

**PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

■ 1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

**Subpart OO—Rhode Island**

■ 2. In § 52.2070(e), amend the table by adding an entry for “Infrastructure SIP

for the 2015 Ozone NAAQS” at the end of the table to read as follows:

**§ 52.2070 Identification of plan.**

\* \* \* \* \*  
(e) \* \* \*

**RHODE ISLAND NON REGULATORY**

Name of non regulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/effective date	EPA approved date	Explanations
* Infrastructure SIP for the 2015 ozone NAAQS.	* Statewide .....	* 10/15/2020	* 10/14/2021, [Insert <b>Federal Register</b> citation].	* This submittal is approved with respect to the following CAA elements or portions thereof: 110(a)(2)(A); (B); (C); (D) except (D)(i)(I) and (D)(i)(II)—visibility protection; (E); (F); (G); (J); (K); (L); and (M). This submittal is disapproved for element (H). See § 52.2077.

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**DEPARTMENT OF TRANSPORTATION**

**Federal Motor Carrier Safety Administration**

**49 CFR Chapter III**

[Docket No. FMCSA–2021–0132]

RIN 2126–AC41

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

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

**ACTION:** Final rule.

**SUMMARY:** FMCSA amends its regulations by making technical corrections throughout the Federal Motor Carrier Safety Regulations (FMCSRs). 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 merely align regulatory requirements with the underlying statutory authority. Finally, FMCSA adds two new provisions for transparency relating to agency management and to FMCSA’s rules of organization, procedures, or practice, and makes corresponding changes to definitions, addresses, and employee titles throughout the FMCSRs.

**DATES:** This final rule is effective October 14, 2021.

**FOR FURTHER INFORMATION CONTACT:** Mr. Nicholas Warren, Regulatory Development Division, Office of Policy, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590–0001; (202) 366–6124; *nicholas.warren@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 FMCSRs, 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, whose powers and duties are set forth in 49 U.S.C. 113, has been delegated authority, under 49 CFR 1.81, to exercise the authority of the Secretary

over and with respect to any personnel within their respective organizations and, under 49 CFR 1.87, to carry out the motor carrier functions vested in the Secretary of Transportation. In addition, under 49 CFR 1.81a, except as otherwise specifically provided in 49 CFR part 1, the Administrator may redelegate and authorize successive redelegations of authority within FMCSA under the Administrator’s jurisdiction.

Between 1984 and 1999, several statutes added to FHWA’s authority. Various statutes authorize the enforcement of the FMCSRs, 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, Title II, 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, Title XII, 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; 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; and the Transportation Equity Act for the 21st Century (Pub. L. 105–178, 112 Stat. 107, June 9, 1998).

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 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 (MAP–21) (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).

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 (CFR).

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)). 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. Some changes relate to previous changes that were statutorily mandated or align regulatory requirements with the underlying statutory authority. 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.

Moreover, the amendment adding a separation of functions provision in new § 390.8 and almost all of this rule's amendments to definitions, addresses, and employee titles throughout the FMCSRs concern an additional exception to the APA's notice and

comment rulemaking procedures for “rules of agency organization, procedure, or practice” (5 U.S.C. 553(b)(3)(A)). These amendments are, therefore, excepted from the notice and public comment requirements. Further, the APA does not apply to matters “relating to agency management or personnel” (5 U.S.C. 553(a)(2)); therefore, the notice and comment rulemaking procedures do not apply to the delegations provision in new § 390.4.

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, because this final rule is not a major rule, they are not applicable.

## II. Section-by-Section Analysis

This section-by-section analysis describes the changes to the regulatory text in numerical order.

### A. Part 365—Rules Governing Applications for Operating Authority

Sections 365.101 (Suspended) and 365.101T Applications Governed by These Rules<sup>2</sup>

FMCSA revises paragraph (h) of §§ 365.101 (Suspended) and 365.101T to reflect the termination of the North American Free Trade Agreement and the adoption of the United States-Mexico-Canada Agreement (USMCA), which came into effect July 1, 2020. This amended provision is consistent with USMCA Annex I—United States

<sup>1</sup> A “major rule” means any rule that the Administrator of the Office of Information and Regulatory Affairs of the Office of Management and Budget 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)).

<sup>2</sup> 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 365.101 was one of the sections suspended and § 365.101T, which is currently in effect, was one of the replacement sections added (82 FR 5299).

(p. 9) and existing § 365.501(b), which reference the prohibition against a Mexico-domiciled motor carrier from providing point-to-point transportation services, including express delivery services, within the United States for goods other than international cargo.

### B. Part 368—Application for a Certificate of Registration To Operate in Municipalities in the United States on the United States-Mexico International Border or Within the Commercial Zones of Such Municipalities

Sections 368.8 (Suspended) and 368.8T Appeals<sup>3</sup>

Recent vacancies and organizational changes that affected the titles of FMCSA employees and office names underscored the need for FMCSA to add flexibility to redelegate functions internally according to organizational needs. FMCSA simplifies many sections across various parts of the CFR to remove or otherwise update references to specific titles or offices and replace them with “FMCSA” and, where necessary to ensure adequate mail routing, an “ATTN” line showing the subject matter of the petition or request. In §§ 368.8 (Suspended) and 368.8T, FMCSA removes the references to “the Director” and replaces them with “FMCSA” and replaces “the Director, Office of Data Analysis and Information Systems” with an address and ATTN: line (“FMCSA, ATTN: § 368.8 Appeal, 1200 New Jersey Avenue SE, Washington, DC 20590,”). These changes relate to agency management and do not affect the procedural rights of persons outside FMCSA; therefore, they are excepted from notice and comment by 5 U.S.C. 553(a)(2).

### C. Part 380—Special Training Requirements

Section 380.603 Applicability

FMCSA replaces “veterans” with “military personnel” in paragraph (a)(3). This conforming change ensures consistency with § 383.77, which is referenced in paragraph (a)(3). The term “military personnel” is used in § 383.77, and the word “veterans” does not appear in that section. This change ensures that paragraph (a)(3) uses the correct term when referencing the requirements under § 383.77.

<sup>3</sup> See Note 2. Section 368.8 was another one of the sections suspended by the January 17, 2017 final rule, and § 368.8T, which is currently in effect, was another one of the replacement sections added (82 FR 5304).

### Section 380.723 Removal From Training Provider Registry: Procedure

As discussed in section II.C., above, FMCSA simplifies many sections across various parts of the CFR to remove or otherwise update references to specific titles or offices to provide greater flexibility in delegations. In paragraph (a) of this section, FMCSA replaces “FMCSA’s Director, Office of Carrier, Driver, and Vehicle Safety Standards (Director)” with “FMCSA, ATTN: Training Provider Registry Removal, 1200 New Jersey Avenue SE, Washington, DC 20590.” Throughout paragraphs (c) and (f), FMCSA replaces “the Director” and “The Director” with “FMCSA.” In the introductory text of paragraph (d), FMCSA replaces “the FMCSA Associate Administrator for Policy (Associate Administrator)” with an address and ATTN: line (“FMCSA, ATTN: § 380.723 Training Provider Registry Removal Proceedings, 1200 New Jersey Avenue SE, Washington, DC 20590,”) and throughout the rest of paragraph (d) replaces the shorthand references to “The Associate Administrator” and “the Associate Administrator” with “FMCSA.”

### Section 380.725 Documentation and Record Retention

FMCSA removes paragraph (b)(4), which currently requires all training providers on the Training Provider Registry (TPR) to retain the Training Provider Registration Form submitted to the TPR (see 81 FR 88732, Dec. 8, 2016). This revision reflects that FMCSA recognizes there is a duplicative record keeping requirement because the TPR will retain the same information provided on the Training Provider Registration Form, both as submitted under § 380.703 and as updated under § 380.719. This amendment simply eliminates that duplicative record keeping requirement.

### Appendix B to Part 380—Class B—CDL Training Curriculum

In Unit B1.1.6 Backing and Docking, FMCSA removes the word “combination,” which was inadvertently included. The subject of appendix B is Class B training and Class B vehicles are not combination vehicles.

