

**DEPARTMENT OF TRANSPORTATION****Federal Motor Carrier Safety Administration**

**49 CFR Parts 325, 350, 365, 380, 382, 383, 385, 387, 389, 391, 392, 395, and 396**

**RIN 2126-AC27**

**General Technical, Organizational, Conforming, and Correcting Amendments to the Federal Motor Carrier Safety Regulations**

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

**ACTION:** Final rule.

**SUMMARY:** FMCSA amends its regulations by making technical corrections throughout the Federal Motor Carrier Safety Regulations. The Agency makes minor changes to correct inadvertent errors and omissions, remove or update obsolete references, and improve the clarity and consistency of certain regulatory provisions. The Agency also makes nondiscretionary, ministerial changes that are statutorily mandated.

**DATES:** Effective September 30, 2019.

**FOR FURTHER INFORMATION CONTACT:** Ms. Sarah Stella, Federal Motor Carrier Safety Administration, Regulatory Development Division, 1200 New Jersey Avenue SE, Washington, DC 20590-0001; (202) 366-5370; [sarah.stella@dot.gov](mailto:sarah.stella@dot.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Legal Basis for the Rulemaking**

Congress delegated certain powers to regulate interstate commerce to the United States Department of Transportation (DOT or Department) in numerous pieces of legislation, most notably in section 6 of the Department of Transportation Act (DOT Act) (Pub. L. 89-670, 80 Stat. 931, 937, Oct. 15, 1966). Section 6 of the DOT Act transferred to the Department the authority of the former Interstate Commerce Commission (ICC) to regulate the qualifications and maximum hours of service of employees, the safety of operations, and the equipment of motor carriers in interstate commerce (80 Stat. 939). This authority, first granted to the ICC in the Motor Carrier Act of 1935 (Pub. L. 74-255, 49 Stat. 543, Aug. 9, 1935), now appears in 49 U.S.C. chapter 315. The regulations issued under this (and subsequently enacted) authority became known as the Federal Motor Carrier Safety Regulations, codified at 49 CFR parts 350-399. The administrative powers to enforce

chapter 315 (codified in 49 U.S.C. chapter 5) were also transferred from the ICC to the DOT in 1966, and assigned first to the Federal Highway Administration (FHWA) and then to FMCSA. The FMCSA Administrator has been delegated authority under 49 CFR 1.87 to carry out the motor carrier functions vested in the Secretary of Transportation.

Between 1984 and 1999, several statutes added to FHWA's authority. Various statutes authorize the enforcement of the Federal Motor Carrier Safety Regulations, the Hazardous Materials Regulations, and the Commercial Regulations, and provide both civil and criminal penalties for violations of these requirements. These statutes include the Motor Carrier Safety Act of 1984 (Pub. L. 98-554, 98 Stat. 2832, Oct. 30, 1984), codified at 49 U.S.C. chapter 311, subchapter III; the Commercial Motor Vehicle Safety Act of 1986 (Pub. L. 99-570, 100 Stat. 3207-170, Oct. 27, 1986), codified at 49 U.S.C. chapter 313; the Hazardous Materials Transportation Uniform Safety Act of 1990, as amended (Pub. L. 101-615, 104 Stat. 3244, Nov. 16, 1990), codified at 49 U.S.C. chapter 51; the Omnibus Transportation Employee Testing Act of 1991 (Pub. L. 102-143, Title V, 105 Stat. 917, 952, Oct. 28, 1991), codified at 49 U.S.C. 31306; and the ICC Termination Act of 1995 (Pub. L. 104-88, 109 Stat. 803, Dec. 29, 1995), codified at 49 U.S.C. chapters 131-149.

The Motor Carrier Safety Improvement Act of 1999 (Pub. L. 106-159, 113 Stat. 1748, Dec. 9, 1999) established FMCSA as a new operating administration within DOT, effective January 1, 2000. The motor carrier safety responsibilities previously assigned to both the ICC and FHWA are now assigned to FMCSA.

Congress expanded, modified, and amended FMCSA's authority in the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT) Act of 2001 (Pub. L. 107-56, 115 Stat. 272, Oct. 26, 2001); the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) (Pub. L. 109-59, 119 Stat. 1144, Aug. 10, 2005); the SAFETEA-LU Technical Corrections Act of 2008 (Pub. L. 110-244, 122 Stat. 1572, June 6, 2008); the Moving Ahead for Progress in the 21st Century Act (Pub. L. 112-141, 126 Stat. 405, July 6, 2012); and the Fixing America's Surface Transportation Act (Pub. L. 114-94, 129 Stat. 1312, Dec. 4, 2015).

In addition, the Agency derives secondary authority from section 205 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (Pub. L. 101-73, 103 Stat. 183, Aug. 9, 1989), and section 12104 of the Agriculture Improvement Act of 2018 (Pub. L. 115-334, 132 Stat. 4490, Dec. 20, 2018), as they pertain to financial responsibility requirements for property brokers and drivers transporting agricultural commodities, respectively.

The specific regulations amended by this rule are based on the statutes detailed above. Generally, the legal authority for each of those provisions was explained when the requirement was originally adopted and is noted at the beginning of each part in title 49 of the Code of Federal Regulations.

The Administrative Procedure Act (APA) specifically provides exceptions to its notice and comment rulemaking procedures when an agency finds there is good cause to dispense with them, and incorporates the finding, and a brief statement of reasons therefore, in the rules issued (5 U.S.C. 553(b)(3)(B)). Generally, good cause exists when an agency determines that notice and public comment procedures are impractical, unnecessary, or contrary to the public interest. The amendments made in this final rule primarily correct inadvertent errors and omissions, remove or update obsolete references, and make minor language changes to improve clarity and consistency. Two changes are statutorily mandated. In accommodating those changes, the Agency is performing nondiscretionary, ministerial acts. The technical amendments do not impose any material new requirements or increase compliance obligations. For these reasons, FMCSA finds good cause that notice and public comment on this final rule are unnecessary.

The APA also allows agencies to make rules effective immediately with good cause (5 U.S.C. 553(d)(3)), instead of requiring publication 30 days prior to the effective date. For the reasons already stated, FMCSA finds there is good cause for this rule to be effective immediately.

