

Dated: September 12, 2013.

W.C. Early,

Acting Regional Administrator, Region III.

[FR Doc. 2013-23792 Filed 9-30-13; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Parts 350, 381, 383, 384, 385, 386, 387, and 392

RIN 2126-AB60

Amendments To Implement Certain Provisions of the Moving Ahead for Progress in the 21st Century Act (MAP-21)

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

ACTION: Final rule.

SUMMARY: The Federal Motor Carrier Safety Administration (FMCSA) adopts, as final, certain regulations required by the Moving Ahead for Progress in the 21st Century surface transportation reauthorization legislation. The majority of these statutory changes went into effect on October 1, 2012, while others will go into effect on October 1, 2013. It is necessary to make conforming changes to ensure that FMCSA's regulations are current and consistent with the applicable statutes. Adoption of the rules is a nondiscretionary ministerial action that can be taken without issuing a notice of proposed rulemaking and receiving public comment, in accordance with the good cause exception available to Federal agencies under the Administrative Procedure Act (APA).

DATES: *Effective Date:* This final rule is effective Tuesday, October 1, 2013. Petitions for Reconsideration must be received by the Agency no later than December 2, 2013.

FOR FURTHER INFORMATION CONTACT: Genevieve Sapir, Office of Chief Counsel, Regulatory Affairs Division (MC-CCR), Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590; by telephone at (202) 366-7056, or by electronic mail at genevieve.sapir@dot.gov. If you have questions regarding the docket, call Ms. Barbara Hairston, Docket Operations, telephone 202-366-3024.

SUPPLEMENTARY INFORMATION:

Executive Summary

Purpose and Summary of the Major Provisions

This rule makes nondiscretionary ministerial changes to FMCSA regulations that are required by MAP-21.

Benefits and Costs

The rule provisions considered both individually and in the aggregate do not rise to the level of economic significance. The only costs associated with this rule arise out of 49 U.S.C. 32918(a), which requires brokers and freight forwarders to provide evidence of minimum financial security in the amount of \$75,000. The annual overall cost of this new requirement is approximately \$15.9 million.

Legal Basis for the Rulemaking

This rule is based on the MAP-21 Act (Pub. L. 112-141, 126 Stat. 405, July 6, 2012). Certain provisions of MAP-21 made mandatory, non-discretionary changes to FMCSA programs. The majority of these statutory changes went into effect on October 1, 2012, while others will go into effect on October 1, 2013. It is necessary to make conforming changes to ensure that FMCSA's regulations are current and consistent with the applicable statutes.

The provisions implemented in this final rule in Title 49, United States Code (U.S.C.) are from the following sections of MAP-21:

1. Section 32102 Safety Fitness of New Operators
2. Section 32108 Increased Penalties for Operating Without Registration
3. Section 32110 Revocation of Registration and Other Penalties for Failure To Respond to Subpoena
4. Section 32111 Fleetwide Out of Service Order for Operating Without Required Registration
5. Section 32203 State Reporting of Foreign Commercial Driver Convictions
6. Section 32204 Authority To Disqualify Foreign Commercial Drivers
7. Section 32205 Revocation of Foreign Motor Carrier Operating Authority for Failure To Pay Civil Penalties
8. Section 32307 Employer Responsibilities
9. Section 32501 Inspection Demand and Display of Credentials
10. Section 32503 Penalties for Violation of Operation Out of Service Orders
11. Section 32505 Increased Penalties for Evasion of Regulations
12. Section 32506 Violations Relating to Commercial Motor Vehicle Safety Regulation and Operators
13. Section 32507 Emergency Disqualification for Imminent Hazard
14. Section 32601 Motor Carrier Safety Assistance Program
15. Section 32913 Waivers, Exemptions, and Pilot Programs

16. Section 32918 Financial Security of Brokers and Freight Forwarders
17. Section 33010 Civil Penalties

FMCSA is authorized to implement these statutory provisions by delegation from the Secretary of Transportation in 49 CFR 1.87.

Generally, agencies may promulgate final rules only after issuing a notice of proposed rulemaking and providing an opportunity for public comment under procedures required by the APA, as provided in 5 U.S.C. 553(b) and (c). The APA, in 5 U.S.C. 553(b)(3)(B), provides an exception from these requirements when notice and public comment procedures are "impracticable, unnecessary, or contrary to the public interest." FMCSA finds that notice and comment is unnecessary prior to adoption of each provision in this final rule because the changes to regulations are statutorily mandated by Congress, and the Agency is performing a nondiscretionary, ministerial act. Therefore, the Agency may adopt this rule without issuing a notice of proposed rulemaking and receiving public comment, in accordance with the APA. For these same reasons, the rule will be effective on October 1, 2013, the day many of these statutory changes go into effect.

MAP-21 Provisions Implemented by the Final Rule

The Federal Motor Carrier Safety Regulations amended by this final rule encompass diverse subject areas. Those amendments are explained below.

Section 32102—Safety Fitness of New Operators

Previously, 49 U.S.C. 31144 required new entrant motor carriers to undergo a safety review within 18 months of beginning operations. Section 32102 of MAP-21 changed that time period to 12 months for property carriers and 120 days for passenger carriers. This final rule amends 49 CFR 385.3 and 49 CFR part 385, Appendix A(I)(a), to change references from an 18-month safety review to 12-month and 120-day safety reviews.

Section 32108—Increased Penalties for Operating Without Registration

Previously, 49 U.S.C. 14901(a) set the civil penalty for violating the Agency's reporting, recordkeeping, and registration requirements at \$500, except for violations of passenger carrier registration requirements, which were set at \$2,000.¹ MAP-21 Section 32108

¹ The penalties referenced in this rule refer to statutorily enacted amounts. In 2007, the Agency amended 49 CFR part 386, Appendix B to increase

increased the penalties to \$1,000 for violating the reporting and recordkeeping requirements, \$10,000 for non-passenger carrier registration violations, and \$25,000 for passenger carrier registration violations. It also changed the penalty for transporting hazardous wastes without the appropriate registration from a maximum of \$20,000² to a minimum of \$20,000 and maximum of \$40,000. This final rule amends 49 CFR part 386, Appendix B (g)–(3) and (6), to reflect these new penalties.