### D. Part 381—Waivers, Exemptions, and Pilot Programs

#### Section 381.200 What is a waiver?

FMCSA amends paragraph (c) to more closely align its language with the statutory language in 49 U.S.C. 31315(a)(3), which provides that the Secretary may grant a waiver (after making the specified determination)

“for nonemergency and unique events.” The current language in paragraph (c), “for unique, non-emergency events,” implies that waivers are available only for events that are both unique and nonemergency in nature. This amendment is necessary to ensure consistency of interpretation and clarify that FMCSA has the authority to grant waivers under either circumstance.

### E. Part 382—Controlled Substances and Alcohol Use and Testing

#### Section 382.107 Definitions

In the definition of *Consortium/Third party administrator (C/TPA)* in § 382.107, FMCSA adds the phrase “except as provided in § 382.705(c)” after “for purposes of this part.” The Agency makes this change to conform the definition of *C/TPA* to the requirement, set forth in § 382.705(c), that a C/TPA acting on behalf of a self-employed driver is acting as an “employer” when reporting that driver’s drug and alcohol violations to the Clearinghouse, and is therefore ultimately responsible for compliance with the reporting requirements in § 382.705(b). The sentence now provides that C/TPAs are not employers for purposes of the part, except as provided in § 382.705(c).

#### Section 382.305 Random Testing

This amendment relates to the higher minimum annual percentage rate for random controlled substances testing made effective for all testing in 2020 and later. FMCSA amends § 382.305(b)(2) to reflect that the minimum annual percentage rate for random controlled substances testing shall be 50 percent of the average number of driver positions, as it has been effective since January 1, 2020. On December 27, 2019 (84 FR 71527), FMCSA announced the increase of the minimum annual percentage rate for random controlled substances testing for drivers of CMVs requiring a CDL from 25 percent of the average number of driver positions to 50 percent of the average number of driver positions, effective in calendar year 2020.

The FMCSA Administrator must increase the minimum annual random testing percentage rate when the data received under the reporting requirements for any calendar year indicate that the reported positive rate is equal to or greater than 1.0 percent. Based on the results of the 2018 FMCSA Drug and Alcohol Testing Survey, the positive rate for controlled substances random testing increased to 1.0

percent.<sup>4</sup> As a result, the Agency increased the controlled substances minimum annual percentage rate for random controlled substances testing to 50 percent of the average number of driver positions. (84 FR 71528)

#### Section 382.703 Driver Consent To Permit Access to Information in the Clearinghouse

FMCSA replaces the word “and” with “or” in paragraph (c). This amendment would correct the erroneous use of “and” in paragraph (c). Paragraph (a) provides that employers must obtain an employee’s general consent before conducting a limited query of the Clearinghouse. Paragraph (b) provides that employers must obtain an employee’s specific consent before conducting a full query of the Clearinghouse. The inadvertent use of the word “and” in paragraph (c) implies that employees are precluded from performing safety-sensitive functions only if they refuse to grant consent for both queries, rather than being precluded upon refusal to grant consent for either query as was originally intended. See 81 FR 87686, 87713 (“This section provides that no employer may obtain information about an individual from the Clearinghouse without that individual’s express consent. It also provides that an employee cannot perform safety-sensitive functions if he or she refuses to give this consent.”).

#### Section 382.717 Procedures for Correcting Information in the Database

As discussed in section II.C., above, FMCSA simplifies many sections across various parts of the CFR to remove or otherwise update references to specific titles or offices to provide greater flexibility in delegations. In paragraph (c) of this section, FMCSA replaces “Office of Enforcement and Compliance, Attention: Drug and Alcohol Program Manager” with “ATTN: Drug and Alcohol Clearinghouse Petition for Review.” In paragraph (f)(2), FMCSA replaces “the Associate Administrator for Enforcement (MC-E)” with “FMCSA, ATTN: Drug and Alcohol Clearinghouse Administrative Review.” Finally, in paragraph (f)(4), FMCSA replaces the shorthand reference to “The Associate Administrator’s” with “FMCSA’s.”

<sup>4</sup> FMCSA, Results from the 2018 Drug and Alcohol Testing Survey (Dec. 2019), available at [https://www.fmcsa.dot.gov/sites/fmcsa.dot.gov/files/2019-12/RAA-19-015%28b%29-Drug\\_and\\_Alcohol\\_Survey\\_Results\\_FINAL-508C.pdf](https://www.fmcsa.dot.gov/sites/fmcsa.dot.gov/files/2019-12/RAA-19-015%28b%29-Drug_and_Alcohol_Survey_Results_FINAL-508C.pdf).

*F. Part 383—Commercial Driver's License Standards; Requirements and Penalties*

Section 383.71 Driver Application and Certification Procedures

FMCSA removes paragraph (a)(1), removes the introductory text from paragraph (a)(2), and renumbers paragraphs (a)(2)(i) through (ix) as paragraphs (a)(1) through (9). These revisions remove requirements relating to commercial learner's permit applications submitted prior to July 18, 2015, which are no longer necessary. These revisions will clarify and streamline the section by removing requirements that are out-of-date.

Section 383.73 State Procedures

FMCSA revises the introductory text to paragraph (a), removes paragraph (a)(1), removes the introductory text from paragraph (a)(2), renumbers paragraphs (a)(2)(i) through (vii) as paragraphs (a)(1) through (7), and renumbers paragraphs (a)(7)(A) and (B) as paragraphs (a)(7)(i) and (ii). These changes remove requirements relating to commercial learner's permit issued prior to July 18, 2015, similar to the changes above in § 383.71. FMCSA also updates cross-references to § 383.71 to reflect the changes in that section above.

FMCSA replaces "CMV" with "CDL" in paragraphs (o)(4)(i)(A)(1) and (2). This amendment corrects an inadvertent error in the terminology used in this section. A "CDL downgrade" involves the State removing the "CDL" privilege from the driver license, not the "CMV" privilege. See 49 CFR 383.5 (definition of *CDL Downgrade*, paragraph 4).

FMCSA replaces "insure" with "ensure" in paragraph (o)(5). This revision corrects an inadvertent word choice error. The word "insure" generally means to cover something with insurance, while the word "ensure" generally means to make sure something happens. It is clear from the context of the last sentence in paragraph (o)(5) that "ensure" is the word with the intended meaning.

*G. Part 385—Safety Fitness Procedures*

Sections 385.15 Administrative Review and 385.423 Does a motor carrier have a right to an administrative review of a denial, suspension, or revocation of a safety permit?

Under 49 U.S.C. 113(e) and 49 CFR 386.1(a), the Chief Safety Officer is the Assistant Administrator of FMCSA. To be consistent with other sections within the FMCSRs, FMCSA replaces the term "Chief Safety Officer" with "Assistant Administrator" throughout §§ 385.15

and 385.423. In addition, in § 385.15(c), FMCSA adds a comma after "Assistant Administrator" and "ATTN: Adjudications Counsel" to clarify that requests for administrative review under this section should be directed to FMCSA's Adjudications Counsel to ensure that these requests are promptly received by the appropriate office for processing. This practice is consistent with other proceedings before the Assistant Administrator. See 49 CFR 383.52(c), 385.423(c), 385.911(e), 385.915(f), and 386.73(g). These updates are merely intended to provide greater clarity and transparency; they do not change existing authorities or practices.

Sections 385.113 Administrative Review and 385.711 Administrative Review

As discussed in section II.C., above, FMCSA simplifies many sections across various parts of the CFR to remove or otherwise update references to specific titles or offices to provide greater flexibility in delegations. In §§ 385.113(b) and 385.711(b), FMCSA replaces "the Associate Administrator for Enforcement and Program Delivery (MC-E), Federal Motor Carrier Safety Administration" and the same text without the "(MC-E)" routing designation with "FMCSA" and an ATTN: line ("FMCSA, ATTN: § 385.113 Request for Administrative Review"). In §§ 385.113(d) and 385.711(d), FMCSA replaces "The Associate Administrator's" with "FMCSA's."

Sections 385.903 Definitions and 385.1003 Definitions

As part of the effort (discussed in section II.C., above) to update references to specific titles or offices and provide greater flexibility in delegations, FMCSA amends the definition of the term *Agency Official* in §§ 385.903 and 385.1003. The term was defined in both sections to mean "the Director of FMCSA's Office of Enforcement and Compliance or his or her designee" but is now amended to mean "the FMCSA employee with delegated authority under this subpart."