The Agency is aware of the regulatory requirements concerning public participation in FMCSA rulemaking (49 U.S.C. 31136(g)). These requirements pertain to certain major rules,<sup>1</sup> but,

<sup>1</sup> A "major rule" means any rule that the Administrator of the Office of Information and

because this final rule is not a major rule, they are not applicable. In any event, the Agency finds that publication of an advance notice of proposed rulemaking under 49 U.S.C. 31136(g)(1)(A), as well as a negotiated rulemaking under 49 U.S.C. 31136(g)(1)(B), is unnecessary and contrary to the public interest in accordance with the waiver provision in 49 U.S.C. 31136(g)(3).

## II. Section-by-Section Analysis

The section-by-section analysis describes the changes to the Code of Federal Regulations in numerical order.

### A. Section 325.3 Effective Date

FMCSA removes and reserves § 325.3, Effective date. Part 325 became effective October 15, 1975. Because it has been in effect for 43 years, the notice in this section is no longer necessary and the section is obsolete.

### B. Section 350.213 What must a State CVSP include?

FMCSA corrects the cross reference at the end of § 350.213(b) that now reads “§ 350.201(q) and (t)” to read “§ 350.201(q) and (s).” On October 14, 2016, FMCSA revised § 350.201 in a final rule titled “Amendments to Implement Grants Provisions of the Fixing America’s Surface Transportation Act” (81 FR 71011). The provisions formerly in paragraph (t) were revised and moved to paragraph (s), but the Agency failed to correct the cross reference at that time.

### C. Sections 365.203 (Suspended) and 365.203T Time for Filing

In § 365.203 (suspended), FMCSA removes the reference to “Office of the Associate Administrator for Research and Information Technology,” and replaces it with a reference to the “Office of Registration and Safety Information (MC-RS).” The Office of Registration and Safety Information is now the office responsible for receiving these protests. In § 365.203T, FMCSA adds a reference to the Office of Registration and Safety Information and

its address to clarify how protests must be filed.

On January 17, 2017, FMCSA suspended certain regulations relating to the electronic Unified Registration System and delayed their effective date indefinitely (82 FR 5292). The suspended regulations were replaced by temporary provisions that contain the requirements in place on January 13, 2017. Section 365.203 was one of the sections suspended and § 365.203T, which is currently in effect, was added (82 FR 5300).

### D. Section 380.725 Documentation and Record Retention

In § 380.725(a), FMCSA changes the reference that now reads “subpart F” to read “subpart G.” The error appeared in the rule when it was published on December 8, 2016 (81 FR 88793.)

### E. Section 382.107 Definitions

FMCSA amends the definition of “actual knowledge” in § 382.107 by removing the words “a traffic citation for” and adding in their place the words “a traffic citation, complaint, or other document charging.” The entire phrase will read “a traffic citation, complaint, or other document charging driving a CMV while under the influence of alcohol or controlled substances.”

The purpose of the amendment is to clarify that, as used in this section, the Agency considers “traffic citation” to be a broad term encompassing all documents charging driving a CMV while under the influence of alcohol or controlled substances. Therefore, an employer’s knowledge of any type of document charging the driver with operating a CMV while under the influence of drugs or alcohol provides a sufficient basis for that employer’s “actual knowledge,” as that term is defined in § 382.107, that the employee-driver has violated subpart B of part 382.

### F. Section 383.25 Commercial Learner’s Permit (CLP)

FMCSA corrects an error in § 383.25(c). FMCSA revised § 383.25(c), as well as § 383.73(a)(2)(iii), on December 21, 2018 (83 FR 65571). These provisions allow CLPs to be issued for 1 year or less from the date of issuance without requiring a CLP holder to retake the general and endorsement knowledge tests. Section 383.25(c) provides that “CLPs issued for a period of less than 1 year may be renewed provided the CLP is not valid for no more than one year from the date of initial issuance.” The word “no” is removed from § 383.25(c) to eliminate the inadvertent double negative and to ensure that the

language is consistent with that of § 383.73(a)(2)(iii).

### G. Section 385.13 Unsatisfactory Rated Motor Carriers; Prohibition on Transportation; Ineligibility for Federal Contracts

FMCSA updates the web address in paragraph (a) (<http://www.safer.sys.org>), which is no longer active, to the current FMCSA Safety and Fitness Electronic Records System address at <https://safer.fmcsa.dot.gov>. In paragraphs (a)(2) and (c) of § 385.13, FMCSA removes the effective dates (November 20, 2000 and January 22, 2001, respectively) to improve the clarity of the section. When these dates were originally published on August 22, 2000 (65 FR 50934), they were informative. However, they are now obsolete.

### H. Section 385.19 Safety Fitness Information

In § 385.19(c), FMCSA changes the office where requests should be addressed from the “Office of Information Technology (MC-R)” to the “Office of Registration and Safety Information (MC-RS).” This reflects a change in organization. The Agency also updates paragraph (c) to provide the current FMCSA Safety and Fitness Electronic Records System address at <https://safer.fmcsa.dot.gov>, and corrects a grammatical error.

### I. Section 385.403 Who must hold a safety permit?

FMCSA removes the phrase “[a]fter the date following January 1, 2005, that a motor carrier is required to file a Motor Carrier Identification Report Form (MCS-150) according to the schedule set forth in § 390.19(a) of this chapter” from the introductory text of § 385.403 to improve the clarity of the section. This compliance information was provided when part 385, subpart E, Hazardous Materials Safety Permits, was adopted on June 30, 2004 (69 FR 39368), but it is no longer necessary.

### J. Sections 385.405 (Suspended) and 385.405T How does a motor carrier apply for a safety permit?

FMCSA changes paragraph (b) of § 385.405 (suspended) to accurately reflect the online application procedures. Paragraph (b) of § 385.405T is changed by replacing the reference to the Office of Information Technology (MC-R) with a reference to the Office of Registration and Safety Information (MC-RS), the office now responsible for the forms and instructions.