Section 32110—Revocation of Registration and Other Penalties for Failure To Respond to Subpoena

Previously, 49 U.S.C. 525 provided for a fine of between \$100 and \$5,000 for motor carriers that failed to obey a subpoena or an Agency order to appear or testify issued under 49 U.S.C. chapter 5. Section 32110 of MAP–21 amended the penalties in that section by raising the fine to between \$1,000 and \$10,000. This final rule implements those amendments by adding new Section II. to 49 CFR part 386 Appendix A.

Section 32111—Fleetwide Out of Service Order for Operating Without Required Registration

Previously, 49 U.S.C. 13902(e)(1) provided that if a *motor vehicle* was used to provide transportation without or beyond the scope of registration, that *motor vehicle* could be put out of service (emphasis added). Section 32111 changed § 13902(e)(1) to authorize FMCSA to place a *motor carrier* out of service for operating vehicles without or beyond the scope of registration. This final rule amends 49 CFR § 392.9a(b) to reflect this change.

Section 32203—State Reporting of Foreign Commercial Driver Convictions

Section 32203(a) of MAP–21 amended 49 U.S.C. 31301 by adding a definition of “foreign commercial driver.” This final rule amends 49 CFR 383.5 to add this definition.

Section 32203(b) of MAP–21 amended 49 U.S.C. 31311(a) by adding a requirement that States report foreign commercial drivers’ convictions related to the operation of both CMVs and non-CMV to FMCSA’s Federal Convictions and Withdrawal Database. Section 32203(b) also added the requirement

that States report unlicensed or non-CDL foreign drivers’ convictions related to the operation of a CMV to the Federal Convictions and Withdrawal Database. This final rule amends 49 CFR 384.209 to add these requirements.

Section 32204—Authority To Disqualify Foreign Commercial Drivers

Previously enacted 49 U.S.C. 31310 sets forth the criteria for disqualifying CMV operators. Section 32204 of MAP–21 amended that section by stating explicitly that the disqualification criteria also apply to foreign commercial drivers. This rule amends 49 CFR 383.51 to reflect this change.

Section 32205—Revocation of Foreign Motor Carrier Operating Authority for Failure To Pay Civil Penalties

Section 32205 of MAP–21 amended 49 U.S.C. 13905(d)(2) to state explicitly that the Agency’s authority to suspend, amend, and revoke motor carrier operating authority registration applies to foreign motor carriers. This final rule amends 49 CFR 386.84 to reflect this change. The final rule also makes a technical correction to § 386.84. That section contains a reference to 49 CFR part 386 Appendix A (h) that was not updated after that paragraph was re-numbered. The correction references 49 CFR part 386 Appendix A (i).

Section 32307—Employer Responsibilities

Previously, 49 U.S.C. 31304 prohibited employers from allowing employees to operate CMVs when the employer *knew* that the employee had lost the right to operate a CMV or was disqualified, or when the employee’s driver’s license was suspended, revoked, or canceled (emphasis added). Section 32307 of MAP–21 amended that section to prohibit employers from allowing employees to drive when the employer *knows or should reasonably know* that those circumstances exist. This final rule amends 49 CFR 383.37 to reflect this change.

Section 32501—Inspection Demand and Display of Credentials

Section 32501 of MAP–21 amended 49 U.S.C. 504(c) to include employees of States that receive Motor Carrier Safety Assistance Program (MCSAP) grants as among those authorized to conduct inspections of certain equipment and records upon display of proper credentials. In addition, Section 32501 amended 49 U.S.C. 504(c) by specifying that the credentials of authorized individuals may be presented either in person or in writing. This final rule amends 49 CFR part 386 Appendix B (h)

and 49 CFR Chapter III, Subchapter B, Appendix B, paragraph 2. to reflect these changes.

Section 32503—Penalties for Violation of Operation Out of Service Orders

Section 32503 of MAP–21 amended 5 U.S.C. 521 to add a \$25,000 penalty for motor carriers operating CMVs in violation of an out-of-service order issued following a determination that the carrier is unfit or an imminent hazard. This final rule amends 49 CFR part 386 Appendices A (IV)(g.) and B (f) and to reflect this change.

Section 32505—Increased Penalties for Evasion of Regulations

Previously, 49 U.S.C. 524 provided the following penalties for knowing and willful violations of 49 U.S.C. chapter 5: \$200–\$500 for a first violation and \$250–\$2,000 for a subsequent violation. Section 32505 of MAP–21 amended this provision by removing the knowing and willful requirement; expanding the scope of applicable violations to include 49 U.S.C. chapter 51, subchapter III of chapter 311 (except §§ 31138 and 31139), §§ 31302, 31303, 31304, 31305(b), 31310(g)(1)(A), and 31502, and any regulation issued under those provisions; and increasing the penalty for a first violation to \$2,000–\$5,000 and subsequent violations to \$2,500–\$7,000. This final rule adds new paragraph (i) to 49 CFR part 386, Appendix B, to implement these amendments.

Section 32506—Violations Relating to CMV Safety Regulation and Operators

Previously, 49 U.S.C. 521(b)(2)(D) directed the Agency to take into account the following factors when assessing a civil penalty: The nature, circumstances, extent, and gravity of the violation committed and, with respect to the violator, the degree of culpability, history of prior offenses, *ability to pay*, effect on ability to continue to do business, and such other matters as justice and public safety may require (emphasis added). Section 32506 of MAP–21 amended 49 U.S.C. 521(b)(2)(D) by removing “ability to pay” from this list. This final rule amends 49 CFR 386.81, 387.17, and 387.41 to reflect this change.