*H. Part 386—Rules of Practice for FMCSA Proceedings*

Section 386.2 Definitions

In § 386.2, FMCSA revises the definition of *Assistant Administrator* to use language that is consistent with the new definition of *Assistant Administrator* in §§ 390.5 (Suspended) and 390.5T. In addition, FMCSA replaces the term *Decisionmaker* in § 386.2 with *Agency decisionmaker*, which is the term used throughout part 386, and clarifies that the Agency

decisionmaker makes the final decision for all administrative proceedings under part 386, not merely civil penalty proceedings. See, e.g., 49 CFR 386.73(g)(9). Finally, FMCSA revises the definition of *Field Administrator* by adding "or an authorized delegee" to the end of the definition, which is consistent with the clarification made to the definition of *Assistant Administrator* in this section (and in the new definition in §§ 390.5 (Suspended) and 390.5T). These updates are merely intended to provide greater clarity and transparency; they do not change existing authorities or practices.

Section 386.3 Separation of Functions

In § 386.3, FMCSA expands the application of its separation of functions provision in part 386 from civil penalty proceedings to also include proceedings under § 386.11, § 386.72, or § 386.73. This change streamlines the amendments made to part 386 in this rule because FMCSA would otherwise have needed to add a separation of functions provision to each of those sections, for clarity. This amendment codifies the separation of functions practices that FMCSA has maintained relating to these proceedings. FMCSA also adds a comma after the words "Hearing Officer".

Sections 386.11 Commencement of Proceedings, 386.48 Medical Records and Physicians' Reports, 386.71 Injunctions, 386.72 Imminent Hazard, and 386.73 Operations Out of Service and Record Consolidation Proceedings (Reincarnated Carriers)

As discussed in section II.C., above, FMCSA simplifies many sections across various parts of the CFR to remove or otherwise update references to specific titles or offices to provide greater flexibility in delegations. In §§ 386.11(a) introductory text and 386.48, FMCSA replaces "the Director, Office of Carrier, Driver and Vehicle Safety Standards (MC-PS)" with "FMCSA." FMCSA also inserts "FMCSA" in lieu of "the Chief Counsel" (§ 386.71), "the Director of the Office of Enforcement and Compliance or a Division Administrator, or his or her delegate," (§ 386.72(b)(1) introductory text), "An FMCSA Field Administrator or the Director of FMCSA's Office of Enforcement and Compliance (Director)" (§ 386.73(a) introductory text), and "The Field Administrator or Director" or "the Field Administrator or Director" (throughout § 386.73). Similarly, FMCSA replaces "Field Administrator or Director" with "FMCSA official."

Sections 386.83 Sanction for Failure To Pay Civil Penalties or Abide by Payment Plan; Operation in Interstate Commerce Prohibited and 386.84 Sanction for Failure To Pay Civil Penalties or Abide by Payment Plan; Suspension or Revocation of Registration

Under 49 U.S.C. 113(e) and 49 CFR 386.1(a), the Chief Safety Officer is the Assistant Administrator of FMCSA. To be consistent with other sections within the FMCSRs, FMCSA replaces the term “Chief Safety Officer” with “Assistant Administrator” in §§ 386.83(b)(2) and 386.84(b)(2). These updates are merely intended to provide greater clarity and transparency; they do not change existing authorities or practices.

#### *I. Part 387—Minimum Levels of Financial Responsibility for Motor Carriers*

##### Section 387.9 Financial Responsibility, Minimum Levels

FMCSA revises the table in § 387.9. The table, as currently written, switches between “in bulk,” “any quantity,” and “in excess of 3,500 gallons.” All of these terms refer to the definition of *In bulk* in § 387.5. The table is revised to replace all these terms with “in bulk” throughout the table. This revision eliminates confusion and increases consistency by replacing a variety of similar terms with a singular, defined term throughout the table.

Sections 387.323 (Suspended) and 387.323T Electronic Filing of Surety Bonds, Trust Fund Agreements, Certificates of Insurance and Cancellations<sup>5</sup>

FMCSA revises paragraph (c) of § 387.323 (Suspended) and 387.323T to reflect an updated link for filings that are transmitted online. Filers should use the updated link at <https://li-public.fmcsa.dot.gov>.

#### *J. Part 390—Federal Motor Carrier Safety Regulations; General*

##### Section 390.3T General Applicability

In § 390.3T, FMCSA removes the reference date in the introductory text of paragraph (h). The introductory text of paragraph (h) states that certain provisions apply to intermodal equipment providers “[o]n and after December 17, 2009.” This reference date is over 11 years old and can be safely removed without changing the requirements in paragraph (h).

<sup>5</sup> See Note 2. Section 387.323 was another one of the sections suspended by the January 17, 2017 final rule, and § 387.323T, which is currently in effect, was another one of the replacement sections added (82 FR 5309).

Section 390.4 Delegations and Redelegations of Authority of FMCSA Employees To Perform Assigned Actions or Duties

New § 390.4 clarifies internal delegations of authority and assignments of responsibility within FMCSA and does not affect the procedural rights of persons outside FMCSA. As such, the clarifications are rules related to management and personnel. 5 U.S.C. 553(a)(2). Moreover, these clarifications relate solely to agency organization, procedure, or practice and do not constitute a substantive rule. 5 U.S.C. 553(b)(3)(A). These changes do not affect the regulatory requirements imposed upon regulated entities. Therefore, they are excepted from notice and comment. Clarifying the responsibilities for personnel delegated authority in agency regulations is an internal management function. See *United States v. Saunders*, 951 F.2d 1065, 1068 (9th Cir. 1991) (delegations of authority have “no legal impact on, or significance for, the general public,” and “simply effect[ ] a shifting of responsibilities wholly internal to the Treasury Department”); *Lonsdale v. United States*, 919 F.2d 1440, 1446 (10th Cir. 1990) (“APA does not require publication of [rules] which internally delegate authority to enforce the Internal Revenue laws”).

It should be noted, however, that the decision to memorialize some internal agency management procedures in regulation does not limit an agency’s general authority, without changing rule text, to establish or make changes to other internal agency management procedures (*i.e.*, those not already memorialized in regulation).

##### Sections 390.5 (Suspended) and 390.5T Definitions<sup>6</sup>

In §§ 390.5 (suspended) and 390.5T, FMCSA adds a definition of the term *Assistant Administrator* to clarify that references to the Assistant Administrator may include an individual who has been delegated the authority of the Assistant Administrator.

FMCSA modifies the definition of *Emergency* in these sections by replacing, in paragraph (1), “the FMCSA Field Administrator for the geographical area in which the occurrence happens” with “FMCSA.” As discussed in section II.C., above, FMCSA simplifies many sections across various parts of the CFR to remove or otherwise update

<sup>6</sup> See Note 2. Section 390.5 was another one of the sections suspended by the January 17, 2017 final rule, and § 390.5T, which is currently in effect, was another one of the replacement sections added (82 FR 5309).

references to specific titles or offices to provide greater flexibility in delegations. This edit conforms and relates to the edits made to §§ 390.23 and 390.25, as discussed below.

In addition, FMCSA modifies the definition of *Exempt intracity zone* by replacing the reference to “appendix F of subchapter B of this chapter” with “appendix A to part 372” in both sections to reflect the new location of this appendix per the redesignation edits in chapter III, subchapter B. The redesignation of this appendix is discussed further in Section II.P, below.

FMCSA also adds a definition of *Field Administrator* identical to the revised definition of that term in § 386.2, which has been slightly modified to clarify that the actions or duties assigned to the Field Administrator may be carried out by an authorized delegee. This definition applies throughout 49 CFR chapter III, subchapter B, whereas the definition in § 386.2 applies only to part 386. Adding the definition of *Field Administrator* to § 390.5T clarifies that, throughout subchapter B, the term refers to the head of the Service Center, regardless of changes to the title of that position (*e.g.*, the head of the Service Center was previously the “Field Administrator,” but is now the “Regional Field Administrator”), which is consistent with how the term has been applied in the context of § 386.2. These updates are merely intended to provide greater clarity and transparency; they do not change existing authorities or practices.

##### Section 390.8 Separation of Functions

In new § 390.8, FMCSA adds a separation of functions provision that applies to various administrative review proceedings under parts 380, 382, 390, 391, and 395. This amendment clarifies that FMCSA applies a separation of functions between Agency employees engaged in investigative or prosecutorial functions and the initial Agency determination, and those who participate or advise in the final Agency decision. This new section codifies separation of functions practices that FMCSA has maintained relating to these procedures. FMCSA adopts language similar to the language in §§ 385.21 and 386.3, which are the separation of functions provisions applicable to administrative reviews of safety ratings and proposed civil penalties, respectively.