Regulatory Affairs of the Office of Management and Budget (OMB) finds has resulted in or is likely to result in (a) an annual effect on the economy of \$100 million or more; (b) a major increase in costs or prices for consumers, individual industries, Federal agencies, State agencies, local government agencies, or geographic regions; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets (5 U.S.C. 804(2)). The term “major rule” does not include any rule promulgated under the Telecommunications Act of 1996 and the amendments made by that Act.

*K. Section 385.417 Is a motor carrier's safety permit number available to others?*

FMCSA updates the obsolete web address in § 385.417 to the current FMCSA Safety and Fitness Electronic Records System address at <https://safer.fmcsa.dot.gov>, and corrects a grammatical error.

*L. Appendix B to Part 385—Explanation of Safety Rating Process*

FMCSA revises Appendix B to Part 385, section VII, to correct two entries. The entry for “§ 382.213(b) Using a driver known to have used a controlled substance (acute)” is changed to read “§ 382.213(c) Using a driver known to have used a controlled substance (acute).” On January 30, 2012, FMCSA adopted a revision to § 382.213 that moved the information previously in paragraph (b) to paragraph (c) (77 FR 4483).

The entry for “§ 391.45(b)(1) Using a driver not medically examined and certified during the preceding 24 months (critical)” is corrected to read “§ 391.45(b) Using a driver not medically examined and certified during the preceding 24 months (critical).” Section 391.45 was revised and reorganized by a rule published September 19, 2018, which moved the requirements in § 391.45(b)(1) to paragraph (b) (83 FR 47520).

*M. Sections 387.303 (Suspended) and 387.303T Security for the Protection of the Public: Minimum Limits*

FMCSA corrects the inaccurate cross references in §§ 387.303(b)(2)(iii) (suspended) and 387.303T(b)(2)(iii). Prior to October 1, 2012, the paragraphs of the table in § 387.303(b)(2) were designated as paragraphs (a), (b), (c), and (d). On October 1, 2012, they were redesignated as paragraphs (b)(2)(i), (ii), (iii), and (iv), but the Agency failed to make conforming changes to the cross references in redesignated paragraph (b)(2)(iii) (77 FR 59827). Accordingly, the cross references to paragraph (b) or (d) are changed to paragraph (b)(2)(ii) or (iv). These changes make the language in the tables in §§ 387.303(b)(2) (suspended) and 387.303T(b)(2) consistent.

*N. Section 387.307 Property Broker Surety Bond or Trust Fund*

Section 387.307(c)(4) defines a financial institution to include an “insured institution (as defined in section 401(a) of the National Housing Act (12 U.S.C. 1724(a)).” The National Housing Act (Pub. L. 73–479, 48 Stat. 1246, 1255, June 27, 1934) defined the term as an institution insured under the

Federal Savings and Loan Insurance Corporation (FSLIC).

The Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (Reform Act) (Pub. L. 101–73, secs. 401 and 407, 103 Stat. 183, 354, 363, Aug. 9, 1989) abolished the FSLIC and repealed title 4 of the National Housing Act (12 U.S.C. 1724 *et seq.*). The Reform Act amended section 4 of the Federal Deposit Insurance Act (12 U.S.C. 1814(a)(2)) to provide that each savings association insured by the FSLIC would automatically become an “insured depository institution” (sec. 205, 103 Stat. 194). That term is defined in section 3(c)(2) of the Federal Deposit Insurance Act to mean any bank or savings association the deposits of which are insured by the Federal Deposit Insurance Corporation (12 U.S.C. 1813(c)(2)). Accordingly, the Agency corrects the outdated reference in § 387.307(c)(4), as mandated by the Reform Act, to read, “An insured depository institution (as defined in section 3(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c)(2)).”

*O. Sections 387.313 (Suspended) and 387.313T Forms and Procedures Sections 387.413 (Suspended) and 387.413T Forms and Procedures*

The Agency removes paragraph (f) from §§ 387.313 (suspended), 387.313T, 387.413 (suspended), and 387.413T, which references Form BMC–32 endorsements and Form BMC–34 certificates of insurance that expired March 21, 2011. Paragraph (f) was added to §§ 387.313 and 387.413 to provide notice that these forms would expire (75 FR 35328–29, June 22, 2010), but it is now obsolete.

FMCSA also revises the heading of § 387.413 (suspended) to read “Forms and procedures,” rather than “Forms and procedure,” to be consistent with the headings of §§ 387.313 (suspended), 387.313T, and 387.413T.

*P. Section 389.9 Treatment of Confidential Business Information Submitted Under Confidential Class Determinations*

FMCSA changes the heading of § 389.9 by adding the phrase “submitted under confidential class determinations” to make clear to the reader initially that the procedures in the section apply only to certain forms of confidential business information. At the end of paragraph (a), the Agency adds a cross reference to paragraph (f) of this section to clarify the applicability of the procedures set forth in § 389.9.

*Q. Section 391.41 Physical Qualifications for Drivers*

In § 391.41(a)(1)(i), FMCSA amends the note to reflect that the commercial drivers' license reciprocity memorandum of understanding with Mexico was amended as of January 19, 2017.

*R. Section 391.46 Physical Qualification Standards for an Individual With Diabetes Mellitus Treated With Insulin for Control*

In § 391.46(c)(2)(iv), FMCSA corrects the cross reference to “paragraph (c)(iv)” to read “paragraph (c)(2)(iii).” On September 19, 2018, the Agency published a new standard for individuals with insulin-treated diabetes that added § 391.46, but inadvertently provided the wrong citation (83 FR 47520).

*S. Section 391.51 General Requirements for Driver Qualifications Files*

FMCSA removes the expired effective date (January 30, 2012) from the beginning of § 391.51(b)(7)(ii). On December 1, 2008, FMCSA published a rule that revised § 391.51(b)(7)(ii) (73 FR 73127). The paragraph included the effective date of the exception, then 3 years in the future, for the information of the user. It is now obsolete.

*T. Section 391.53 Driver Investigation History File*

FMCSA removes the compliance date (October 29, 2004) from § 391.53(a). This compliance date was added to aid the user when the section was added on March 30, 2004 (69 FR 16721). It is now 15 years in the past and no longer necessary.

In paragraph (b)(1) of § 391.53, FMCSA corrects the cross reference to “§ 391.23(d)” to read “§ 391.23(f)(1),” which relates to driver consent. This cross reference was incorrect when the rule was originally published.