Section 32507—Emergency Disqualification for Imminent Hazard

Previously, 49 U.S.C. 31310(f) provided for the emergency disqualification of an individual from operating a CMV, if continued operation would constitute an imminent hazard, as defined at 49 U.S.C. 5102. Section 32507 of MAP–21 amended § 31310(f) by changing the meaning of “imminent

the civil penalties to adjust for inflation, pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996 (Pub. L. 104–131, title III, chapter 10, Sec. 31001, par. (s), 110 Stat. 1321–373). 72 FR 55100 (Sept. 28, 2007). The Agency adjusted these penalty amounts to \$650 and \$2200.

² The Agency previously adjusted this amount to \$22,000. See note 1, above.

hazard” to include the definition at 49 U.S.C. 521. This final rule amends the definition of “imminent hazard” at 49 CFR 383.5 to reflect this change.

Section 32601—Motor Carrier Safety Assistance Program

Section 32601(a)(3) of MAP–21 amended 49 U.S.C. 31102(b) by identifying local government agencies as MCSAP partners and establishing four program goals. This final rule amends 49 CFR 350.103 to incorporate these new elements.

Section 32601(a)(4) amended the requirements, codified at 49 U.S.C. 31102(b), for State participation in the MCSAP grant program. This final rule amends 49 CFR 350.201 (n) and (s) and adds new § 350.201(z) and § 350.211(22) to reflect these changes.

Section 32601(a)(5) amended requirements, codified at 49 U.S.C. 31102(b), for the States’ maintenance of effort and average level of expenditure under the MCSAP grant plans. This final rule amends 49 CFR 350.201(f), 350.211, and 350.301(a) and (c) to reflect these changes.

Section 32913—Waivers, Exemptions and Pilot Programs

Section 32913(b) amended the requirements, codified at 49 U.S.C. 31315(b), for a person to request an exemption from certain Agency requirements. The amendment requires the person’s licensing State to inform roadside enforcement personnel of the exemption, after having received notice from FMCSA. New 49 CFR 350.201(z), discussed above, also implements this change.

Previously, 49 U.S.C. 31315(c)(1) required FMCSA to publish notice of all pilot programs in the **Federal Register**. Section 32913(c) retained the requirement that the Agency publish notices of pilot programs, but removed the requirement that they be published in the **Federal Register**. This final rule amends 49 CFR 381.500(d) to reflect that change.

Section 32918—Financial Security of Brokers and Freight Forwarders

Previously, 49 U.S.C. 13906 required brokers to maintain a bond to ensure that the transportation contracted for was actually provided, but left the amount of the bond to the Agency’s discretion. Section 32918 of MAP–21 amended that section to set a minimum of \$75,000 and extended the bond requirement to freight forwarders as well. This final rule amends 49 CFR 387.307(a) and 387.405 and adds new § 387.403(c) to implement this change.

Section 33010—Civil Penalties

Previously, 49 U.S.C. 5123 provided for penalties of between \$250 and \$50,000 for violations of regulations related to the transportation of hazardous materials. For violations that resulted in “death, serious illness, or severe injury to any person or substantial destruction of property,” it provided for penalties of up to \$100,000.³ MAP–21 amended § 5123 to provide for penalties of up to \$75,000 for violations of regulations related to the transportation of hazardous materials and \$175,000 in the event of death, serious illness, severe injury or substantial destruction of property. This final rule amends 49 CFR Appendix B (f)(2) to implement these changes.

Rulemaking Analyses and Notices **Executive Order 12866 (Regulatory Planning and Review and DOT Regulatory Policies and Procedures as Supplemented by E.O. 13563)**

FMCSA has determined this final 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 is also not significant within the meaning of DOT regulatory policies and procedures (44 FR 11034, February 26, 1979). As explained above, this final rule is strictly ministerial in that it incorporates nondiscretionary statutory requirements and includes administrative revisions, technical corrections and civil penalty increases to a number of statutory provisions. The majority of these statutory changes went into effect on October 1, 2012, while others will go into effect on October 1, 2013. These changes are necessary to make FMCSA’s regulations consistent with MAP–21 and will not exceed the \$100 million annual threshold. Any costs associated with this action are attributable to the non-discretionary statutory provisions. This final rule is not expected to generate substantial congressional or public interest. Therefore, a full regulatory impact analysis has not been conducted nor has there been a review by the Office of Management and Budget (OMB).

Although a full regulatory evaluation is unnecessary because of the low economic impact of this rulemaking, FMCSA analyzed the cost impact of the MAP–21 provisions implemented by this final rule. The provision in 49 U.S.C. 32918(a) requires all brokers and freight forwarders registered with FMCSA to provide a minimum financial

³ The Agency previously adjusted this amount to \$105,000. See note 1, above.

security of \$75,000 (surety bond or trust fund). Previously, the financial security requirement was \$10,000 for general property brokers and \$25,000 for household goods brokers. Freight forwarders did not have a comparable surety bond requirement. See 49 CFR part 387, subparts C and D.

FMCSA has identified 2,212⁴ registered interstate freight forwarders that will be subject to the new MAP–21 requirement. In addition, the Agency has 21,565⁵ registered interstate property brokers, of which 776⁶ are household goods brokers.⁷ The cost components associated with this rule are a \$75,000 minimum surety bond/trust fund consisting of the following: (1) One percent to secure the surety bond or trust fund;⁸ (2) \$10 BMC–84/85 filing fee; and (3) 10 minutes by an insurance clerk with a median \$25.39⁹ hourly wage to complete the BMC 84/85 form(s). The overall cost of the new

⁴ FMCSA’s Licensing and Insurance (L&I) and Motor Carrier Management Information System (MCMIS) database snapshot as February 22, 2013.

⁵ Commercial Motor Vehicle (CMV) Facts Sheet March 2013. Available at <http://www.fmcsa.dot.gov/documents/facts-research/CMV-Facts.pdf>.