##### Sections 390.23 Relief From Regulations and 390.25 Extension of Relief From Regulations—Emergencies

As discussed in section II.C., above, FMCSA simplifies many sections across

various parts of the CFR to remove or otherwise update references to specific titles or offices to provide greater flexibility in delegations. In §§ 390.23(a) (paragraphs (a)(1)(i)(B), (a)(1)(ii)(A), (a)(2)(i)(B), and (a)(2)(ii)) and 390.25, FMCSA replaces “The FMCSA Field Administrator” and “the FMCSA Field Administrator” with “FMCSA.”

Sections 390.115 Procedure for Removal From the National Registry of Certified Medical Examiners and 390.135 Procedure for Removal of a Certified VA Medical Examiner From the National Registry of Certified Medical Examiners

As discussed in section II.C., above, FMCSA simplifies many sections across various parts of the CFR to remove or otherwise update references to specific titles or offices to provide greater flexibility in delegations. In §§ 390.115(a) and 390.135(a), FMCSA replaces “the FMCSA Director, Office of Carrier, Driver and Vehicle Safety Standards” with “FMCSA” and an ATTN: line (“FMCSA, ATTN: Removal from National Registry of Certified Medical Examiners”). Similarly, in §§ 390.115(d) and 390.135(d), FMCSA replaces “the FMCSA Associate Administrator for Policy” with “FMCSA” and an ATTN: line (“FMCSA, ATTN: National Registry of Certified Medical Examiners—Request for Administrative Review”).

FMCSA also inserts “FMCSA” in lieu of “the Director, Office of Carrier, Driver and Vehicle Safety Standards” and its slight variation “The Director, Office of Carrier, Driver and Vehicle Safety Standards” throughout §§ 390.115 and 390.135. The table in the amendatory instructions for these sections identifies each paragraph where these changes occur. In §§ 390.115(c)(1)(i) and (ii) and 390.135(c)(1)(i) and (ii), FMCSA replaces this same title and the words that immediately follow (“finds it”) with “FMCSA finds it” so as to read (in the first of six instances) “If FMCSA finds it has wholly relied on . . .” rather than “If the Director Office of Carrier, Driver and Vehicle Safety Standards finds FMCSA has wholly relied on . . .”. Finally, FMCSA inserts “FMCSA” in lieu of “The Associate Administrator” and its slight variation “the Associate Administrator” throughout §§ 390.115(d) and 390.135(d), as described in the table in the amendatory instructions for these sections.

#### *K. Part 391—Qualifications of Drivers and Longer Combination Vehicle (LCV) Driver Instructors*

Sections 391.43 Medical Examination; Certificate of Physical Examination and 391.47 Resolution of Conflicts of Medical Evaluation

As discussed in section II.C., above, FMCSA simplifies many sections across various parts of the CFR to remove or otherwise update references to specific titles or offices to provide greater flexibility in delegations. In §§ 391.43(g)(5)(i)(A) and (B) and 391.47(c), (d)(1) and (2), and (f), FMCSA replaces “the Director, Office of Carrier, Driver and Vehicle Safety Standards” and its slight variant “The Director, Office of Carrier, Driver and Vehicle Safety Standards” with “FMCSA.” FMCSA also replaces the shorthand terms “The Director” and “The Director’s” with “FMCSA” and “FMCSA’s” in § 391.47(c) and (e), respectively.

Section 391.49 Alternative Physical Qualification Standards for the Loss or Impairment of Limbs

As discussed in section II.C., above, FMCSA simplifies many sections across various parts of the CFR to remove or otherwise update references to specific titles or offices to provide greater flexibility in delegations. In § 391.49(a), (g), (h), (j)(1), and (k), FMCSA removes the references to “the Division Administrator, FMCSA,” or to the “The Division Administrator/State Director, FMCSA,” as applicable, leaving only the references to FMCSA. In paragraph (b)(2), FMCSA specifies the application must be submitted to “the SPE Certificate Program at the applicable FMCSA service center” rather than “the applicable field service center, FMCSA.” In paragraphs (e)(1) introductory text, (e)(1)(i) and (ii), and (i), the Agency replaces “Medical Program Specialist, FMCSA service center,” “Medical Program Specialist, FMCSA field service center,” and “Medical Program Specialist, FMCSA” with “SPE Certificate Program, FMCSA service center.” In paragraph (j)(2), FMCSA simplifies “the Division Administrator/State Director, FMCSA, for the State where the driver applicant has legal residence” to “FMCSA.”

In addition, in § 391.49(d)(1) after “A copy of the,” FMCSA adds “Medical Examination Report Form, MCSA–5875, documenting the.” In paragraph (i)(7), FMCSA replaces “medical examination report” with “Medical Examination Report Form, MCSA–5875.” In paragraph (d)(2), FMCSA changes “medical certificate” to “Medical

Examiner’s Certificate, Form MCSA–5876.” These changes provide clarity and assist the reader by specifying the current forms required and adopted in 2015 (see 80 FR 22790, Apr. 23, 2015). In addition to the change above in paragraph (j)(2), the Agency replaces “a Skill Performance Evaluation Program Specialist” with “an SPE Evaluator” to be consistent with the terminology used in the program and to avoid confusion with an SPE Medical Program Specialist.

FMCSA removes the paragraph headings for paragraphs (b) and (e) to ensure consistency throughout the section. FMCSA also adds hyphens to the term “co-applicants” throughout the section and the term “above-named” in the form under paragraph (j)(2).

Section 391.51 General Requirements for Driver Qualification Files

In § 391.51, FMCSA makes edits to conform to the edits made to paragraph (a) of § 391.49, which § 391.51(b)(8) cross-references. Specifically, rather than state that the qualification file for a driver must include a “Skill Performance Evaluation Certificate obtained from a Field Administrator, Division Administrator, or State Director issued in accordance with § 391.49,” paragraph (b)(8) will refer to a “Skill Performance Evaluation Certificate issued by FMCSA in accordance with § 391.49.” This language is also structured to parallel the structure in the rest of the paragraph regarding a “Medical Exemption document issued by a Federal medical program in accordance with part 381 of this chapter.”

Section 391.61 Drivers Who Were Regularly Employed Before January 1, 1971

FMCSA revises § 391.61 by changing the reference in that section from § 391.33 to § 391.31. This revision corrects an earlier mistake when FHWA inadvertently changed the reference in § 391.61 from § 391.31 to § 391.33. When § 391.61 was adopted in 1971, the regulation referenced § 391.31 (35 FR 6458, 6466, Apr. 22, 1970).

On January 27, 1997, FHWA proposed to eliminate the requirement for a road test in § 391.31 and stated the removal of the regulation affects § 391.61 (62 FR 3855, 3858). There was no discussion of changes made to § 391.61 (see 62 FR 3859). In the June 18, 1998 final rule, FHWA decided to retain § 391.31 and the road test requirement, but amended § 391.61 to include § 391.33 instead of § 391.31 in error (see 63 FR 33254, 33263–64, 33278).

*L. Part 393—Parts and Accessories Necessary for Safe Operation*

Section 393.47 Brake Actuators, Slack Adjusters, Linings/Pads, and Drums/Rotors

FMCSA amends this section in response to a December 17, 2018 petition for rulemaking from the Commercial Vehicle Safety Alliance (CVSA). After consulting with a major brake chamber supplier concerning the manufacturer's recommended adjustment limits for type 36 clamp-type chambers, CVSA requested that FMCSA amend the FMCSRs to specify the correct readjustment limit for such chambers in § 393.47(e)(l) and appendix G, section 1. Brake System. CVSA noted its belief that the incorrect value was taken directly from the 2001 edition of Society for Automotive Engineers (SAE) standard J1817 (SAE J1817), which also contains the error, and informed FMCSA that SAE was in the process of correcting the error.

FMCSA has reviewed the February 2018 edition of SAE J1817 (as well as the June 2017 edition of SAE J2899) and confirmed that the readjustment limit for type 36 clamp-type brake chambers is 2.5 in. (63.5 mm.). The readjustment limits specified in the August 6, 2012 final rule (77 FR 46633, 46638) were based on the July 2001 SAE J1817 that had been incorporated by reference in § 393.7(b)(15) on August 15, 2005 (70 FR 48008, 48027). Because SAE has since corrected the error, FMCSA makes conforming amendments to the entries for type 36 clamp-type chambers in § 393.47(e)(l) and appendix G, section 1. Brake System. FMCSA has placed a copy of CVSA's 2018 petition in the docket for this rulemaking.