*U. Section 392.10 Railroad Grade Crossings; Stopping Required*

FMCSA corrects the punctuation in § 392.10(b) by changing the ending punctuation in paragraphs (b)(2) and (4) to periods. This is to make the punctuation consistent.

*V. Section 395.1 Scope of Rules in This Part*

FMCSA corrects the cross reference in paragraph (a)(1) of § 395.1 to read “paragraphs (b) through (x) of this section,” rather than “(b) through (r) of this section.” Inadvertently, FMCSA failed to update this cross reference when § 395.1(s) was added on March 14,

2013 (78 FR 16195), and when paragraphs (t) through (x) of § 395.1 were added on July 22, 2016 (81 FR 47721).

#### W. Section 395.2 Definitions

In § 395.2, FMCSA amends the definition of “livestock” by replacing the phrase “fish used for food, and other animals designated by the Secretary of Agriculture” with the phrase “llamas, alpacas, live fish, crawfish, and other animals” to reflect a statutory change to the definition.

Section 4130(c) of SAFETEA-LU added a definition for the term “agricultural commodity,” and defined it as “any agricultural commodity, non-processed food, feed, fiber, or livestock (including livestock as defined in section 602 of the Emergency Livestock Feed Assistance Act of 1988 (7 U.S.C. 1471) and insects)” (119 Stat. 1743 (49 U.S.C. 31136 note)). On July 5, 2007, FMCSA amended § 395.2 by adopting the definition of “agricultural commodity” set forth in section 4130(c) without substantive change (72 FR 36790).

On July 22, 2016, the Agency amended § 395.2 by adding a definition for the term “livestock” (81 FR 47721). The definition restated, without substantive change, the definition of livestock set forth in section 602 of the Emergency Livestock Feed Assistance Act of 1988 (Pub. L. 100–387, 102 Stat. 925, 926, Aug. 11, 1988 (7 U.S.C. 1471(2))), as amended.

In section 12104 of the Agriculture Improvement Act of 2018 (“2018 farm bill”) (Pub. L. 115–334, 132 Stat. 4490, Dec. 20, 2018), Congress amended the definition of “livestock” in the Emergency Livestock Feed Assistance Act of 1988. The 2018 farm bill deleted the phrase “fish used for food,” added “llamas, alpacas, live fish, and crawfish,” and removed certain discretion from the Secretary of Agriculture. This statutory change was self-executing. Accordingly, FMCSA amends § 395.2 to conform to the statutorily mandated changes made to the definition of “livestock” by the 2018 farm bill, which were effective December 20, 2018.

#### X. Section 396.15 Driveaway-Towaway Operations and Inspections

In § 396.15(a), FMCSA removes the effective date (December 7, 1989), which was added when paragraph (a) was revised on December 7, 1988 (53 FR 49410). This rule has now been in effect for 29 years; therefore, the effective date is no longer necessary.

### III. Regulatory Analyses

#### A. Executive Order (E.O.) 12866 (Regulatory Planning and Review), E.O. 13563 (Improving Regulation and Regulatory Review), and DOT Regulatory Policies and Procedures

FMCSA determined that this final rule is not a significant regulatory action under section 3(f) of E.O. 12866 (58 FR 51735, Oct. 4, 1993), Regulatory Planning and Review, as supplemented by E.O. 13563 (76 FR 3821, Jan. 21, 2011), Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. Accordingly, OMB has not reviewed it under that Order. It is also not significant within the meaning of DOT regulatory policies and procedures (DOT Order 2100.6, dated Dec. 20, 2018). This final rule makes changes to correct inaccurate references and citations, improve clarity, fix typographical or other nonsubstantive errors, or make nondiscretionary, ministerial changes that are statutorily mandated. None of the changes in this final rule imposes material new requirements or increases compliance obligations; therefore, this final rule imposes no new costs and a full regulatory evaluation is unnecessary.

#### B. E.O. 13771 (Reducing Regulation and Controlling Regulatory Costs)

This rulemaking is not an E.O. 13771 regulatory action and no further action under E.O. 13771 is required.

#### C. Congressional Review Act

This rule is not a major rule as defined under the Congressional Review Act (5 U.S.C. 801–808).

#### D. Regulatory Flexibility Act (Small Entities)

Under the Regulatory Flexibility Act of 1980 (5 U.S.C. 601–612), FMCSA is not required to complete a regulatory flexibility analysis because, as discussed earlier in the Legal Basis for the Rulemaking section, this action is not subject to notice and public comment under section 553(b) of the APA.

#### E. 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 final rule so that they can better evaluate its effects and participate in the rulemaking initiative. If the final rule will 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, Sarah Stella, listed in the **FOR FURTHER INFORMATION CONTACT** section of this final 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.

#### F. Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector of \$165 million (which is the value equivalent of \$100,000,000 in 1995, adjusted for inflation to 2018 levels) or more in any 1 year. This final rule will not result in such an expenditure.

#### G. Paperwork Reduction Act (Collection of Information)

This final rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

#### H. E.O. 13132 (Federalism)

A rule has implications for federalism under section 1(a) of E.O. 13132 if it has “substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.” FMCSA has determined that this rule will not have substantial direct costs on or for States, nor will it limit the policymaking discretion of States. Nothing in this document preempts any State law or regulation. Therefore, this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Impact Statement.

#### I. 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.

*J. 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.

*K. 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.

*L. Privacy*

The Consolidated Appropriations Act, 2005 (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. Because this final rule does not require the collection of personally identifiable information, the Agency is not required to conduct a PIA.

The E-Government Act of 2002 (Pub. L. 107–347, sec. 208, 116 Stat. 2899, 2921, Dec. 17, 2002), requires Federal agencies to conduct a PIA for new or substantially changed technology that collects, maintains, or disseminates information in an identifiable form. No new or substantially changed technology would collect, maintain, or disseminate information as a result of this rule. Accordingly, FMCSA has not conducted a PIA.

*M. 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.

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

FMCSA has analyzed this final rule under E.O. 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. The Agency has determined that it is not a “significant energy action” under that order because it is not a “significant regulatory action” likely to have a significant adverse effect on the supply, distribution, or use of energy. Therefore, it does not require a Statement of Energy Effects under E.O. 13211.

