 19; and Friday, May 20. It will include a discussion of various components of a possible methodology for identifying areas of shortage and underservice, based on the recommendations of the Committee in the previous meeting. The Friday meeting will also include development of the agenda for the next meeting. Members of the public will have the opportunity to provide comments during the meeting on Friday afternoon.

Requests from the public to make oral comments or to provide written comments to the Committee should be sent to Nicole Patterson at the contact address above at least 10 days prior to the first day of the meeting, Wednesday, May 18. The meetings will be open to the public as indicated above, with attendance limited to space available.

Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the contact person listed above at least 10 days prior to the meeting.

Dated: April 8, 2011.

**Reva Harris,**

*Acting Director, Division of Policy and Information Coordination.*

[FR Doc. 2011-9081 Filed 4-13-11; 8:45 am]

BILLING CODE 4165-15-P

**DEPARTMENT OF TRANSPORTATION**

**Federal Motor Carrier Safety Administration**

**49 CFR Part 393**

[Docket No. FMCSA-2010-0177]

**Parts and Accessories Necessary for Safe Operation; Grant of Exemption for Flatbed Carrier Safety Group**

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

**ACTION:** Notice of final disposition.

**SUMMARY:** The Federal Motor Carrier Safety Administration (FMCSA) grants an exemption from certain commodity-specific cargo securement rules applicable to motor carriers transporting metal coils. The Flatbed Carrier Safety Group (FCSG) applied for an exemption to allow motor carriers transporting metal coils to secure them in a manner not provided for in current regulations, specifically to secure coils grouped in rows with eyes crosswise and the coils in contact with each other in the longitudinal direction. FCSG requested the exemption so all commercial motor vehicle (CMV) operators will be able to use FMCSA's pre-January 1, 2004 cargo

securement procedures for the transportation of groups of metal coils with eyes crosswise. The Agency believes that permitting motor carriers to haul metal coils in this manner will maintain a level of safety that is equivalent to, or greater than, the level of safety achieved without the exemption.

**DATES:** This exemption is effective from April 14, 2011, through April 14, 2013.

**FOR FURTHER INFORMATION CONTACT:** Mr. Luke W. Loy, Vehicle and Roadside Operations Division, Office of Bus and Truck Standards and Operations, MC-PSV, (202) 366-0676, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590-0001.

**SUPPLEMENTARY INFORMATION:**

**Background**

Under 49 U.S.C. 31315(b) and 31136(e), FMCSA may grant exemptions from many of the Federal Motor Carrier Safety Regulations (FMCSRs) for a two-year period if it finds “such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level of safety that would be achieved absent such exemption” (49 CFR 381.305(a)).

**FCSG’s Request for Exemption**

FCSG applied for an exemption from FMCSA’s cargo securement requirements specified in 49 CFR 393.120 to allow motor carriers to comply with the pre-January 1, 2004, cargo securement regulations (then at 49 CFR 393.100(c)) for the transportation of groups of metal coils with eyes crosswise. FMCSA published notice of the exemption application on June 14, 2010, and asked for public comment (75 FR 33667).

On September 27, 2002, FMCSA published a final rule revising the regulations concerning protection against shifting and falling cargo for commercial motor vehicles (CMVs) engaged in interstate commerce (67 FR 61212). The new rules were based on the North American Cargo Securement Standard Model Regulations, the motor carrier industry’s best practices, and recommendations presented during a series of public meetings involving U.S. and Canadian industry experts, Federal, State, and Provincial enforcement officials, and other interested parties. Motor carriers were required to ensure compliance with the rule by January 1, 2004.

The September 2002 final rule established detailed requirements for a number of specific commodities (logs; dressed lumber; metal coils; paper rolls;

concrete pipe; intermodal containers; automobiles, light trucks and vans; heavy vehicles, equipment and machinery; flattened and crushed vehicles; roll-on/roll-off containers; and large boulders). These commodities were identified in public meetings during the development of the model regulations as causing the most disagreement between industry and enforcement agencies. The commodity-specific requirements for these items supersede the general rules when additional requirements are given for a commodity listed in those sections. This means all cargo securement systems must meet the general requirements, except to the extent that a commodity-specific rule imposes additional requirements for the securement method to be used.