Section 393.71 Coupling Devices and Towing Methods, Driveaway-Towaway Operations

FMCSA replaces “insure” with “ensure” throughout the section. This revision corrects an inadvertent word choice error and follows the rationale of the change to § 383.73 in section II.I., above.

*M. Part 395—Hours of Service of Drivers*

Section 395.13 Drivers Ordered Out of Service

In § 395.13, FMCSA replaces the words “declared,” “declare,” and “declaring” with “ordered,” “order,” and “ordering,” respectively, in both the text of the section and in the title of the section. Section 383.5 defines an out-of-service “order” to include §§ 396.9, 395.13, 392.5, and 386.72. However, § 395.13 uses the word “declared”

instead of “ordered,” which is inconsistent with §§ 392.5 and 386.72, both of which state “order.” These amendments would provide clarity and consistency; now § 395.13 will use “ordered” instead of “declared” to mirror the language of § 383.37(d), which provides when a driver or vehicle is subject to an out-of-service “order.” FMCSA also adds the word “the” before “motor carrier” in paragraph (d)(3).

Appendix A to Subpart B of Part 395 Functional Specifications for All Electronic Logging Devices (ELDs)

In reference sections 5.4.3, 5.4.4(b), and 5.4.4(d), FMCSA replaces “the Director, Office of Carrier Driver, and Vehicle Safety Standards” and its slight variants (one with a comma at the end and the other beginning with a capital “t” in “The”) with simply “FMCSA.” FMCSA also inserts “FMCSA” in lieu of the shorthand version (“the Director”) in reference sections 5.4.4(c) and 5.4.4(d). In reference section 5.4.4.(b), FMCSA replaces “the Associate Administrator for Policy” with “FMCSA, ATTN: ELD Removal—Request for Administrative Review.” FMCSA also replaces “The Associate Administrator” (in reference sections 5.4.5(c) and (d)) and its slight variant “the Associate Administrator” (in reference section 5.4.5(c)) with “FMCSA.”

In addition, in reference section 7.19 Engine Hours, FMCSA corrects a typographical error. Namely, FMCSA removes a comma from the stated range to ensure the value is within the required data length of 3–7 characters and the range for elapsed engine hours reflects the proper value.

*N. Part 396—Inspection, Repair, and Maintenance*

Section 396.9 Inspection of Motor Vehicles and Intermodal Equipment in Operation

In § 396.9(c), FMCSA replaces the words “declared” and “declare” with “ordered,” and “order,” respectively, and replaces the word “notice” (in the phrase “out-of-service notice” with “order” (to read “out-of-service order”). Section 383.5 defines an out-of-service “order” to include §§ 396.9, 395.13, 392.5, and 386.72. However, § 396.9 uses the word “declared” instead of “ordered,” which is inconsistent with §§ 392.5 and 386.72, both of which use the word “order.” These amendments provide clarity and consistency; § 396.9(c) will use “ordered” instead of “declared” to mirror the language of § 395.13, as modified in section II.M., above.

Sections 396.17 Periodic Inspection, 396.19 Inspector Qualifications, and 396.21 Periodic Inspection Recordkeeping Requirements

As further discussed in section II.P. below, FMCSA redesignates appendix G to subchapter B of chapter III (“Minimum Periodic Inspection Standards”) as appendix A to part 396. Accordingly, FMCSA amends §§ 396.17, 396.19, and 396.21 to change the cross-references to “appendix G of this subchapter” and “appendix G of this subchapter” to reflect the new name and location of the appendix (*i.e.*, “appendix A to part 396— . . .”).

*O. Part 398—Transportation of Migrant Workers*

Section 398.4 Driving of Motor Vehicles

FMCSA replaces “insure” with “ensure” in paragraph (a). This revision corrects an inadvertent word choice error and follows the rationale of the change to § 383.73 in section II.I., above.

Section 398.7 Inspection and Maintenance of Motor Vehicles

FMCSA replaces “insure” with “ensure” in § 398.7. This revision corrects an inadvertent word choice error and follows the rationale of the change to § 383.73 in section II.I., above.

*P. Chapter III—Federal Motor Carrier Safety Administration, Department of Transportation, Subchapter B—Federal Motor Carrier Safety Regulations Appendix F to Subchapter B of Chapter III—Commercial Zones and Appendix G to Subchapter B of Chapter III—Minimum Periodic Inspection Standards*

FMCSA currently has a number of appendices listed as appendices to subchapter B of chapter III that directly pertain to other parts of the CFR. FMCSA believes it would be beneficial to move two of those appendices, appendices F and G, to the parts of title 49 of the CFR to which they pertain. FMCSA implements these changes by redesignating appendix F as appendix A to part 372, and redesignating appendix G as appendix A to part 396.

FMCSA also makes amendments to the entry for type 36 clamp-type chambers in the “Clamp-Type Brake Chambers” table in section 1 of the newly redesignated appendix A to part 396 as discussed in section II.L.

### 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 has considered the impact of this final rule under E.O. 12866 (58 FR 51735, Oct. 4, 1993), Regulatory Planning and Review, E.O. 13563 (76 FR 3821, Jan. 21, 2011), Improving Regulation and Regulatory Review, and DOT's regulatory policies and procedures. The Office of Information and Regulatory Affairs within the Office of Management and Budget (OMB) determined that this final rule is not a significant regulatory action under section 3(f) of E.O. 12866, as supplemented by E.O. 13563, 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 E.O.

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. Some changes relate to previous changes that were statutorily mandated or merely align regulatory requirements with the underlying statutory authority. In accommodating those changes, the Agency is performing nondiscretionary, ministerial acts. Two new provisions relate to agency management and to FMCSA's rules of organization, procedures, or practice. 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. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801–808), the Office of Information and Regulatory Affairs designated this rule as not a “major rule,” as defined by 5 U.S.C. 804(2).

#### C. 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.

#### D. Assistance for Small Entities

In accordance with section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub.

L. 104–121, 110 Stat. 857, Mar. 29, 1996), FMCSA wants to assist small entities in understanding this final rule so they can better evaluate its effects on themselves 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 person listed under 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.

#### E. 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 a State, local, or Tribal government, in the aggregate, or by the private sector of \$170 million (which is the value equivalent of \$100 million in 1995, adjusted for inflation to 2020 levels) or more in any 1 year. This final rule will not result in such an expenditure.

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

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

#### G. 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.

#### H. Privacy

The Consolidated Appropriations Act, 2005 (Pub. L. 108–447, 118 Stat. 2809, 3268, Dec. 8, 2004 (5 U.S.C. 552a note)), requires the Agency to conduct a privacy impact assessment of a regulation that will affect the privacy of individuals. Because this rule does not require the collection of personally identifiable information, the Agency is not required to conduct a privacy impact assessment.

The Privacy Act (5 U.S.C. 552a) applies only to Federal agencies and any non-Federal agency that receives records contained in a system of records from a Federal agency for use in a matching program.

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 privacy impact assessment for new or substantially changed technology that collects, maintains, or disseminates information in an identifiable form. No new or substantially changed technology will collect, maintain, or disseminate information as a result of this rule. Accordingly, FMCSA has not conducted a privacy impact assessment.

#### I. 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.

#### J. National Environmental Policy Act of 1969

FMCSA analyzed this rule pursuant to 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, paragraphs 6.b and c. These Categorical Exclusions address minor corrections and regulations concerning internal agency functions, organization, or personnel administration 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 365

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

49 CFR Part 368

Administrative practice and procedure, Mexico, Motor carriers.

49 CFR Part 380

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

49 CFR Part 381

Motor carriers.

49 CFR Part 382

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

49 CFR Part 383

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

49 CFR Part 385

Administrative practice and procedure, Highway safety, Incorporation by reference, 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 390

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

49 CFR Part 391

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

49 CFR Part 393

Highway safety, Motor carriers, Motor vehicle safety.

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.

49 CFR Part 398

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

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

Appendix F to Subchapter B of Chapter III [Transferred to Part 372 and Redesignated as Appendix A to Part 372]

1. Under the authority of 44 U.S.C. 1505 and 1510, appendix F to subchapter B of chapter III is transferred to part 372 and redesignated as appendix A to part 372.