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

This 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.

*P. National Technology Transfer and Advancement Act (Technical Standards)*

The National Technology Transfer and Advancement Act (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.

*Q. National Environmental Policy Act of 1969*

FMCSA analyzed this rule for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and determined this action is categorically excluded from further analysis and documentation in an environmental assessment or environmental impact statement under FMCSA Order 5610.1 (69 FR 9680, Mar. 1, 2004), Appendix 2, paragraph 6.b. This Categorical Exclusion addresses minor corrections such as those found in this rulemaking; therefore, preparation of an environmental

assessment or environmental impact statement is not necessary.

**List of Subjects**

*49 CFR Part 325*

Motor carriers, Noise control.

*49 CFR Part 350*

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

*49 CFR Part 365*

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

*49 CFR Part 380*

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

*49 CFR Part 382*

Administrative practice and procedures, Alcohol abuse, Drug abuse, Drug testing, Highway safety, Motor carriers, Penalties, Safety, Transportation.

*49 CFR Part 383*

Administrative practice and procedures, 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 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 389*

Administrative practice and procedure, Highway safety, Motor carriers, Motor vehicle safety.

*49 CFR Part 391*

Alcohol abuse, Drug abuse, Drug testing, Highway safety, Motor carriers, Reporting and recordkeeping requirements, Safety, Transportation.

*49 CFR Part 392*

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

**49 CFR Part 395**

Highway safety, Motor carriers, Reporting and recordkeeping requirements.

**49 CFR Part 396**

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

In consideration of the foregoing, FMCSA amends 49 CFR chapter III as set forth below:

**PART 325—COMPLIANCE WITH INTERSTATE MOTOR CARRIER NOISE EMISSION STANDARDS**

- 1. The authority citation for part 325 continues to read as follows:

**Authority:** 42 U.S.C. 4917; 49 U.S.C. 301; and 49 CFR 1.87.

**§ 325.3 [Removed and Reserved]**

- 2. Remove and reserve § 325.3.

**PART 350—MOTOR CARRIER SAFETY ASSISTANCE PROGRAM AND HIGH PRIORITY PROGRAM**

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

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

**§ 350.213 [Amended]**

- 4. Amend § 350.213 in paragraph (b) introductory text by removing the reference to “§ 350.201(q) and (t)” and adding in its place a reference to “§ 350.201(q) and (s)”.

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

- 5. The authority citation for part 365 continues to read as follows:

**Authority:** 5 U.S.C. 553 and 559; 49 U.S.C. 13101, 13301, 13901–13906, 13908, 14708, 31133, 31138, and 31144; 49 CFR 1.87.

**§ 365.203 [Amended]**

- 6. Amend § 365.203 as follows:
- a. Lift the suspension of the section;
  - b. Remove the phrase “received at the FMCSA, Office of the Associate Administrator for Research and Information Technology” and add in its place the phrase “received at the FMCSA, Office of Registration and Safety Information (MC–RS)”;
  - c. Suspend § 365.203 indefinitely.
- 7. Revise § 365.203T to read as follows.

**§ 365.203T Time for filing.**

A protest shall be filed (received at the FMCSA, Office of Registration and

Safety Information (MC–RS), 1200 New Jersey Ave. SE, Washington, DC 20590) within 10 days after notice of the application appears in the FMCSA Register. A copy of the protest shall be sent to applicant’s representative at the same time. Failure timely to file a protest waives further participation in the proceeding.

**PART 380—SPECIAL TRAINING REQUIREMENTS**

- 8. The authority citation for part 380 continues to read as follows:

**Authority:** 49 U.S.C. 31133, 31136, 31305, 31307, 31308, 31502; sec. 4007(a) and (b), Pub. L. 102–240, 105 Stat. 1914, 2151; sec. 32304, Pub. L. 112–141, 126 Stat. 405, 791; and 49 CFR 1.87.

**§ 380.725 [Amended]**

- 9. Amend § 380.725 in paragraph (a) by removing the phrase “subpart F of this part” and adding in its place the phrase “subpart G of this part”.

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

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

**Authority:** 49 U.S.C. 31133, 31136, 31301 *et seq.*, 31502; sec. 32934, Pub. L. 112–141, 126 Stat. 405, 830; and 49 CFR 1.87.

- 11. Amend § 382.107 by revising the definition of “actual knowledge” to read as follows:

**§ 382.107 Definitions.**

\* \* \* \* \*

*Actual knowledge* for the purpose of subpart B of this part, means actual knowledge by an employer that a driver has used alcohol or controlled substances based on the employer’s direct observation of the employee, information provided by the driver’s previous employer(s), a traffic citation for driving a CMV while under the influence of alcohol or controlled substances or an employee’s admission of alcohol or controlled substance use, except as provided in § 382.121. Direct observation as used in this definition means observation of alcohol or controlled substances use and does not include observation of employee behavior or physical characteristics sufficient to warrant reasonable suspicion testing under § 382.307. As used in this section, “traffic citation” means a ticket, complaint, or other document charging driving a CMV while under the influence of alcohol or controlled substances.

\* \* \* \* \*

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

- 12. 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, 297, sec. 4140 of Pub. L. 109–59, 119 Stat. 1144, 1746; sec. 32934 of Pub. L. 112–141, 126 Stat. 405, 830; secs. 5401 and 7208 of Pub. L. 114–94, 129 Stat. 1312, 1546, 1593; and 49 CFR 1.87.

- 13. Amend § 383.25 by revising paragraph (c) to read as follows:

**§ 383.25 Commercial learner’s permit (CLP).**

\* \* \* \* \*

(c) The CLP must be valid for no more than one year from the initial date of issuance without requiring the CLP holder to retake the general and endorsement knowledge tests. CLPs issued for a period of less than one year may be renewed provided the CLP is not valid for more than one year from the date of initial issuance.

\* \* \* \* \*

**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, 5113, 13901–13905, 13908, 31136, 31144, 31148, 31151, 31502; sec. 350, Pub. L. 107–87, 115 Stat. 833, 864; and 49 CFR 1.87.