Currently, 49 CFR 393.120 specifies requirements for the securement of one or more metal coils which, individually or grouped together, weigh 5,000 pounds or more. Metal coils can be transported with eyes vertical, lengthwise, or crosswise.

Unlike the requirements for securing coils with eyes vertical (49 CFR 393.120(b)) and lengthwise (49 CFR 393.120(d)), the current securement requirements for coils with eyes crosswise (49 CFR 393.120(c)) only speak of *individual coils*; there are no specific requirements for securing *rows of coils*. As such, a motor carrier transporting a row of coils with eyes crosswise must secure each coil as an individual coil in accordance with 49 CFR 393.120(c).

FCSG noted that the regulations in place prior to January 1, 2004 directly addressed the securement of groups of coils loaded with eyes crosswise. Section 393.100(c) read as follows:

(c)(3)(ii) *Coils with eyes crosswise:* Each coil or transverse row of coils loaded side by side and having approximately the same outside diameters must be secured by—

(a) A tiedown assembly through the eye of each coil, restricting against forward motion and making an angle of less than 45° with the horizontal when viewed from the side of the vehicle;

(b) A tiedown assembly through the eye of each coil, restricting against rearward motion and making an angle of less than 45° with the horizontal when viewed from the side of the vehicle; and

(c) Timbers, having a nominal cross section of 4 x 4 inches or more and a length which is at least 75 percent of the width of the coil or row of coils, tightly placed against both the front and rear sides of the coil or row of coils and restrained to prevent movement of the coil or coils in the forward and rearward directions.

(d) *If coils are loaded to contact each other in the longitudinal direction and relative motion between coils, and between coils and*

*the vehicle, is prevented by tiedown assemblies and timbers—*

(1) *Only the foremost and rearmost coils must be secured with timbers; and*

(2) *A single tiedown assembly, restricting against forward motion, may be used to secure any coil except the rearmost one, which must be restrained against rearward motion. [Emphasis added]*

FCSG stated that, without a temporary exemption, adherence to the existing regulations at 49 CFR 393.120(c)—*i.e.*, treating each coil as an individual coil—places a burden on the motor carrier to carry significantly more coil bunks and timbers to secure each coil in a raised bunk off the deck. FCSCG argued that individual securement of each coil produces no added safety benefit (but increases securement complexity in terms of coil bunks and timbers) compared to the “unitized” securement of multiple coils with eyes crosswise in rows in contact each other in the longitudinal direction. FCSCG stated that securing groups of coils in this manner would allow the load to be unitized while still meeting the aggregate working load limit requirements of 49 CFR 393.106(d).

FCSCG is working cooperatively with the North American Cargo Securement Harmonization Forum to effect these changes in the North American Cargo Securement Model Regulation, which both the U.S. and Canada have committed to use to update both the FMCSRs and Canada’s National Safety Code 10. FCSCG argued that the “unitized” securement of adjacent coils with eyes crosswise was deemed safe prior to the January 2004 revisions to the cargo securement regulations and should be still be considered safe today.

For the reasons stated above, FCSCG requested that motor carriers be allowed to comply with the pre-January 2004 cargo securement provisions (then 49 CFR 393.100(c)) during the period of the exemption, if granted. FCSCG believes that utilization of the pre-January 2004 regulations will allow carriers transporting metal coils to maintain a level of safety that is equivalent to the level of safety achieved without the exemption. A copy of FCSCG’s application for exemption is available for review in the docket of this notice.

**Comments**

FMCSA received two comments to the published exemption notice.