⁶ Ibid., footnote 1.

⁷ These numbers reflect the number of brokers currently subject to FMCSA registration requirements. As a result of MAP–21 § 32915, which is not the subject of this rule, some motor carriers might choose to obtain broker registration in addition to motor carrier registration. At this time, the Agency does not have information on how many motor carriers this will affect; some might choose to obtain broker registration, while others might choose to revise their business practices to avoid obtaining broker registration. OMB approval of the BMC–84 and BMC–85 forms expires in January 2014. As a part of the renewal process, FMCSA will consider whether MAP–21 has affected the total number of responding brokers.

⁸ For the purpose of this analysis we will use 1% of the increased bond value (\$65,000 = \$650 for general property brokers, \$50,000 = \$500 for household goods, and \$75,000 = \$750 for freight forwarders). The cost is based on a percentage of the bond amount, which will vary by the applicant’s personal credit and experience in the industry (Brokers of Household Goods Transportation by Motor Vehicle final rule Regulatory Evaluation, published November 29, 2010—75 FR 72987), and volume of business. The typical surety bond usually costs between 1 and 3 percent of the bond’s face value, dependent on credit score. The bond’s cost will be higher and/or a down payment may be required if the principal’s financial history report contains negative marks, as the surety will now take a greater risk when guaranteeing the principal’s work. Available at http://www.jwsuretybonds.com/surety-bonds/commercial-bonds/freight_brokerbond.htm, www.suretybonds.com, Transportation Intermediaries Association (TIA) available at http://www.tianet.org/AM/Template.cfm?Section=About_TIA.

⁹ U.S. Department of Labor, Bureau of Labor Statistics, Occupational Employment Wages Statistics, April 2013. Available at <http://www.bls.gov/oes/current/oes439041.htm>. Insurance and Policy Clerks have a median \$16.93 hourly wage, plus a 50 percent markup for fringe benefits = \$25.39.

requirement is \$1.69 million¹⁰ in the first year for freight forwarders and \$14.21 million¹¹ for brokers with an overall cost of approximately \$15.9 million.

Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act (RFA) 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. FMCSA has determined that it has good cause to adopt the rule without notice and comment.

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 rule so that they can better evaluate its effects on themselves and participate in the rulemaking initiative. If the 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, Ms. Genevieve Sapir, listed in the **FOR FURTHER INFORMATION CONTACT** section of this rule.

Small businesses may send comments on the actions of Federal employees who enforce or otherwise determine compliance with Federal regulations to the SBA'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 ensuring the rights of small entities to regulatory enforcement fairness and an explicit policy against retaliation for exercising these rights.

¹⁰ The freight forwarder (FF) calculation includes the following: (2,212 FF × \$750 annual premium cost) = \$1.66 million + (2,212 FF × \$10 filing fee) = \$22,120 + (2,212 FF × 10/60 minutes to fill out form × \$25.39 wage) = \$9,360.

¹¹ The property broker calculation includes the following: (20,789 × \$650 general property broker annual premium cost) = \$13.51 million + (776 household good brokers × \$500 annual premium cost) = \$388,000 + (21,565 brokers × \$10 filing fee) = \$215,650 + (21,565 brokers × 10/60 minutes to fill out form × \$25.39 wage) = \$91,255.

Unfunded Mandates Reform Act of 1995

This final rule will 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 by a State, local, or 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 one year.

E.O. 13132 (Federalism)

A rulemaking has implications for Federalism under Section 1(a) of E.O. 13132 if it 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 State or local governments. FMCSA analyzed this action in accordance with Executive Order 13132. This final rule does not preempt or modify any provision of State law, impose substantial direct unreimbursed compliance costs on any State, or diminish the power of any State to enforce its own laws. Accordingly, this rulemaking does not have Federalism implications warranting the application of Executive Order 13132.

E.O. 12988 (Civil Justice Reform)

This final rule meets applicable standards in sections 3(a) and 3(b)(2) of E.O. 12988 to minimize litigation, eliminate ambiguity, and reduce burden.

E.O. 13045 (Protection of Children)

E.O. 13045, Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, Apr. 23, 1997), requires agencies issuing “economically significant” rules, if the regulation also concerns an environmental health or safety risk that an agency has reason to believe may disproportionately affect children, to include an evaluation of the regulation's environmental health and safety effects on children. The Agency determined this final rule is not economically significant. Therefore, no analysis of the impacts on children is required. In any event, the Agency does not anticipate that this regulatory action could in any respect present an environmental or safety risk that could 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 takings 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 individuals. This rule does not require the collection of personally identifiable information (PII).

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.

E.O. 12372 (Intergovernmental Review)

The regulations implementing E.O. 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this program.

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501, *et seq.*), Federal agencies must obtain approval from the OMB for each collection of information they conduct, sponsor, or require through regulations. For the currently approved OMB control number 2126–0017, Financial Responsibility, Trucking, and Freight Forwarding, this rule will produce a slight increase of 146 annual burden hours due to the increase of annual responses [Form BMC–84—2,750 annual responses × 10 minutes/60 minutes = 458 hours – previous 405 hours = 53 hours; Form BMC–85—4,380 annual responses × 10 minutes/60 minutes = 730 hours – previous 637 hours = 93 hours]. There is no collection requirement or change in annual burden hours for the currently approved OMB control number 2126–0016, Licensing Applications for Motor Carrier Operating Authority.

The Agency estimates that the changes to the Forms BMC–84 and BMC–85 result in a small modification in the number of respondents that will have no impact on the currently approved 10 minutes it takes a respondent to complete the form.