Appendix G to Subchapter B of Chapter III [Transferred to Part 396 and Redesignated as Appendix A to Part 396]

2. Under the authority of 44 U.S.C. 1505 and 1510, appendix G to subchapter B of chapter III is transferred to part 396 and redesignated as appendix A to part 396.

PART 365—RULES GOVERNING APPLICATIONS FOR OPERATING AUTHORITY

3. 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.

- 4. Amend § 365.101 as follows:
a. Lift the suspension of the section;
b. Revise paragraph (h); and
c. Suspend the section indefinitely.
The revision reads as follows:

§ 365.101 Applications governed by these rules.

\* \* \* \* \*

(h) Applications for Mexico-domiciled motor carriers to operate in

foreign commerce as common, contract or private motor carriers of property (including exempt items) between Mexico and all points in the United States. A Mexico-domiciled motor carrier may not provide point-to-point transportation services, including express delivery services, within the United States for goods other than international cargo.

\* \* \* \* \*

5. Amend § 365.101T by revising paragraph (h) to read as follows:

§ 365.101T Applications governed by these rules.

\* \* \* \* \*

(h) Applications for Mexico-domiciled motor carriers to operate in foreign commerce as for-hire or private motor carriers of property (including exempt items) between Mexico and all points in the United States. A Mexico-domiciled motor carrier may not provide point-to-point transportation services, including express delivery services, within the United States for goods other than international cargo.

\* \* \* \* \*

PART 368—APPLICATION FOR A CERTIFICATE OF REGISTRATION TO OPERATE IN MUNICIPALITIES IN THE UNITED STATES ON THE UNITED STATES-MEXICO INTERNATIONAL BORDER OR WITHIN THE COMMERCIAL ZONES OF SUCH MUNICIPALITIES

6. The authority citation for part 368 is revised to read as follows:

Authority: 49 U.S.C. 13301, 13902, 13908; Pub. L. 106–159, 113 Stat. 1748; and 49 CFR 1.87.

- 7. Amend § 368.8 as follows:
a. Lift the suspension of the section;
b. Revise the third sentence; and
c. Suspend the section indefinitely.
The revision reads as follows:

§ 368.8 Appeals.

\* \* \* The appeal must be filed with FMCSA, ATTN: § 368.8 Appeal, 1200 New Jersey Avenue SE, Washington, DC 20590, within 20 days of the date of the letter denying the application.

8. Amend § 368.8T by revising the third and fourth sentences to read as follows:

§ 368.8T Appeals.

\* \* \* The appeal must be filed with FMCSA, ATTN: § 368.8 Appeal, 1200 New Jersey Avenue SE, Washington, DC 20590, within 20 days of the date of the letter denying the application. The decision will be the final agency order.

**PART 380—SPECIAL TRAINING REQUIREMENTS**

■ 9. The authority citation for part 380 is revised 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, 2151–2152; sec. 32304, Pub. L. 112–141, 126 Stat. 405, 791; and 49 CFR 1.87.

■ 10. Amend § 380.603 by revising paragraph (a)(3) to read as follows:  
**§ 380.603 Applicability.**  
 (a) \* \* \*  
 (3) Military personnel with military CMV experience who meet all the requirements and conditions of § 383.77 of this chapter; and  
 \* \* \* \* \*

**§ 380.723 [Amended]**  
 ■ 11. In the table below, for each paragraph of § 380.723 indicated in the left column, remove the text indicated in the middle column from wherever it appears, and add in its place the text indicated in the right column:

Paragraph	Remove	Add
(a) .....	FMCSA's Director, Office of Carrier, Driver, and Vehicle Safety Standards (Director).	FMCSA, ATTN: Training Provider Registry Removal, 1200 New Jersey Avenue SE, Washington, DC 20590.
(c) introductory text, (c)(1)(i) and (ii), and (c)(2)(i).	the Director .....	FMCSA.
(c)(1) introductory text and (c)(2)(i) and (ii).	The Director .....	FMCSA.
(d) introductory text .....	the FMCSA Associate Administrator for Policy (Associate Administrator).	FMCSA, ATTN: § 380.723 Training Provider Registry Removal Proceedings, 1200 New Jersey Avenue SE, Washington, DC 20590.
(d)(1) and (2) .....	The Associate Administrator .....	FMCSA.
(d)(1) and (2) .....	the Associate Administrator .....	FMCSA.
(e) introductory text and (f)(1) and (2).	the Director .....	FMCSA.

**§ 380.725 [Amended]**

■ 12. Amend § 380.725 by:  
 ■ a. Removing paragraph (b)(4); and  
 ■ b. Redesignating paragraphs (b)(5) and (6) as paragraphs (b)(4) and (5), respectively.

**Appendix B to Part 380—[Amended]**

■ 13. Amend appendix B to part 380 by removing the word “combination” in unit B1.1.6.

**PART 381—WAIVERS, EXEMPTIONS, AND PILOT PROGRAMS**

■ 14. The authority citation for part 381 is revised to read as follows:  
**Authority:** 49 U.S.C. 31136(e), 31315; and 49 CFR 1.87.

■ 15. Amend § 381.200 by revising paragraph (c) to read as follows:

**§ 381.200 What is a waiver?**

\* \* \* \* \*  
 (c) A waiver is intended for nonemergency and unique events, and is subject to conditions imposed by the Administrator.  
 \* \* \* \* \*

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

■ 16. The authority citation for part 382 continues to read as follows:  
**Authority:** 49 U.S.C. 31133, 31136, 31301 *et seq.*, 31502; sec. 32934 of Pub. L. 112–141, 126 Stat. 405, 830; and 49 CFR 1.87.

■ 17. Amend § 382.107 by revising the definition of “Consortium/Third party administrator (C/TPA)” to read as follows:

**§ 382.107 Definitions.**

\* \* \* \* \*  
*Consortium/Third party administrator (C/TPA)* means a service agent that provides or coordinates one or more drug and/or alcohol testing services to DOT-regulated employers. C/TPAs typically provide or coordinate the provision of a number of such services and perform administrative tasks concerning the operation of the employers’ drug and alcohol testing programs. This term includes, but is not limited to, groups of employers who join together to administer, as a single entity, the DOT drug and alcohol testing

programs of its members (e.g., having a combined random testing pool). C/TPAs are not “employers” for purposes of this part, except as provided in § 382.705(c).  
 \* \* \* \* \*

**§ 382.305 [Amended]**

■ 18. Amend § 382.305 in paragraph (b)(2) by removing “25 percent” and adding in its place “50 percent”.  
 ■ 19. Amend § 382.703 by revising paragraph (c) to read as follows:

**§ 382.703 Driver consent to permit access to information in the Clearinghouse.**

\* \* \* \* \*  
 (c) No employer may permit a driver to perform a safety-sensitive function if the driver refuses to grant the consent required by paragraph (a) or (b) of this section.  
 \* \* \* \* \*

**§ 382.717 [Amended]**

■ 20. In the table below, for each paragraph of § 382.717 indicated in the left column, remove the text indicated in the middle column from wherever it appears, and add in its place the text indicated in the right column:

Paragraph	Remove	Add
(c) .....	Office of Enforcement and Compliance, Attention: Drug and Alcohol Program Manager.	ATTN: Drug and Alcohol Clearinghouse Petition for Review.
(f)(2) .....	the Associate Administrator for Enforcement (MC–E).	FMCSA, ATTN: Drug and Alcohol Clearinghouse Administrative Review.
(f)(4) .....	The Associate Administrator’s .....	FMCSA’s.

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

■ 21. 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; and 49 CFR 1.87.

**§ 383.71 [Amended]**

■ 22. Amend § 383.71 by:

- a. Redesignating paragraph (a)(3) as paragraph (a)(10);
- b. Removing paragraph (a)(1);
- c. Removing the heading and introductory text to paragraph (a)(2); and
- d. Redesignating paragraphs (a)(2)(i) through (ix) as paragraphs (a)(1) through (9), respectively.

