reviewing the one set of adverse comments received from SJ Consulting Group, the agency has determined that it would be inappropriate to allow the direct final rule to take effect.

SJ Consulting Group stated that it uses the quarterly financial information to advise motor carriers, shippers, and persons interested in buying motor carriers. It argued that the quarterly reports provide useful insight into the U.S. trucking industry, such as operating statistics that are not available from other public sources, particularly for private carriers. Although SJ Consulting conceded that some data on general demand and pricing trends are available from other sources, it argued that quarterly data on the profitability of carriers are essential in providing safe and timely service to shippers, estimating future growth rates, and assessing opportunities for profitable investment in the trucking industry. SJ Consulting has used FMCSA reports for these purposes for many years.

FMCSA Response: SJ Consulting submitted an adverse comment with an explanation of why it disagrees with the direct final rule. For this reason, FMCSA withdraws the direct final rule of June 27, 2012, based on the adverse comments of SJ Consulting Group.

Issued on: August 15, 2012.

Larry W. Minor,
Associate Administrator for Policy.
[FR Doc. 2012–21021 Filed 8–24–12; 8:45 am]
BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Part 375
[Docket No. FMCSA–2011–0313]
RIN 2126–AB41
Transportation of Household Goods in Interstate Commerce; Consumer Protection Regulations: Household Goods Motor Carrier Record Retention Requirements

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

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: FMCSA confirms the effective date for its July 16, 2012, direct final rule concerning the period during which household goods (HHG) motor carriers must retain documentation of an individual shipper’s waiver of receipt of printed copies of consumer protection materials. The direct final rule harmonized the retention period with other document retention requirements applicable to HHG motor carriers. FMCSA also amended the regulations to clarify that a HHG motor carrier is not required to retain waiver documentation from any individual shippers for whom the carrier does not actually provide services. The Agency did not receive any comments in response to the direct final rule and confirms the November 13, 2012, effective date of the rule.

DATES: The effective date for the direct final rule published in the Federal Register on July 16, 2012 (77 FR 41699), is confirmed as November 13, 2012.

ADDRESSES: The docket for this rulemaking (FMCSA–2011–0313) is available for inspection at http://www.regulations.gov/

Federal Motor Carrier Safety Administration (FMCSA), DOT.

Issued on: August 20, 2012.

Larry W. Minor,
Associate Administrator for Policy.

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Parts 383 and 390
[Docket No. FMCSA–2012–0156]
RIN 2126–AB53
Gross Combination Weight Rating (GCWR); Definition

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

ACTION: Direct final rule; request for comments.

SUMMARY: The Federal Motor Carrier Safety Administration (FMCSA) amends the definition of “gross combination weight rating” (GCWR) in our regulations. The definition currently prescribes how the GCWR is calculated if the vehicle manufacturer does not include the information on the vehicle certification label required by the National Highway Traffic Safety Administration (NHTSA). The Agency has determined the definition should not include what is essentially guidance that is difficult for the motor carrier and enforcement communities to use.

Therefore, FMCSA amends this definition to state that the GCWR is the value specified by the commercial motor vehicle manufacturer.

DATES: This rule is effective October 26, 2012, unless an adverse comment or notice of intent to submit an adverse comment, is either submitted to our online docket via http://www.regulations.gov or before September 26, 2012 or reaches the Docket Management Facility by that date. If an adverse comment or notice of intent to submit an adverse comment is received by September 26, 2012, we will withdraw this direct final rule and publish a timely notice of withdrawal in the Federal Register.

ADDRESSES: You may submit comments identified by docket number FMCSA–
2012–0156 using any one of the following methods:
(1) Federal eRulemaking Portal:
(2) Fax: (202) 493–2251.
(3) Mail: Docket Management Facility (M–30), U.S. Department of
   Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey
   Avenue SE., Washington, DC 20590–0001.
(4) Hand delivery: Same as mail address above, between 9 a.m. and 5
   p.m., Monday through Friday, except Federal holidays. The telephone number
   is 202–366–9329.
To avoid duplication, please use only one of these four methods. See the
“Public Participation and Request for Comments” portion of the
SUPPLEMENTARY INFORMATION section below for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: Tom
Kelly, Office of Enforcement and
Program Delivery, Federal Motor Carrier
Safety Administration, 1200 New Jersey
Avenue SE., Washington, DC 20590–
0001, by telephone at (202) 366–1812 or
via email at Thomas.Kelly@dot.gov.
Office hours are from 9 a.m. to 5 p.m.
ET, Monday through Friday, except
Federal holidays. If you have questions
on viewing or submitting material to the
docket, contact Renee V. Wright,
Program Manager, Docket Operations,
telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:
I. Public Participation and Request for
   Comments
A. Submitting Comments
B. Viewing Comments and Documents
C. Privacy Act
II. Abbreviations
III. Regulatory Information
IV. Background
V. Discussion of the Rule
VI. Regulatory Analyses
VII. The Final Rule