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 FMCSA's *NEPA Implementing Procedures and Policy for Considering Environmental Impacts*, Order 5610.1

(FMCSA Order), March 1, 2004 (69 FR 9680). FMCSA's Order states that "[w]here FMCSA has no discretion to withhold or condition an action if the action is taken in accordance with specific statutory criteria and FMCSA lacks control and responsibility over the effects of an action, that action is not subject to this Order." *Id.* at chapter 1(D). Because Congress specifies the Agency's precise action here, thus leaving the Agency no discretion over such action, and since the Agency lacks jurisdiction and therefore control and responsibility over the effects of these action, this rulemaking falls under chapter 1(D). Therefore, no further analysis is considered.

In addition to the NEPA requirements to examine impacts on air quality, the Clean Air Act (CAA) as amended (42 U.S.C. 7401, *et seq.*) also requires FMCSA to analyze the potential impact of its actions on air quality and to ensure that FMCSA actions conform to State and local air quality implementation plans. This non-discretionary action is expected to fall within the CAA *de minimis* standards and are not subject to the Environmental Protection Agency's General Conformity Rule (40 CFR parts 51 and 93).

Additionally, FMCSA evaluated the effects of this final rule in accordance with Executive Order 12898 and determined that there are no environmental justice issues associated with its provisions nor any collective environmental impacts resulting from its promulgation. Environmental justice issues would be raised if there were "disproportionate" and "high and adverse impact" on minority or low-income populations. This final rule is exempt from analysis under the National Environmental Policy Act. This final rule simply makes ministerial, mandatory changes and would not result in high and adverse environmental impacts.

E.O. 13211 (Energy Supply, Distribution, or Use)

FMCSA analyzed this action under E.O. 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. FMCSA determined that it is not a "significant energy action" under that E.O. because it is not economically significant and is not likely to have an adverse effect on the supply, distribution, or use of energy.

E.O. 13175 (Indian Tribal Governments)

This final rule does not have tribal implications under E.O. 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.

National Technology Transfer and Advancement Act (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 final rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

List of Subjects

49 CFR Part 350

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

49 CFR Part 381

Motor carriers.

49 CFR Part 383

Administrative practice and procedure, Alcohol abuse, Drug abuse, Highway safety, Motor carriers.

49 CFR Part 384

Administrative practice and procedure, Alcohol abuse, Drug abuse, Highway safety, Motor carriers.

49 CFR Part 385

Administrative practice and procedure, Highway safety, Mexico, Motor carriers, Motor vehicle safety, Reporting and recordkeeping requirements.

49 CFR Part 386

Administrative practice and procedure, Brokers, Freight forwarders, 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 392

Alcohol abuse, Drug abuse, Highway safety, Motor carriers.

For the reasons stated in the preamble, the FMCSA amends 49 CFR chapter III, as set forth below:

PART 350—COMMERCIAL MOTOR CARRIER SAFETY ASSISTANCE PROGRAM

- 1. The authority citation for part 350 continues to read as follows:

Authority: 49 U.S.C. 13902, 31101–31104, 31108, 31136, 31140–31141, 31161, 31310–31311, 31502; and 49 CFR 1.87.

- 2. Revise § 350.103 to read as follows:

§ 350.103 What is the purpose of this part?

The purpose of this part is to ensure the Federal Motor Carrier Safety Administration (FMCSA), States, local government agencies and other political jurisdictions work in partnership to establish programs to improve motor carrier, CMV, and driver safety to support a safe and efficient transportation system by—

(a) Making targeted investments to promote safe CMV transportation, including transportation of passengers and hazardous materials;

(b) Investing in activities likely to generate maximum reductions in the number and severity of CMV crashes and fatalities resulting from such crashes;

(c) Adopting and enforcing effective motor carrier, CMV, and driver safety regulations and practices consistent with Federal requirements; and

(d) Assessing and improving State wide performance by setting program goals and meeting performance standards, measures and benchmarks.

- 3. In § 350.201, revise paragraphs (f), (n), and (s) and add a new paragraph (z) to read as follows:

§ 350.201 What conditions must a State meet to qualify for Basic Program Funds?

* * * * *

(f) Maintain the aggregate expenditure of funds by the State lead agency responsible for implementing the CVSP, exclusive of Federal funds and State matching amounts, for CMV safety programs eligible for funding under this

part, at a level at least equal to the average level of that expenditure for fiscal years 2004 and 2005. Upon the request of a State, the Secretary may allow the State to exclude State expenditures for Government-sponsored demonstration or pilot projects. Upon the request of a State, the Secretary may waive or modify the requirements of this subsection for one fiscal year, if the Secretary determines that a waiver is equitable due to exceptional or uncontrollable circumstances, such as a natural disaster or a serious decline in the financial resources of the MCSAP agency.

* * * * *

(n) Ensure participation in appropriate FMCSA systems and other information systems by all appropriate jurisdictions receiving funding under this section.

* * * * *

(s) Establish and dedicate sufficient resources to a program to ensure that accurate, complete, and timely motor carrier safety data are collected and reported, and ensure the State's participation in a national motor carrier safety data correction system prescribed by FMCSA.

* * * * *

(z) Ensure transmittal to roadside inspectors the notice of each Federal exemption the State receives from FMCSA pursuant to 49 CFR part 381 subpart C, including the name of the person granted the exemption and any terms and conditions that apply to the exemption.

■ 4. In § 350.211, revise paragraphs 8., 11., and add paragraph 22. to read as follows:

§ 350.211 What is the format of the certification required by § 350.209?

* * * * *

8. The State must maintain the average aggregate expenditure of the State lead agency responsible for implementing the CVSP, exclusive of Federal assistance and State matching funds, for CMV safety programs eligible for funding under the Basic program at a level at least equal to the average level of that expenditure for fiscal years 2004 and 2005. These expenditures must cover at least the following four program areas, as applicable:

a. Motor carrier safety programs in accordance with 49 CFR 350.109.

b. Size and weight enforcement programs in accordance with 49 CFR 350.309(c)(1).

c. Drug interdiction enforcement programs in accordance with 49 CFR 350.309(c)(2).

d. Traffic safety programs in accordance with 49 CFR 350.309(d).