■ 23. Amend § 383.73 by:

- a. Adding introductory text to paragraph (a);
- b. Removing paragraph (a)(1);
- c. Removing the heading and introductory text to paragraph (a)(2);
- d. Redesignating paragraphs (a)(2)(i) through (vii) as paragraphs (a)(1) through (7), respectively;
- e. Revising newly redesignated paragraphs (a)(1) and (6);
- f. Further redesignating paragraphs (a)(7)(A) and (B) as paragraphs (a)(7)(i) and (ii), respectively; and
- g. Revising paragraphs (o)(4)(i)(A) and (o)(5) and (6).

The addition and revisions read as follows:

**§ 383.73 State procedures.**

(a) \* \* \* Prior to issuing a CLP to a person, a State must:

(1) Require the applicant to make the certifications, pass the tests, and provide the information as described in § 383.71(a).

\* \* \* \* \*

(6) Require compliance with the standards for providing proof of citizenship or lawful permanent residency specified in § 383.71(a)(5) and proof of State of domicile specified in § 383.71(a)(6). *Exception:* A State is required to check the proof of citizenship or legal presence specified in this paragraph only for initial issuance, renewal or upgrade of a CLP or Non-domiciled CLP and for initial issuance, renewal, upgrade or transfer of a CDL or Non-domiciled CDL for the first time after July 8, 2011, provided a notation is made on the driver's record confirming that the proof of citizenship or legal presence check required by this paragraph has been made and noting the date it was done.

\* \* \* \* \*

(o) \* \* \*

(4) \* \* \*

(i) \* \* \*

(A)(1) Before June 23, 2025, notify the CLP or CDL holder of his/her CLP or CDL “not-certified” medical certification status and that the CDL privileges will be removed from the CLP or CDL unless the driver submits a current medical examiner's certificate and/or medical variance, or changes his/her self-certification to driving only in excepted or intrastate commerce (if permitted by the State).

(2) On or after June 23, 2025, notify the CLP or CDL holder of his/her CLP or CDL “not-certified” medical certification status and that the CDL privileges will be removed from the CLP or CDL unless the driver has been medically examined and certified in accordance with 49 CFR 391.43 as physically qualified to operate a commercial motor vehicle by a medical examiner, as defined in 49 CFR 390.5, or the driver changes his/her self-certification to driving only in excepted or intrastate commerce (if permitted by the State).

\* \* \* \* \*

(5) *State contacts for medical variances.* FMCSA Medical Programs is designated as the keeper of the list of State contacts for receiving medical variance information from FMCSA. Beginning January 30, 2012, States are responsible for ensuring their medical variance contact information is always up-to-date with FMCSA's Medical Programs.

(6) *Conflicting medical certification information.* In the event of a conflict between the medical certification information provided electronically by FMCSA and a paper copy of the medical examiner's certificate, the medical certification information provided electronically by FMCSA shall control.

\* \* \* \* \*

**PART 385—SAFETY FITNESS PROCEDURES**

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

**Authority:** 49 U.S.C. 113, 504, 521(b), 5105(d), 5109, 5113, 13901–13905, 13908, 31135, 31136, 31144, 31148, 31151, 31502; sec. 113(a), Pub. L. 103–311, 108 Stat. 1673, 1676; sec. 408, Pub. L. 104–88, 109 Stat. 803, 958; sec. 350, Pub. L. 107–87, 115 Stat. 833, 864; sec. 5205, Pub. L. 114–94, 129 Stat. 1312, 1537; and 49 CFR 1.87.

**§ 385.15 [Amended]**

■ 25. Amend § 385.15(c) introductory text by removing the words “Chief Safety Officer” and adding in their place the words “Assistant Administrator, ATTN: Adjudications Counsel”.

**§§ 385.113 and 385.711 [Amended]**

■ 26. In the table below, for each section indicated in the left column, remove the text indicated in the middle column from wherever it appears, and add in its place the text indicated in the right column:

Section	Remove	Add
385.113(b) .....	the Associate Administrator for Enforcement and Program Delivery (MC–E), Federal Motor Carrier Safety Administration.	FMCSA, ATTN: § 385.113 Request for Administrative Review.
385.113(d) .....	The Associate Administrator's .....	FMCSA's/
385.711(b) .....	the Associate Administrator for Enforcement and Program Delivery, Federal Motor Carrier Safety Administration.	FMCSA, ATTN: § 385.113 Request for Administrative Review.
385.711(d) .....	The Associate Administrator's .....	FMCSA's.

**§ 385.423 [Amended]**

■ 27. Amend § 385.423 in paragraphs (b), (c)(1) introductory text, (c)(1)(i), (c)(3) and (4), (c)(5) introductory text, (c)(5)(ii), and (c)(6) and (7) by removing the words “Chief Safety Officer” every time they appear and adding in their

place the words “Assistant Administrator”.

■ 28. Amend § 385.903 by revising the definition of “Agency Official” to read as follows:

**§ 385.903 Definitions.**

\* \* \* \* \*

*Agency Official* means the FMCSA employee with delegated authority under this subpart.

\* \* \* \* \*

■ 29. Amend § 385.1003 by revising the definition of “Agency Official” to read as follows:

**§ 385.1003 Definitions.**

\* \* \* \* \*

*Agency Official* means the FMCSA employee with delegated authority under this subpart.

\* \* \* \* \*

**PART 386—RULES OF PRACTICE FOR FMCSA PROCEEDINGS**

■ 30. The authority citation for part 386 is revised to read as follows:

**Authority:** 28 U.S.C. 2461 note; 49 U.S.C. 113, 1301 note, 31306a; 49 U.S.C. chapters 5, 51, 131–141, 145–149, 311, 313, and 315; and 49 CFR 1.81, 1.87.

■ 31. Amend § 386.2 by:

- a. Adding a definition of “Agency decisionmaker” in alphabetical order;
- b. Revising the definition of “Assistant Administrator”;
- c. Removing the definition of “Decisionmaker”; and
- d. Revising the definition of “Field Administrator”.

The addition and revisions read as follows:

**§ 386.2 Definitions.**

\* \* \* \* \*

*Agency decisionmaker* means the FMCSA official authorized to issue a final decision and order of the Agency in an administrative proceeding under this part. The Agency decisionmaker is the Assistant Administrator or any person to whom this decisionmaking authority has been delegated.

*Assistant Administrator* means the Assistant Administrator of the Federal Motor Carrier Safety Administration or an authorized delegee. The Assistant Administrator is the Agency decisionmaker who issues final decisions under this part.

\* \* \* \* \*

*Field Administrator* means the head of an FMCSA Service Center who has been delegated authority to initiate compliance and enforcement actions on behalf of FMCSA or an authorized delegee.

\* \* \* \* \*

■ 32. Amend § 386.3 by revising paragraph (b) to read as follows:

**§ 386.3 Separation of functions.**

\* \* \* \* \*

(b) An Agency employee, including those listed in paragraph (c) of this section, engaged in the performance of investigative or prosecutorial functions in a civil penalty proceeding or in a proceeding under § 386.11, § 386.72, or § 386.73 may not, in that case or a factually related case, discuss or communicate the facts or issues involved with the Agency decisionmaker, Administrative Law Judge, Hearing Officer, or others listed in paragraph (d) of this section, except as counsel or a witness in the public proceedings. The prohibition in this paragraph (b) also includes the staff of those covered by this section.

\* \* \* \* \*

**§§ 386.11, 386.48, 386.71, 386.72, and 386.73 [Amended]**

■ 33. In the table below, for each section indicated in the left column, remove the text indicated in the middle column from wherever it appears, and add in its place the text indicated in the right column:

Section	Remove	Add
386.11(a) introductory text .....	the Director, Office of Carrier, Driver, and Vehicle Safety Standards (MC–PS).	FMCSA.
386.48 .....	the Director, Office of Carrier, Driver, and Vehicle Safety Standards (MC–PS).	FMCSA.
386.71 .....	the Chief Counsel .....	FMCSA.
386.72(b)(1) introductory text .....	the Director of the Office of Enforcement and Compliance or a Division Administrator, or his or her delegate.	FMCSA.
386.73(a) introductory text .....	An FMCSA Field Administrator or the Director of FMCSA’s Office of Enforcement and Compliance (Director).	FMCSA.
386.73(a) introductory text, (b) introductory text, (c) introductory text, (c)(1), (g)(2), and (h)(3), (5), and (6).	the Field Administrator or Director .....	FMCSA.
386.73(c) introductory text, (d), (f) introductory text, (g)(5), and (h)(4).	The Field Administrator or Director .....	FMCSA.
386.73(g)(1) and (h)(1) .....	Field Administrator or Director .....	FMCSA official.
386.73(g)(7) .....	the Field Administrator or the Director .....	FMCSA.