I. Public Participation and Request for
   Comments
We encourage you to participate in
this rulemaking by submitting
comments and related materials. All
comments received will be posted,
without change, to http://
www.regulations.gov and will include
any personal information you have
provided.
A. Submitting Comments
   If you submit a comment, please
   include the docket number for this
   rulemaking (FMCSA–2012–0156),
   indicate the specific section of this
document to which each comment
   applies, and provide a reason for each
   suggestion or recommendation. You
   may submit your comment and material
   online, or by fax, mail or hand delivery,
   but please use only one of these means.
   We recommend that you include your
   name and a mailing address, an email
   address, or a phone number in the body
   of your document so that we can contact
   you if we have questions regarding your
   submission. As a reminder, FMCSA will
   only consider adverse comments as
   defined in 49 CFR 389.39(b) and
   explained below.
   To submit your comment online, go to
   http://www.regulations.gov, click on the
   “submit a comment” box, which will
   then become highlighted in blue. In the
   “Document Type” drop down menu
   select “Proposed Rule” and insert
   “FMCSA–2012–0156” in the
   “Keyword” box. Click “Search” then
   click on the balloon shape in the
   “Actions” column. If you submit your
   comment by mail or hand delivery,
   submit it in an unbound format, no
   larger than 8½ by 11 inches, suitable for
   copying and electronic filing. If you
   submit it by mail and would like to
   know that it reached the Facility, please
   enclose a stamped, self-addressed
   postcard or envelope. FMCSA will
   consider all comments and material
   received during the comment period.
B. Viewing Comments and Documents
   To view comments, go to http://
   www.regulations.gov, click on the “read
   comments” box, which will then
   become highlighted in blue. In the
   “Keyword” box insert “FMCSA–2012–
   0156” and click “Search.” Click the
   “Open Docket Folder” in the “Actions
   column. If you do not have access to the
   Internet, you may also view the docket
   online by visiting the Docket
   Management Facility in Room W12–140
   on the ground floor of the Department
   of Transportation West Building, 1200
   New Jersey Avenue SE., Washington,
   DC 20590, between 9 a.m. and 5 p.m.,
   Monday through Friday, except Federal
   holidays.
   C. Privacy Act
   Anyone can search the electronic
   form of comments received into any of
   our dockets by the name of the
   individual submitting the comment (or
   signing the comment, if submitted on
   behalf of an association, business, labor
   union, etc.). You may review a Privacy
   Act notice regarding our public dockets
   in the January 17, 2008, issue of the
   Federal Register (73 FR 3316).
II. Abbreviations
FMCSA Federal Motor Carrier Safety
Administration
FR Federal Register

FMCSA publishes this amendment to
parts 383 and 390 under the direct final
rule procedures in 49 CFR 389.11 and
389.39 because we believe the rule is a
routine, non-controversial amendment
to the definition of “gross combination
weight rating” (GCWR) in both 49 CFR
383.5 and 390.5. The rule would
provide consistency between FMCSA’s
definition of GCWR and the definition
of that term used by NHTSA under 49
CPR 571.3. FMCSA does not expect
adverse comments. If no adverse
comments or notices of intent to submit
an adverse comment are received by
September 26, 2012, this rule will
become effective as stated in the
DATES section. In that case, approximately 30
days before the effective date, FMCSA
will publish a document in the Federal
Register stating that no adverse
comments were received and
confirming that this rule will become
effective as scheduled. However, if the
Agency receives any adverse comments
or notices of intent to submit an adverse
comment, FMCSA will publish a
document in the Federal Register
announcing the withdrawal of all or part
of this direct final rule. If an adverse
comment applies only to part of this
rule and it is possible to remove that
part without defeating the purpose of
this rule, the Agency may adopt, as
final, that part of this rule on which no
adverse comments were received.
FMCSA will withdraw the part of this
rule that was the subject of an adverse
comment. If the Agency decides to
proceed with a rulemaking following
receipt of any adverse comments,
FMCSA will publish a separate notice of
proposed rulemaking and provide a new
opportunity for comment.
   A comment is considered “adverse” if
the comment explains why this rule or
a part of this rule would be
inappropriate, including a challenge to
its underlying premise or approach, or
would be ineffective or unacceptable
without a change.
IV. Background
Currently, the definitions in 49 CFR
383.5 and 390.5 both say:
Gross combination weight rating (GCWR)
means the value specified by the
manufacturer as the loaded weight of a
combination (articulated) vehicle. In the
absence of a value specified by the
manufacturer, GCWR will be determined by
adding the GVWR \(^1\) of the power unit and the total weight of the towed unit and any load thereon.