* * * * *

11. The State will establish a program to provide FMCSA with accurate, complete, and timely reporting of motor carrier safety information that includes documenting the effects of the State's CMV safety programs; participate in a national motor carrier safety data correction program (DataQs); participate in appropriate FMCSA systems; and ensure information is exchanged in a timely manner with other States.

* * * * *

22. The State will transmit to its roadside inspectors the notice of each Federal exemption granted pursuant to 49 U.S.C. 31315(b) as provided to the State by FMCSA, including the name of the person granted the exemption and any terms and conditions that apply to the exemption.

* * * * *

■ 5. In § 350.301, revise paragraphs (a) and (c) to read as follows:

§ 350.301 What level of effort must a State maintain to qualify for MCSAP funding?

(a) The State must maintain the average aggregate expenditure of the State and its political subdivisions, exclusive of Federal funds and State matching funds, for CMV safety programs eligible for funding under this part at a level at least equal to the average level of expenditure for fiscal years 2004 and 2005.

* * * * *

(c) The State must include costs associated with activities performed during the base period by the lead agency responsible for implementing the CVSP that receives funds under this part. It must include only those activities which meet the current requirements for funding eligibility under the grant program.

PART 381—WAIVERS, EXEMPTIONS, AND PILOT PROGRAMS

■ 6. The authority citation for part 381 continues to read as follows:

Authority: 49 U.S.C. 31136(e) and 31315; and 49 CFR 1.87.

■ 7. In § 381.500, revise paragraph (d) to read as follows:

§ 381.500 What are the general requirements the agency must satisfy in conducting a pilot program?

* * * * *

(d) The FMCSA will publish a detailed description of each pilot program, including the exemptions to be considered, and provide notice and an opportunity for public comment before the effective date of the pilot program.

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

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

Authority: 49 U.S.C. 521, 31136, 31301 et seq., and 31502; secs. 214 and 215 of Pub. L. 106–159, 113 Stat. 1748, 1766, 1767; sec. 1012(b) of Pub. L. 107–56, 115 Stat. 272, 397; sec. 4140 of Pub. L. 109–59, 119 Stat. 1144, 1726; and 49 CFR 1.86.

■ 9. In § 383.5, add a new definition of “foreign commercial driver” to appear in alphabetical order and revise the definition of “imminent hazard” to read as follows:

§ 383.5 Definitions.

* * * * *

Foreign commercial driver means an individual licensed to operate a commercial motor vehicle by an authority outside the United States, or a citizen of a foreign country who operates a commercial motor vehicle in the United States.

* * * * *

Imminent hazard means the existence of any condition of vehicle, employee, or commercial motor vehicle operations that substantially increases the likelihood of serious injury or death if not discontinued immediately; or a condition relating to hazardous material that presents a substantial likelihood that death, serious illness, severe personal injury, or a substantial endangerment to health, property, or the environment may occur before the reasonably foreseeable completion date of a formal proceeding begun to lessen the risk of that death, illness, injury or endangerment.

* * * * *

■ 10. Revise the introductory paragraph of § 383.37 to read as follows:

§ 383.37 Employer responsibilities.

No employer may allow, require, permit, or authorize a driver to operate a CMV in the United States if he or she knows or should reasonably know that any of the following circumstances exist:

* * * * *

■ 11. In § 383.51, add paragraph (a)(7) to read as follows:

§ 383.51 Disqualification of drivers.

(a) * * *

(7) A foreign commercial driver is subject to disqualification under this subpart.

* * * * *

PART 384—STATE COMPLIANCE WITH COMMERCIAL DRIVER'S LICENSE PROGRAM

■ 12. The authority citation for part 384 continues to read as follows:

Authority: 49 U.S.C. 31136, 31301, *et seq.*, and 31502; secs. 103 and 215 of Pub. L. 106–59, 113 Stat. 1753, 1767; and 49 CFR 1.87.

■ 13. Revise § 384.209 to read as follows:

§ 384.209 Notification of traffic violations.

(a) *Required notification with respect to CLP or CDL holders.* (1) Whenever a person who holds a CLP or CDL from another State is convicted of a violation of any State or local law relating to motor vehicle traffic control (other than parking, vehicle weight or vehicle defect violations), in any type of vehicle, the licensing entity of the State in which the conviction occurs must notify the licensing entity in the State where the driver is licensed of this conviction within the time period established in paragraph (c) of this section.

(2) Whenever a person who holds a foreign commercial driver's license is convicted of a violation of any State or local law relating to motor vehicle traffic control (other than parking, vehicle weight or vehicle defect violations), in any type of vehicle, the licensing entity of the State in which the conviction occurs must report that conviction to the Federal Convictions and Withdrawal Database.

(b) *Required notification with respect to non-CDL holders.* (1) Whenever a person who does not hold a CDL, but who is licensed to drive by another State, is convicted of a violation in a CMV of any State or local law relating to motor vehicle traffic control (other than a parking violation), the licensing entity of the State in which the conviction occurs must notify the licensing entity in the State where the driver is licensed of this conviction within the time period established in paragraph (c) of this section.

(2) Whenever a person who is unlicensed or holds a foreign non-commercial driver's license is convicted of a violation in a CMV of any State or local law relating to motor vehicle traffic control (other than a parking violation), the licensing entity of the State in which the conviction occurs must report that conviction to the Federal Convictions and Withdrawal Database.

* * * * *

PART 385—SAFETY FITNESS PROCEDURES

■ 14. The authority citation for part 385 continues to read as follows:

Authority: 49 U.S.C. 113, 504, 521(b), 5105(e), 5109, 13901–13905, 31133, 31135, 31136, 31137(a), 31144, 31148, and 31502; Sec. 113(a), Pub. L. 103–311; Sec. 408, Pub. L. 104–88; Sec. 350 of Pub. L. 107–87; and 49 CFR 1.87.