1. Richard Moskowitz responded on behalf of the American Trucking Associations (ATA), a large trade association representing State CMV associations. ATA supported the FCSCG application for exemption and noted that the preamble to the September 2002

final rule did not explain why the previous provision governing the transportation of unitized coils with eyes crosswise was being omitted. ATA agreed with FCSG's assertion that there is no additional safety benefit from securing rows of metal coils with eyes crosswise and in contact each other as individual coils under the current 49 CFR 393.120(c).

2. Gerald A. Donaldson, Ph.D., commented on behalf of the Advocates for Highway and Auto Safety (Advocates) in opposition to the FCSG application, arguing that the exemption would (1) undermine the current cargo securement regulation, and (2) place the traveling public in an increased risk of catastrophic events involving the ejection or dislodgement of heavy metal coils weighing up to 40,000 pounds. Advocates stated that FCSG does not cite any independently gathered, credible evidence to support the claim that a "unitized" carriage of coils as described by the applicant is just as safe as separate, independent securement of these coils through the use of tiedowns in conjunction with bunks, chocks, or cradles. Advocates commented that granting the application for temporary exemption would essentially reject the recommendations produced by the deliberations of leading cargo securement experts from the U.S. and Canada that led to the development of the North American Cargo Securement Model Regulation.

Advocates noted that FMCSA relied on two research studies "in proposing and adopting new cargo securement regulations that specifically addressed, in considerable detail, the need to ensure the independent securement of each transverse coil in the 'suicide arrangement' of multiple rows of such coils." Advocates stated that both the 1995 Illinois Transportation Research Center report entitled "Analysis of Rules and Regulations for Steel Coil Truck Transport: Final Report" and the 1997 Canadian Council of Motor Transport Administrators (CCMTA) report entitled "Tests On Methods of Securement for Metal Coils" "explicitly evaluate the need for intervening blocks, chocks, or cradles for each transverse coil so that excessive forces are not generated during vehicle and cargo acceleration (which is non-linear as acceleration force increases) that place excessive demands on tiedowns." Advocates stated that the cargo securement requirements for metal coils are "based on both static and dynamic tests and are of record."

#### FMCSA Response:

As a result of rulemaking petitions submitted by various parties, FMCSA

published a final rule on June 22, 2006, amending its September 2002 final rule concerning protection against shifting and falling cargo (71 FR 35819). Among other things, this rule amended the definition of metal coil to read "*an article of cargo comprised of elements, mixtures, compounds, or alloys commonly known as metal, stamped metal, metal wire, metal rod, or metal chain that are packaged as a roll, coil, spool, wind, or wrap, including plastic or rubber coated electrical wire and communications cable.*" This revised definition meant that the commodity-specific rules for securing metal coils would apply to a wider variety of coils. Some of these products are substantially lighter than coils of flat sheet metal and can therefore be transported in groups on a single vehicle without causing violations of interstate truck (or axle) weight limits designed to protect pavements and bridges from damage and excessive wear and tear.<sup>1</sup>

While the two reports cited by Advocates examined various aspects of metal coil securement, it is important to note that neither of these studies discussed or evaluated—either analytically or through actual testing—the securement of rows of coils grouped together with eyes crosswise. Instead, each of the reports cited by Advocates evaluated only the securement of single coils with eyes vertical, crosswise, or lengthwise.

• The 1995 Illinois Transportation Research Center report on steel coil transport consists of (1) a 1994 field survey at seven Illinois vehicle scale locations, and (2) engineering analyses of metal coil securement through rigid body dynamics analysis, scaled model testing, and finite element analysis. At the time of that report, there was no specific definition of metal coils in the FMCSRs. Further, the term "suicide arrangement" in the Illinois Transportation Research Center report was used as an anecdotal reference only, and was not supported by crash or fatality data that showed CMV drivers to be at a higher risk in the event of a crash in which rows of metal coils grouped together with eyes crosswise were transported and secured according to the pre-2004 rules. While the report recommended a number of amendments to the cargo securement regulations for metal coils, none of these recommendations questioned the then-existing securement requirements for groups of coils with eyes crosswise, or

<sup>1</sup> Congress enacted the Bridge Formula in 1975 to limit the weight-to-length ratio of a vehicle crossing a bridge. This is accomplished either by spreading weight over additional axles or by increasing the distance between axles.

identified specific changes necessary to improve the securement of groups of coils with eyes crosswise.