The first sentence of the definition is entirely correct; this is the definition used by other authorities. The second sentence, however, presents an alternative definition that is not used to determine GCWR by either vehicle manufacturers or the National Highway Traffic Safety Administration (NHTSA) \(^2\) ("Gross combination weight rating or GCWR means the value specified by the manufacturer as the loaded weight of a combination vehicle."). As FMCSA and its State partners increase their monitoring of drivers and carriers through roadside inspections, investigations and the Agency’s Safety Measurement System and other tools, questions from industry and the enforcement community about the inconsistency between FMCSA’s GCWR definition in 49 CFR 383.5 and 390.5 and NHTSA’s definition in 49 CFR 571.3 make it clear that the FMCSA definition must be changed.

V. Discussion of the Rule

FMCSA is using a direct final rule to promulgate this correction to the GCWR definition in 49 CFR 383.5 and 390.5 because the Agency does not believe the change would have a net impact of the number of drivers or carriers subject to the FMCSRs, or the applicability of the requirements therein. Furthermore, we do not anticipate the submission of adverse comments. By removing the second sentence in the definition in both sections, the rule simply conforms the Agency’s GCWR definition to the one used by NHTSA.

VI. Regulatory Analyses

E.O. 12866 (Regulatory Planning and Review and DOT Regulatory Policies and Procedures as Supplemented by E.O. 13563)

FMCSA has determined that this proposed rule is not a significant regulatory action within the meaning of Executive Order (E.O.) 12866, as supplemented by E.O. 13563 (76 FR 3821, January 21, 2011), and not significant within the meaning of the Department of Transportation’s regulatory policies and procedures because the direct final rule is not expected to generate substantial congressional or public interest. The rulemaking is unlikely to impose costs on the industry because the change to the GCWR definition would not have a net impact of the number of drivers or carriers subject to the FMCSRs, or the applicability of the requirements therein. The cost, if any, would be borne by motor carriers that had previously determined by reference to the inconsistent wording that their operations were not subject to certain safety regulations and that would now be required to achieve compliance with the applicable rules. The Agency believes this population to be negligible, and that the costs of the rule would not begin to approach the $100 million annual threshold for economic significance. This rule therefore has not been formally reviewed by the Office of Management and Budget (OMB).

Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act of 1980 (5 U.S.C. 601 et seq.), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121, 110 Stat. 857), FMCSA is not required to prepare a final regulatory flexibility analysis under 5 U.S.C. 604(a) for this final rule because the agency has not issued a notice of proposed rulemaking prior to this action.

Assistance for Small Entities

In accordance with section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996, FMCSA wants to assist small entities in understanding this direct final rule so that they can better evaluate its effects on themselves and participate in the rulemaking initiative. If the direct final rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance; please consult the FMCSA point of contact, Tom Kelly, listed in the FOR FURTHER INFORMATION CONTACT section of this proposed rule.

Small businesses may send comments on the actions of Federal employees who enforce or otherwise determine compliance with Federal regulations to the Small Business Administration’s Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency’s responsiveness to small business. If you wish to comment on actions by employees of FMCSA, call 1–888–REG–FAIR (1–888–734–3247). DOT has a policy regarding the rights of small entities to regulatory enforcement fairness and an explicit policy against retaliation for exercising these rights.

Unfunded Mandates Reform Act of 1995

This proposed rule would not impose an unfunded Federal mandate, as defined by the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1532 et seq.), that will result in the expenditure of State, local, and tribal governments, in the aggregate, or by the private sector, of $143.1 million (which is the value of $100 million in 2010 after adjusting for inflation) or more in any 1 year.

E.O. 13132 (Federalism)

A rule has Federalism implications if the rule has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on the States. FMCSA has analyzed this rule under E.O. 13132 and determined that it does not have Federalism implications.