■ 15. In § 385.3, revise the definition of “new entrant registration” to read as follows:

§ 385.3 Definitions and acronyms.

* * * * *

New entrant registration is the registration (US DOT number) granted a new entrant before it can begin interstate operations in an 18-month monitoring period. A safety audit must be performed on a new entrant's operations within 12 months after receipt of its US DOT number for motor carriers of property and 120 days for motor carriers of passengers, and it must be found to have adequate basic safety management controls to continue operating in interstate commerce at the end of the 18-month period.

* * * * *

■ 16. In Appendix A to part 385, revise paragraph (I)(a) to read as follows:

Appendix A to Part 385—Explanation of Safety Audit Evaluation Criteria

I. General

(a) Section 210 of the Motor Carrier Safety Improvement Act (49 U.S.C. 31144) directed the Secretary to establish a procedure whereby each owner and each operator granted new authority must undergo a safety review within 12 months after receipt of its US DOT number for motor carriers of property and 120 days for motor carriers of passengers. The Secretary was also required to establish the elements of this safety review, including basic safety management controls. The Secretary, in turn, delegated this to the FMCSA.

* * * * *

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

■ 17. 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. 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; Sec. 206, Pub. L. 106–159, 113 Stat. 1763; subtitle B, title IV of Pub. L. 109–59; and 49 CFR 1.81 and 1.87.

§ 386.81 [Amended]

■ 18. In § 386.81, amend paragraph (a) by removing the phrase “ability to pay,”.

■ 19. In § 386.84, revise paragraphs (a), (b)(1), (c), and the introductory text to (d) to read as follows:

§ 386.84 Sanction for failure to pay civil penalties or abide by payment plan; suspension or revocation of registration.

(a)(1) *General rule.* The registration of a broker, freight forwarder, for-hire motor carrier, foreign motor carrier or foreign motor private carrier that fails to pay a civil penalty in full within 90 days after the date specified for payment by the FMCSA's final agency order, will be suspended starting on the next (i.e., the 91st) day. The suspension continues until the FMCSA has received full payment of the penalty.

(2) *Civil penalties paid in installments.* The FMCSA Service Center may allow a respondent broker, freight forwarder, for-hire motor carrier, foreign motor carrier or foreign motor private carrier to pay a civil penalty in installments. If the respondent fails to make an installment payment on schedule, the payment plan is void and the entire debt is payable immediately. The registration of a respondent that fails to pay the remainder of its civil penalty in full within 90 days after the date of the missed installment payment is suspended on the next (i.e., the 91st) day. The suspension continues until the FMCSA has received full payment of the entire penalty.

(3) *Appeals to Federal Court.* If the respondent broker, freight forwarder, for-hire motor carrier, foreign motor carrier or foreign motor private carrier appeals the final agency order to a Federal Circuit Court of Appeals, the terms and payment due date of the final agency order are not stayed unless the Court so directs.

(b) *Show Cause Proceeding.* (1) The FMCSA will notify a broker, freight forwarder, for-hire motor carrier, foreign motor carrier or foreign motor private carrier in writing if it has not received payment within 45 days after the date specified for payment by the final agency order or the date of a missed installment payment. The notice will include a warning that failure to pay the entire penalty within 90 days after payment was due will result in the suspension of the respondent's registration.

(c) The registration of a broker, freight forwarder, for-hire motor carrier, foreign motor carrier or foreign motor private carrier that continues to operate in

interstate commerce in violation of this section after its registration has been suspended may be revoked after an additional notice and opportunity for a proceeding in accordance with 49 U.S.C. 13905(c). Additional sanctions may be imposed under paragraph IV(i) of Appendix A to part 386.

(d) This section does not apply to any person who is unable to pay a civil penalty because the person is a debtor in a case under chapter 11, title 11, United States Code. Brokers, freight forwarders, for-hire motor carriers, foreign motor carriers or foreign motor private carriers in bankruptcy proceedings under chapter 11 must provide the following information in their response to the FMCSA:

* * * * *

- 20. In Appendix A to part 386, add paragraph II. and revise paragraph IV.g. to read as follows:

Appendix A to Part 386—Penalty Schedule; Violations of Notices and Orders

* * * * *

II. Subpoena

Violation—Failure to respond to Agency subpoena to appear and testify or produce records.

Penalty—minimum of \$1,000 but not more than \$10,000 per violation.

* * * * *

IV. Out-of-Service Order

* * * * *

g. Violation—Operating in violation of an order issued under § 386.72(b) to cease all or part of the employer’s commercial motor vehicle operations or to cease all or part of an intermodal equipment provider’s operations, i.e., failure to cease operations as ordered.

Penalty—Up to \$25,000 per day the operation continues after the effective date and time of the order to cease.

* * * * *

- 21. In Appendix B to Part 386, revise paragraphs (f); (g)(1) through (3) and (6); and (h) and add new paragraph (i) to read as follows:

Appendix B to Part 386—Penalty Schedule; Violations and Monetary Penalties

* * * * *

(f) *Operating after being declared unfit by assignment of a final “unsatisfactory” safety rating.* (1) A motor carrier operating a commercial motor vehicle in interstate commerce (except owners or operators of commercial motor vehicles designed or used to transport hazardous materials for which placarding of a motor vehicle is required under regulations prescribed under 49 U.S.C. chapter 51) is subject, after being placed out of service because of receiving a final “unsatisfactory” safety rating, to a civil

penalty of not more than \$25,000 (49 CFR 385.13). Each day the transportation continues in violation of a final “unsatisfactory” safety rating constitutes a separate offense.