• The metal coils tested as part of the 1997 CCMTA report weighed individually 18,220 lbs, 23,200 lbs, and 44,400 lbs. These coils could not be tested in groups, since any substantial grouping would push the trailer over the 34,000-pound tandem axle weight allowed on the Interstate System. Like the Illinois Transportation Research Center report, the CCMTA report provided a number of recommendations for the securement of metal coils. Similarly, none of these recommendations questioned the then-existing securement requirements for groups of coils with eyes crosswise, or addressed specific changes necessary to improve the securement of groups of coils with eyes crosswise.

Advocates stated that "Granting the exemption would \* \* \* essentially reject the recommendations produced by the deliberations of leading cargo securement experts from the U.S. and Canada conducted over several years that supported strengthening securement requirements in numerous respects." Representatives of both FMCSA and CCMTA who served on the North American Cargo Securement Harmonization Committee, including the Chairman for the subcommittee on metal coil securement, have been contacted regarding this issue. Each of these representatives has confirmed that the lack of specific securement methods for rows of coils grouped together with eyes crosswise appears to have been an inadvertent omission when the Model Regulation was developed. Subsequently, given that no such requirements exist in the Model Regulation, no requirements for this loading pattern were included in the 2002 revisions to the FMCSRs. This omission has been brought to the attention of the North American Cargo Securement Harmonization Public Forum for consideration.

FMCSA acknowledges that FCSG did not present specific studies or data concerning the safety impact of granting this exemption. However, for the reasons discussed above, the Agency believes that granting the temporary exemption to allow securement of rows of metal coils loaded to contact each other in the longitudinal direction, with relative motion between coils and between coils and the vehicle prevented by tiedown assemblies and timbers, provides a level of safety that is equivalent to, or greater than the level of safety achieved without the exemption.

FMCSA has decided to grant FCSC's exemption application. FMCSA encourages any party having information that motor carriers utilizing this exemption are not achieving the requisite level of safety immediately to notify the Agency. If safety is being compromised, or if the continuation of the exemption is not consistent with 49 U.S.C. 31315(b) and 31136(e), FMCSA will take immediate steps to revoke the exemption.

#### Terms and Conditions for the Exemption

Based on its evaluation of the application for an exemption, FMCSA has decided to grant FCSC's exemption application. The Agency believes that the level of safety that will be achieved using the pre-2004 cargo securement regulations to secure rows of metal coils with eyes crosswise during the 2-year exemption period will likely be equivalent to, or greater than, the level of safety achieved without the exemption.

The Agency hereby grants the exemption for a two-year period, beginning April 12, 2011, and ending April 12, 2013.

During the temporary exemption period, motor carriers must meet the following requirements while still meeting the aggregate working load limit requirements of 49 CFR 393.106(d).

*Coils with eyes crosswise:* If coils are loaded to contact each other in the longitudinal direction, and relative motion between coils, and between coils and the vehicle, is prevented by tiedown assemblies and timbers:

(1) Only the foremost and rearmost coils must be secured with timbers having a nominal cross section of 4 x 4 inches or more and a length which is at least 75 percent of the width of the coil or row of coils, tightly placed against both the front and rear sides of the row of coils and restrained to prevent movement of the coils in the forward and rearward directions; and

(2) The first and last coils in a row of coils must be secured with a tiedown assembly restricting against forward and rearward motion, respectively. Each additional coil in the row of coils must be secured to the trailer using a tiedown assembly.