E.O. 12988 (Civil Justice Reform)

This final rule 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.

E.O. 13045 (Protection of Children)

FMCSA analyzed this action under E.O. 13045, Protection of Children from Environmental Health Risks and Safety Risks. The Agency determined that this rule will not create an environmental risk to health or safety that may disproportionately affect children.

E.O. 12630 (Taking of Private Property)

FMCSA reviewed this final rule in accordance with E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights, and has determined it will not effect a taking of private property or otherwise have taking implications.

Privacy Impact Assessment

Section 522 of title I of division H of the Consolidated Appropriations Act, 2005, enacted December 8, 2004 (Pub. L. 108–447, 118 Stat. 2809, 3268, 5 U.S.C. 552a note), requires the Agency to conduct a privacy impact assessment (PIA) of a regulation that will affect the privacy of individually identifiable information. This rule does not require the collection of any personally identifiable information.

The Privacy Act (5 U.S.C. 552a) applies only to Federal agencies and any non-Federal agency which receives records contained in a system of records from a Federal agency for use in a matching program. FMCSA has determined this rule will not result in a new or revised Privacy Act System of Records for FMCSA.

E.O. 12372 (Intergovernmental Review)

The regulations implementing E.O. 12372 regarding intergovernmental

\(^{1}\) GVWR stands for gross vehicle weight rating.
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 et seq.), Federal agencies must obtain approval from OMB for each collection of information they conduct, sponsor, or require through regulations. There is no new information collection requirement associated with this final rule.

**National Environmental Policy Act and Clean Air Act**

FMCSA analyzed this rule in accordance with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 et seq.) and determined under our environmental procedures Order 5610.1 (69 FR 9680, March 1, 2004) that this action does not have any effect on the quality of the environment. Therefore, this final rule is categorically excluded (CE) from further analysis and documentation in an environmental assessment or environmental impact statement under FMCSA Order 5610.1, paragraph 6(b) of Appendix 2. The CE under paragraph 6(b) addresses rulemakings that make editorial or other minor amendments to existing FMCSA regulations. A Categorical Exclusion Determination is available for inspection or copying in the Regulations.gov Web site listed under ADDRESSES.

FMCSA also analyzed this rule under the Clean Air Act, as amended (CAA), section 176(c) (42 U.S.C. 7401 et seq.), and implementing regulations promulgated by the Environmental Protection Agency. Approval of this action is exempt from the CAA’s general conformity requirement since it does not affect direct or indirect emissions of criteria pollutants.

**E.O. 13175 (Indian Tribal Governments)**

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

**Technical Standards**

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through OMB, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) are standards that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, FMCSA did not consider the use of voluntary consensus standards.

**List of Subjects**

49 CFR Part 383


49 CFR Part 390

Highway safety, Intermodal transportation, Motor carriers, Motor vehicle safety, Reporting and recordkeeping requirements.

**VII. The Final Rule**

For the reasons stated above, FMCSA amends 49 CFR parts 383 and 390 in title 49, Code of Federal Regulations, chapter III, subchapter B, as follows:

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

1. The authority citation for part 383 continues to read as follows:


2. Amend §383.5 by revising the definition of “gross combination weight rating” to read as follows:

**§383.5 Definitions.**

* * * * *

**Gross combination weight rating (GCWR)** means the value specified by the manufacturer as the loaded weight of a combination motor vehicle.

* * * * *

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

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


4. Amend §390.5 by revising the definition of “gross combination weight rating” to read as follows:

**§390.5 Definitions.**

* * * * *

**Gross combination weight rating (GCWR)** means the value specified by the manufacturer as the loaded weight of a combination motor vehicle.

* * * * *

Issued on: August 16, 2012.

Anne S. Ferro,

Administrator.

[FR Doc. 2012–21017 Filed 8–24–12; 8:45 am]

BILLING CODE 4910–EX–P

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

50 CFR Part 300

[Docket No. 120418015–2015–01]

RIN 0648–BC14

International Fisheries; Western and Central Pacific Fisheries for Highly Migratory Species; Bigeye Tuna Catch Limit in Longline Fisheries for 2012

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

**ACTION:** Interim final rule; request for comments.

**SUMMARY:** This interim final rule establishes a catch limit of 3,763 metric tons (mt) of bigeye tuna (Thunnus obesus) for vessels in the U.S. pelagic longline fisheries in the western and...