- 15. Amend § 385.13 by revising paragraphs (a) introductory text, (a)(2), and (c) to read as follows.

**§ 385.13 Unsatisfactory rated motor carriers; prohibition on transportation; ineligibility for Federal contracts.**

(a) Generally, a motor carrier rated “unsatisfactory” is prohibited from operating a CMV. Information on motor carriers, including their most current safety rating, is available from the FMCSA Safety and Fitness Electronic Records System website at <https://safer.fmcsa.dot.gov>, or by telephone at (800) 832–5660.

\* \* \* \* \*

(2) All other motor carriers rated as a result of reviews are prohibited from operating a CMV in motor carrier operations in commerce beginning on the 61st day after the date of the FMCSA notice of proposed “unsatisfactory” rating. If FMCSA determines that the motor carrier is making a good-faith effort to improve its safety fitness,

FMCSA may allow the motor carrier to operate for up to 60 additional days.

\* \* \* \* \*

(c) A Federal agency must not use a motor carrier for other CMV transportation if that carrier holds an “unsatisfactory” rating.

\* \* \* \* \*

- 16. Amend § 385.19 by revising paragraph (c) to read as follows.

**§ 385.19 Safety fitness information.**

\* \* \* \* \*

(c) Requests should be addressed to the Federal Motor Carrier Safety Administration, Office of Registration and Safety Information (MC-RS), 1200 New Jersey Ave. SE, Washington, DC 20590-0001. The information also can be found on the FMCSA Safety and Fitness Electronic Records System website at <https://safer.fmcsa.dot.gov>.

\* \* \* \* \*

- 17. Amend § 385.403 by revising the introductory text to read as follows.

**§ 385.403 Who must hold a safety permit?**

A motor carrier may not transport in interstate or intrastate commerce any of the following hazardous materials, in the quantity indicated for each, unless the motor carrier holds a safety permit:

\* \* \* \* \*

- 18. Amend § 385.405 as follows:

- a. Lift the suspension of the section;  
■ b. Revise paragraph (b); and  
■ c. Suspend § 385.405 indefinitely.

The revision reads as follows.

**§ 385.405 How does a motor carrier apply for a safety permit?**

\* \* \* \* \*

(b) *How to apply.* Form MCSA-1, the URS online application, is accessible, including complete instructions, at <http://www.fmcsa.dot.gov/urs>.

\* \* \* \* \*

- 19. Amend § 385.405T by revising paragraph (b) to read as follows.

**§ 385.405T How does a motor carrier apply for a safety permit?**

\* \* \* \* \*

(b) *Where to get forms and instructions.* The forms listed in paragraph (a) of this section, and instructions for completing the forms, may be obtained on the internet at <http://www.fmcsa.dot.gov>, or by contacting FMCSA at Federal Motor Carrier Safety Administration, Office of Registration and Safety Information (MC-RS), 1200 New Jersey Ave. SE, Washington, DC 20590-0001 or by telephone at 1-800-832-5660.

\* \* \* \* \*

- 20. Revise § 385.417 to read as follows.

**§ 385.417 Is a motor carrier's safety permit number available to others?**

Upon request, a motor carrier must provide the number of its safety permit to a person who offers a hazardous material listed in § 385.403 for transportation in commerce. A motor carrier's permit number also will be available to the public on the FMCSA Safety and Fitness Electronic Records System website at <https://safer.fmcsa.dot.gov>.

- 21. Amend appendix B to part 385, section VII, by revising the entries for “§ 382.213(b)” and “§ 391.45(b)(1)” to read as follows:

**Appendix B to Part 385—Explanation of Safety Rating Process**

\* \* \* \* \*

**VII. List of Acute and Critical Regulations**

\* \* \* \* \*

§ 382.213(c) Using a driver known to have used a controlled substance (acute).

\* \* \* \* \*

§ 391.45(b) Using a driver not medically examined and certified during the preceding 24 months (critical).

\* \* \* \* \*

**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, 13908, 14701, 31138, and 31139; sec. 204(a), Pub. L. 104-88, 109 Stat. 803, 941; and 49 CFR 1.87.

- 23. Amend § 387.303 as follows:

- a. Lift the suspension of the section;  
■ b. Revise paragraph (b)(2)(iii); and  
■ c. Suspend § 387.303 indefinitely.

The revision reads as follows.

**§ 387.303 Security for the protection of the public: Minimum limits.**

\* \* \* \* \*

(b) \* \* \*

(2) \* \* \*

Kind of equipment	Commodity transported	Minimum limits
(iii) Freight vehicles of 10,001 pounds (4,536 kilograms) or more GVWR.	Oil listed in § 172.101 of this title; hazardous waste, hazardous materials and hazardous substances defined in § 171.8 of this title and listed in § 172.101 of this title, but not mentioned in paragraph (b)(2)(ii) or paragraph (b)(2)(iv) of this section.	1,000,000
* * * * *	* * * * *	*

\* \* \* \* \*

- 24. Amend § 387.303T by revising paragraph (b)(2)(iii) to read as follows.

**§ 387.303T Security for the protection of the public: Minimum limits.**

\* \* \* \* \*

(b) \* \* \*

(2) \* \* \*

Kind of equipment	Commodity transported	Minimum limits
(iii) Freight vehicles of 10,001 pounds (4,536 kilograms) or more GVWR.	Oil listed in § 172.101 of this title; hazardous waste, hazardous materials and hazardous substances defined in § 171.8 of this title and listed in § 172.101 of this title, but not mentioned in paragraph (b)(2)(ii) or paragraph (b)(2)(iv) of this section.	1,000,000