Interested parties possessing information that would demonstrate that motor carriers using the cargo securement exemption for rows of metal coils with eyes crosswise are not achieving the requisite statutory level of safety should provide that information to the Agency, which will place it in Docket No. FMCSA-2010-0177. We will evaluate any such information, and, if safety is being compromised or if the continuation of the exemption is not

consistent with 49 U.S.C. 31315(b)(4) and 31136(e), will take immediate steps to revoke this exemption.

#### Preemption

During the period the exemption is in effect, no State shall enforce any law or regulation that conflicts with or is inconsistent with this exemption to allow the securement of metal coils loaded with eyes crosswise, grouped in rows, in which the coils are loaded to contact each other in the longitudinal direction with respect to a person operating under the exemption.

Issued on: April 5, 2011.

**Anne S. Ferro,**  
Administrator.

[FR Doc. 2011-8563 Filed 4-13-11; 8:45 am]

**BILLING CODE 4910-EX-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 224

[Docket No. 070821475-91169-02]

RIN 0648-AV15

#### Protective Regulations for Killer Whales in the Northwest Region Under the Endangered Species Act and Marine Mammal Protection Act

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

**ACTION:** Final rule.

**SUMMARY:** We, the National Marine Fisheries Service (NMFS), establish regulations under the Endangered Species Act (ESA) and Marine Mammal Protection Act (MMPA) to prohibit vessels from approaching killer whales within 200 yards (182.9 m) and from parking in the path of whales when in inland waters of Washington State. Certain vessels are exempt from the prohibitions. The purpose of this final rule is to protect killer whales from interference and noise associated with vessels. We identified disturbance and sound associated with vessels as a potential contributing factor in the recent decline of this population during the development of the final rule announcing the endangered listing of Southern Resident killer whales and the associated Recovery Plan for Southern Resident killer whales (Recovery Plan). The Recovery Plan calls for evaluating current guidelines and assessing the need for regulations and/or protected areas. To implement the actions in the

Recovery Plan, we developed this final rule after considering comments submitted in response to an Advance Notice of Proposed Rulemaking (ANPR) and proposed rule, and preparing an environmental assessment (EA). This final rule does not include a seasonal no-go zone for vessels along the west side of San Juan Island that was in the proposed rule. We will continue to collect information on a no-go zone for consideration in a future rulemaking.

**DATES:** This final rule is effective May 16, 2011.

**ADDRESSES:** Copies of this rule and the Environmental Assessment, Regulatory Impact Review and Finding of No Significant Impact related to this rule can be obtained from the Web site <http://www.nwr.noaa.gov>. Written requests for copies of these documents should be addressed to Assistant Regional Administrator, Protected Resources Division, Northwest Regional Office, National Marine Fisheries Service, 7600 Sand Point Way NE., Seattle, WA 98115.

**FOR FURTHER INFORMATION CONTACT:** Lynne Barre, Northwest Regional Office, 206-526-4745; or Trevor Spradlin, Office of Protected Resources, 301-713-2322.

#### SUPPLEMENTARY INFORMATION:

##### Background

Viewing wild marine mammals is a popular recreational activity for both tourists and local residents. In Washington, killer whales (*Orcinus orca*) are the principal target species for the commercial whale watch industry (Hoyt 2001, O'Connor *et al.* 2009). Since monitoring of this population segment has begun, the number of whales peaked at 97 animals in the 1990s, and then declined to 79 in 2001. At the end of 2010 there were 86 whales. NMFS listed the Southern Resident killer whale distinct population segment (DPS) as endangered under the ESA on November 18, 2005 (70 FR 69903). In the final rule announcing the listing, NMFS identified vessel effects, including direct interference and sound, as a potential contributing factor in the recent decline of this population. Based on monitoring data regarding the large number of vessels in close proximity to the whales (*i.e.*, within 1/2 mile), research results regarding behavioral and acoustic impacts caused by vessels, and the risk of vessel strikes, NMFS is concerned that some whale watching activities may harm individual killer whales, potentially reducing their fitness and increasing the population's risk of extinction.