(2) A motor carrier operating a commercial motor vehicle designed or used to transport hazardous materials for which placarding of a motor vehicle is required under regulations prescribed under 49 U.S.C. chapter 51 is subject, after being placed out of service because of receiving a final “unsatisfactory” safety rating, to a civil penalty of not more than \$75,000 for each offense. If the violation results in death, serious illness, or severe injury to any person or in substantial destruction of property, the civil penalty may be increased to not more than \$175,000 for each offense. Each day the transportation continues in violation of a final “unsatisfactory” safety rating constitutes a separate offense.

* * * * *

(g) * * *

(1) A person who fails to make a report, to specifically, completely, and truthfully answer a question, or to make, prepare, or preserve a record in the form and manner prescribed is liable for a minimum penalty of \$1,000 per violation.

(2) A person who operates as a carrier or broker for the transportation of property in violation of the registration requirements of 49 U.S.C. 13901 is liable for a minimum penalty of \$10,000 per violation.

(3) A person who operates as a motor carrier of passengers in violation of the registration requirements of 49 U.S.C. 13901 is liable for a minimum penalty of \$25,000 per violation.

* * * * *

(6) A person who operates as a motor carrier or broker for the transportation of hazardous wastes in violation of the registration provisions of 49 U.S.C. 13901 is liable for a minimum penalty of \$20,000 and a maximum penalty of \$40,000 per violation.

* * * * *

(h) *Copying of records and access to equipment, lands, and buildings.* A person subject to 49 U.S.C. chapter 51 or a motor carrier, broker, freight forwarder, or owner or operator of a commercial motor vehicle subject to part B of subtitle VI of title 49 U.S.C. who fails to allow promptly, upon demand in person or in writing, the Federal Motor Carrier Safety Administration, an employee designated by the Federal Motor Carrier Safety Administration, or an employee of a MCSAP grant recipient to inspect and copy any record or inspect and examine equipment, lands, buildings, and other property, in accordance with 49 U.S.C. 504(c), 5121(c), and 14122(b), is subject to a civil penalty of not more than \$1,000 for each offense. Each day of a continuing violation constitutes a separate offense, except that the total of all civil penalties against any violator for all offenses related to a single violation shall not exceed \$10,000.

(i) A person, or an officer, employee, or agent of that person, that by any means tries to evade regulation of motor carriers under Title 49, United States Code chapter 5, chapter 51, subchapter III of chapter 311

(except sections 31138 and 31139) or section 31302, 31303, 31304, 31305(b), 31310(g)(1)(A), or 31502, or a regulation issued under any of those provisions, shall be fined at least \$2,000 but not more than \$5,000 for the first violation and at least \$2,500 but not more than \$7,500 for a subsequent violation.

PART 387—MINIMUM LEVELS OF FINANCIAL RESPONSIBILITY FOR MOTOR CARRIERS

- 22. The authority citation for part 387 continues to read as follows:

Authority: 49 U.S.C. 13101, 13301, 13906, 14701, 31138, 31139, and 31144; and 49 CFR 1.87.

§ 387.17 [Amended]

- 23. Amend § 387.17 by removing the phrase “ability to pay,”.

§ 387.41 [Amended]

- 24. Amend § 387.41 by removing the phrase “ability to pay,”.

- 25. In § 387.307, revise paragraph (a) to read as follows:

§ 387.307 Broker surety bond or trust fund.

(a) *Security.* A broker must have a surety bond or trust fund in effect for \$75,000. The FMCSA will not issue a broker license until a surety bond or trust fund for the full limits of liability prescribed herein is in effect. The broker license shall remain valid or effective only as long as a surety bond or trust fund remains in effect and shall ensure the financial responsibility of the broker.

* * * * *

- 26. In § 387.403, add paragraph (c) to read as follows:

§ 387.403 General requirements.

* * * * *

(c) *Surety bond or trust fund.* A freight forwarder must have a surety bond or trust fund in effect. The FMCSA will not issue a freight forwarder license until a surety bond or trust fund for the full limit of liability prescribed in § 387.405 is in effect. The freight forwarder license shall remain valid or effective only as long as a surety bond or trust fund remains in effect and shall ensure the financial responsibility of the freight forwarder. The requirements applicable to property broker surety bonds and trust funds in § 387.307 shall apply to the surety bond or trust fund required by this paragraph.

- 27. Revise § 387.405 to read as follows:

§ 387.405 Limits of liability.

The minimum amounts for cargo and public liability security are identical to

those prescribed for motor carriers at 49 CFR 387.303. The minimum amount for the surety bond or trust fund is identical to that prescribed for brokers at 49 CFR 387.307.

PART 392—DRIVING OF COMMERCIAL MOTOR VEHICLES

■ 28. The authority citation for part 392 continues to read as follows:

Authority: 49 U.S.C. 504, 13902, 31136, 31151, 31502; and 49 CFR 1.87.

■ 29. In § 392.9a, revise paragraph (b) to read as follows:

§ 392.9a Operating authority.

* * * * *

(b) *Penalties.* Every motor carrier providing transportation requiring operating authority shall be ordered out of service if it is determined that the motor carrier is operating a vehicle in violation of paragraph (a) of this section. In addition, the motor carrier may be subject to penalties in accordance with 49 U.S.C. 14901.

* * * * *

SUBCHAPTER B—FEDERAL MOTOR CARRIER SAFETY REGULATIONS

■ 30. In Appendix B to Subchapter B of Chapter III, revise paragraph 2. to read as follows:

Appendix B to Subchapter B of Chapter III—Special Agent

* * * * *

2. *Compliance.* Motor carriers and other persons subject to these Acts shall submit their accounts, books, records, memoranda, correspondence, and other documents for inspection and copying, and they shall submit their lands, buildings, and equipment for examination and inspection, to any special agent of the Administration upon demand and display of an Administration credential, either in person or in writing, identifying him/her as a special agent.

* * * * *

Issued under the authority of delegation in 49 CFR 1.87: September 19, 2013.

Anne S. Ferro,
Administrator.

[FR Doc. 2013-23517 Filed 9-30-13; 8:45 am]

BILLING CODE 4910-EX-P