Kind of equipment	Commodity transported	Minimum limits
*	*	*
<p>* * * * *</p> <p>■ 25. Amend § 387.307 by revising paragraph (c)(4) to read as follows.</p> <p><b>§ 387.307 Property broker surety bond or trust fund.</b></p> <p>* * * * *</p> <p>(c) * * *</p> <p>(4) An insured depository institution (as defined in section 3(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c)(2)));</p> <p>* * * * *</p> <p><b>§ 387.313 [Amended]</b></p> <p>■ 26. Amend § 387.313 as follows:</p> <p>■ a. Lift the suspension of the section;</p> <p>■ b. Remove paragraph (f); and</p> <p>■ c. Suspend § 387.313 indefinitely.</p> <p><b>§ 387.313T [Amended]</b></p> <p>■ 27. Amend § 387.313T by removing paragraph (f).</p> <p>■ 28. Amend § 387.413 as follows:</p> <p>■ a. Lift the suspension of the section;</p> <p>■ b. Revise the section heading;</p> <p>■ c. Remove paragraph (f); and</p> <p>■ d. Suspend § 387.413 indefinitely.</p> <p>The revision reads as follows:</p> <p><b>§ 387.413 Forms and procedures.</b></p> <p>* * * * *</p> <p><b>§ 387.413T [Amended]</b></p> <p>■ 29. Amend § 387.413T by removing paragraph (f).</p> <p><b>PART 389—RULEMAKING PROCEDURES—FEDERAL MOTOR CARRIER SAFETY REGULATIONS</b></p> <p>■ 30. The authority citation for part 389 continues to read as follows:</p> <p><b>Authority:</b> 49 U.S.C. 113, 501 <i>et seq.</i>, subchapters I and III of chapter 311, chapter 313, and 31502; 42 U.S.C. 4917; and 49 CFR 1.87.</p> <p>■ 31. Amend § 389.9 by revising the section heading and paragraph (a) to read as follows:</p> <p><b>§ 389.9 Treatment of confidential business information submitted under confidential class determinations.</b></p> <p>(a) <i>Purpose.</i> This section establishes the standards and procedures by which the Agency will solicit and receive certain confidential commercial or financial information, as that term is used in the Freedom of Information Act (5 U.S.C. 552(b)(4)), categorically referred to below as “confidential business information,” and the manner</p>	<p>in which the Agency will protect such information from public disclosure in accordance with 5 U.S.C. 552(b)(4), when it is submitted in accordance with paragraph (f) of this section.</p> <p>* * * * *</p> <p><b>PART 391—QUALIFICATIONS OF DRIVERS AND LONGER COMBINATION VEHICLE (LCV) DRIVER INSTRUCTORS</b></p> <p>■ 32. The authority citation for part 391 continues to read as follows:</p> <p><b>Authority:</b> 49 U.S.C. 504, 508, 31133, 31136, 31149, 31502; sec. 4007(b), Pub. L. 102–240, 105 Stat. 1914, 2152; sec. 114, Pub. L. 103–311, 108 Stat. 1673, 1677; sec. 215, Pub. L. 106–159, 113 Stat. 1748, 1767; sec. 32934, Pub. L. 112–141, 126 Stat. 405, 830; secs. 5403 and 5524, Pub. L. 114–94, 129 Stat. 1312, 1548, 1560; sec. 2, Pub. L. 115–105, 131 Stat. 2263; and 49 CFR 1.87.</p> <p>■ 33. Amend § 391.41 by revising paragraph (a)(1)(i) to read as follows:</p> <p><b>§ 391.41 Physical qualifications for drivers.</b></p> <p>(a)(1)(i) A person subject to this part must not operate a commercial motor vehicle unless he or she is medically certified as physically qualified to do so, and, except as provided in paragraph (a)(2) of this section, when on-duty has on his or her person the original, or a copy, of a current medical examiner’s certificate that he or she is physically qualified to drive a commercial motor vehicle. NOTE: Effective December 29, 1991, and as amended on January 19, 2017, the FMCSA Administrator determined that the Licencia Federal de Conductor issued by the United Mexican States is recognized as proof of medical fitness to drive a CMV. The United States and Canada entered into a Reciprocity Agreement, effective March 30, 1999, recognizing that a Canadian commercial driver’s license is proof of medical fitness to drive a CMV. Therefore, Canadian and Mexican CMV drivers are not required to have in their possession a medical examiner’s certificate if the driver has been issued, and possesses, a valid commercial driver license issued by the United Mexican States, or a Canadian Province or Territory, and whose license and medical status, including any waiver or exemption, can be electronically verified. Drivers from any of the countries who have received a medical authorization that deviates from the</p>	<p>mutually accepted compatible medical standards of the resident country are not qualified to drive a CMV in the other countries. For example, Canadian drivers who do not meet the medical fitness provisions of the Canadian National Safety Code for Motor Carriers but are issued a waiver by one of the Canadian Provinces or Territories, are not qualified to drive a CMV in the United States. In addition, U.S. drivers who received a medical variance from FMCSA are not qualified to drive a CMV in Canada.</p> <p>* * * * *</p> <p><b>§ 391.46 [Amended]</b></p> <p>■ 34. Amend § 391.46 in paragraph (c)(2)(iv) by removing the phrase “paragraph (c)(iv) of this section” and adding in its place the phrase “paragraph (c)(2)(iii) of this section”.</p> <p>■ 35. Amend § 391.51 by revising paragraph (b)(7)(ii) to read as follows:</p> <p><b>§ 391.51 General requirements for driver qualification files.</b></p> <p>* * * * *</p> <p>(b) * * *</p> <p>(7) * * *</p> <p>(ii) <i>Exception.</i> For CDL holders, if the CDLIS motor vehicle record contains medical certification status information, the motor carrier employer must meet this requirement by obtaining the CDLIS motor vehicle record defined at § 384.105 of this chapter. That record must be obtained from the current licensing State and placed in the driver qualification file. After January 30, 2015, a non-excepted, interstate CDL holder without medical certification status information on the CDLIS motor vehicle record is designated “not-certified” to operate a CMV in interstate commerce. After January 30, 2015, and through June 21, 2021, a motor carrier may use a copy of the driver’s current medical examiner’s certificate that was submitted to the State for up to 15 days from the date it was issued as proof of medical certification.</p> <p>* * * * *</p> <p>■ 36. Amend § 391.53 by revising paragraphs (a) introductory text and (b)(1) to read as follows:</p> <p><b>§ 391.53 Driver investigation history file.</b></p> <p>(a) Each motor carrier must maintain records relating to the investigation into the safety performance history of a new or prospective driver pursuant to</p>



§ 391.23(d) and (e). This file must be maintained in a secure location with controlled access.

\* \* \* \* \*

(b) \* \* \*

(1) A copy of the driver's written authorization for the motor carrier to seek information about a driver's alcohol and controlled substances history as required under § 391.23(f)(1).

\* \* \* \* \*

## PART 392—DRIVING OF COMMERCIAL MOTOR VEHICLES

■ 37. The authority citation for part 392 is revised to read as follows:

**Authority:** 49 U.S.C. 504, 521, 13902, 13908, 31136, 31151, 31502; sec. 112 of Pub. L. 103–311, 108 Stat. 1673, 1676, as amended by sec. 32509 of Pub. L. 112–141, 126 Stat. 405, 805; and 49 CFR 1.87.

### § 392.10 [Amended]

■ 38. Amend § 392.10 by removing the commas at the end of paragraphs (b)(2) and (4) and adding in their place periods.

## PART 395—HOURS OF SERVICE OF DRIVERS

■ 39. The authority citation for part 395 continues to read as follows:

**Authority:** 49 U.S.C. 504, 31133, 31136, 31137, 31502; sec. 113, Pub. L. 103–311, 108 Stat. 1673, 1676; sec. 229, Pub. L. 106–159 (as added and transferred by sec. 4115 and amended by secs. 4130–4132, Pub. L. 109–59, 119 Stat. 1144, 1726, 1743, 1744); sec. 4133, Pub. L. 109–59, 119 Stat. 1144, 1744; sec. 108, Pub. L. 110–432, 122 Stat. 4860–4866; sec. 32934, Pub. L. 112–141, 126 Stat. 405, 830; sec. 5206(b), Pub. L. 114–94, 129 Stat. 1312, 1537; and 49 CFR 1.87.

■ 40. Amend § 395.1 by revising paragraph (a)(1) to read as follows:

### § 395.1 Scope of rules in this part.

(a) *General.* (1) The rules in this part apply to all motor carriers and drivers, except as provided in paragraphs (b) through (x) of this section.

\* \* \* \* \*

■ 41. Amend § 395.2 by revising the definition of “livestock” to read as follows:

### § 395.2 Definitions.

\* \* \* \* \*

*Livestock* means cattle, elk, reindeer, bison, horses, deer, sheep, goats, swine, poultry (including egg-producing poultry), llamas, alpacas, live fish, crawfish, and other animals that are part of a foundation herd (including dairy producing cattle) or offspring; or are purchased as part of a normal operation and not to obtain additional benefits

under the Emergency Livestock Feed Assistance Act of 1988, as amended.

\* \* \* \* \*

## PART 396—INSPECTION, REPAIR, AND MAINTENANCE

■ 42. The authority citation for part 396 continues to read as follows:

**Authority:** 49 U.S.C. 504, 31133, 31136, 31151, 31502; sec. 32934, Pub. L. 112–141, 126 Stat. 405, 830; sec. 5524, Pub. L. 114–94, 129 Stat. 1312, 1560; and 49 CFR 1.87.

■ 43. Amend § 396.15 by revising paragraph (a) to read as follows:

### § 396.15 Driveaway-towaway operations and inspections.

(a) *General.* Every motor carrier, with respect to motor vehicles engaged in driveaway-towaway operations, shall comply with the requirements of this part. Exception: Maintenance records required by § 396.3, the vehicle inspection report required by § 396.11, and the periodic inspection required by § 396.17 of this part shall not be required for any vehicle which is part of the shipment being delivered.

\* \* \* \* \*

Issued under authority delegated in 49 CFR 1.87 on:

Dated: September 5, 2019.

**Raymond P. Martinez,**  
*Administrator.*

[FR Doc. 2019–20591 Filed 9–27–19; 8:45 am]

**BILLING CODE 4910–EX–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 622

[Docket No. 190924–0037]

RIN 0648–BJ19

### Temporary Rule To Increase the Commercial Trip Limit for Atlantic King Mackerel

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

**ACTION:** Final temporary rule; emergency action.

**SUMMARY:** NMFS issues this emergency action, a final temporary rule to revise the Atlantic migratory group king mackerel (Atlantic king mackerel) commercial trip limit within the Atlantic southern zone from October 1, 2019, through February 29, 2020, as requested by the South Atlantic Fishery

Management Council (Council). The purpose of this final temporary rule is to increase the commercial trip limit to allow for a significant economic opportunity that otherwise would be forgone and relieve an economic burden within the Atlantic king mackerel commercial sector without increasing the risk to the stock.

**DATES:** This temporary rule is effective October 1, 2019, through February 29, 2020.

**ADDRESSES:** Electronic copies of the documents in support of this emergency rule, which includes the Council's letter to NMFS that contains the Council's rationale for the emergency action request may be obtained from the Southeast Regional Office website at <https://www.fisheries.noaa.gov/action/emergency-rule-king-mackerel-trip-limits>.

**FOR FURTHER INFORMATION CONTACT:** Karla Gore, NMFS Southeast Regional Office, telephone: 727–551–5753, or email: [karla.gore@noaa.gov](mailto:karla.gore@noaa.gov).

**SUPPLEMENTARY INFORMATION:** The coastal migratory pelagics fishery is managed under the Fishery Management Plan for Coastal Migratory Pelagic Resources in the Gulf of Mexico and Atlantic Region (FMP) and includes king mackerel and Spanish mackerel and, in the Gulf of Mexico, cobia. The FMP was prepared by the Gulf of Mexico Fishery Management Council and the Council and is implemented by NMFS through regulations at 50 CFR part 622 under authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). The Magnuson-Stevens Act provides the legal authority for the promulgation of emergency regulations under section 305(c)(16 U.S.C. 1855(c)).

### Background

The fishery for Atlantic king mackerel is divided into a northern zone and a southern zone in the exclusive economic zone (EEZ), with the quota for this migratory group divided between the two zones. The northern zone extends from the North Carolina/South Carolina boundary through New York, and the southern zone extends from the North Carolina/South Carolina boundary to the Miami-Dade/Monroe County, Florida, boundary. The fishing year for the commercial sector for Atlantic king mackerel is March 1 through the end of February. The quota for the southern zone is allocated between two commercial seasons. Season 1 allocates 60 percent of the quota from March 1 through September 30, and Season 2 allocates 40 percent of