**§ 386.83 [Amended]**

■ 34. Amend § 386.83(b)(2) introductory text by removing the words “Chief Safety Officer” and adding in their place the words “Assistant Administrator”.

Safety Officer” and adding in their place the words “Assistant Administrator”.

L. 104–88, 109 Stat. 803, 941; and 49 CFR 1.87.

**§ 386.84 [Amended]**

■ 35. Amend § 386.84(b)(2) introductory text by removing the words “Chief

**PART 387—MINIMUM LEVELS OF FINANCIAL RESPONSIBILITY FOR MOTOR CARRIERS**

■ 36. The authority citation for part 387 is revised to read as follows:

**Authority:** 49 U.S.C. 13101, 13301, 13906, 13908, 14701, 31138, 31139; sec. 204(a), Pub.

■ 37. Revise § 387.9 to read as follows:

**§ 387.9 Financial responsibility, minimum levels.**

The minimum levels of financial responsibility referred to in § 387.7 are hereby prescribed as follows:

TABLE 1 TO § 387.9—SCHEDULE OF LIMITS—PUBLIC LIABILITY

Type of carriage	Commodity transported	January 1, 1985
(1) For-hire (In interstate or foreign commerce, with a gross vehicle weight rating of 10,001 or more pounds).	Property (nonhazardous) .....	\$750,000

TABLE 1 TO § 387.9—SCHEDULE OF LIMITS—PUBLIC LIABILITY—Continued

Type of carriage	Commodity transported	January 1, 1985
(2) For-hire and Private (In interstate, foreign, or intrastate commerce, with a gross vehicle weight rating of 10,001 or more pounds).	Hazardous substances, as defined in 49 CFR 171.8, transported in bulk in cargo tanks, portable tanks, or hopper-type vehicles with capacities in bulk; in bulk Division 1.1, 1.2 or 1.3 materials; Division 2.3, Hazard Zone A material; in bulk Division 6.1, Packing Group I, Hazard Zone A material; in bulk Division 2.1 or 2.2 material; or highway route controlled quantities of a Class 7 material, as defined in 49 CFR 173.403.	5,000,000
(3) For-hire and Private (In interstate or foreign commerce, in any quantity; or in intrastate commerce, in bulk only; with a gross vehicle weight rating of 10,001 or more pounds).	Oil listed in 49 CFR 172.101; hazardous waste, hazardous materials, or hazardous substances defined in 49 CFR 171.8 and listed in 49 CFR 172.101, but not mentioned in entry (2) or (4) of this table.	1,000,000
(4) For-hire and Private (In interstate or foreign commerce, with a gross vehicle weight rating of less than 10,001 pounds).	In bulk Division 1.1, 1.2, or 1.3 material; in bulk Division 2.3, Hazard Zone A material; in bulk Division 6.1, Packing Group I, Hazard Zone A material; or highway route controlled quantities of a Class 7 material as defined in 49 CFR 173.403.	5,000,000

- 38. Amend § 387.323 as follows:
  - a. Lift the suspension of the section;
  - b. Revise paragraph (c); and
  - c. Suspend the section indefinitely.

The revision reads as follows:

**§ 387.323 Electronic filing of surety bonds, trust fund agreements, certificates of insurance and cancellations.**

\* \* \* \* \*

(c) Filings may be transmitted online via the internet at: <https://li-public.fmcsa.dot.gov>.

\* \* \* \* \*

- 39. Amend § 387.323T by revising paragraph (c) introductory text to read as follows:

**§ 387.323T Electronic filing of surety bonds, trust fund agreements, certificates of insurance and cancellations.**

\* \* \* \* \*

(c) Filings may be transmitted online via the internet at: <https://li-public.fmcsa.dot.gov> or via American Standard Code Information Interchange (ASCII). All ASCII transmission must be in fixed format, *i.e.*, all records must have the same number of fields and same length. The record layouts for ASCII electronic transactions are described in the following table:

\* \* \* \* \*

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

- 40. The authority citation for part 390 is revised to read as follows:

**Authority:** 49 U.S.C. 113, 504, 508, 31132, 31133, 31134, 31136, 31137, 31144, 31149, 31151, 31502; sec. 114, Pub. L. 103–311, 108 Stat. 1673, 1677; secs. 212 and 217, Pub. L. 106–159, 113 Stat. 1748, 1766, 1767; 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), 113 Stat. 1748, 1773; sec. 4136, Pub. L. 109–59, 119 Stat. 1144, 1745; secs. 32101(d) and 32934, Pub. L. 112–141, 126 Stat. 405, 778, 830; sec. 2, Pub. L. 113–125, 128 Stat. 1388; secs. 5403, 5518, and 5524, Pub. L. 114–94, 129 Stat. 1312, 1548, 1558 1560; sec. 2, Pub. L. 115–105, 131 Stat. 2263; and 49 CFR 1.81, 1.81a, 1.87.

- 41. Amend § 390.3T by revising the introductory text of paragraph (h) to read as follows:

**§ 390.3T General applicability.**

\* \* \* \* \*

(h) *Intermodal equipment providers.* The rules in the following provisions of this subchapter apply to intermodal equipment providers:

\* \* \* \* \*

- 42. Add § 390.4 to read as follows:

**§ 390.4 Delegations and redelegations of authority of FMCSA employees to perform assigned actions or duties.**

(a) *General.* FMCSA may apply the guidelines and procedures of this section to delegate or redelegate the authority of FMCSA employees to perform assigned actions or duties under this chapter.

(b) *FMCSA Administrator authority to delegate and redelegate.* (1) The FMCSA Administrator is authorized to delegate and redelegate authority and authorize successive redelegations.

(2) The FMCSA Administrator retains concurrent authority to exercise or redelegate any authority that he or she has delegated to an employee in regulation, directive, or memorandum.

(c) *Redelegations by FMCSA employees.* Unless specifically prohibited by law, and in consultation with the FMCSA Office of the Chief Counsel, an FMCSA employee with delegated authority is authorized to—

(1) Redelegate that authority to another FMCSA employee, as appropriate; and

(2) Maintain concurrent authority to exercise or redelegate the authority he or she has delegated to another FMCSA employee.

(d) *Exercise of delegated authority in special circumstances.* In consultation with the FMCSA Office of the Chief Counsel, if the FMCSA employee to whom a regulation assigns the authority to perform an action or a duty is unavailable or otherwise unable to perform such action or duty (*e.g.*, due to a conflict of interest or a vacancy in the position), a supervisor of the FMCSA employee may exercise that authority or redelegate such authority to another FMCSA employee, as appropriate.

(e) *Format of delegations and redelegations.* Delegations and redelegations authorized under this section must be in writing and may be made by regulation, directive, or memorandum.

(f) *Actions or duties performed under delegated or redelegated authority.* Each action or duty performed by any FMCSA employee pursuant to authority delegated or redelegated to him or her in accordance with this section, whether directly or by redelegation, shall be a valid exercise of that authority, notwithstanding any regulation that provides that such action or duty shall be performed by another FMCSA employee.

- 43. Amend § 390.5 as follows:

- a. Lift the suspension of the section;
- b. Add the definition of “Assistant Administrator” in alphabetical order;
- c. Revise the definitions of “Emergency” and “Exempt intracity zone”;

■ d. Add the definition of “Field Administrator” in alphabetical order; and

■ e. Suspend the section indefinitely. The additions and revisions read as follows:

**§ 390.5 Definitions.**

\* \* \* \* \*

*Assistant Administrator* means the Assistant Administrator of the Federal Motor Carrier Safety Administration or an authorized delegee.

\* \* \* \* \*

*Emergency* means any hurricane, tornado, storm (e.g. thunderstorm, snowstorm, icestorm, blizzard, sandstorm, etc.), high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, mud slide, drought, forest fire, explosion, blackout, or other occurrence, natural or man-made, which interrupts the delivery of essential services (such as, electricity, medical care, sewer, water, telecommunications, and telecommunication transmissions) or essential supplies (such as, food and fuel) or otherwise immediately threatens human life or public welfare, provided such hurricane, tornado, or other event results in:

(1) A declaration of an emergency by the President of the United States, the Governor of a State, or their authorized representatives having authority to declare emergencies; by FMCSA; or by other Federal, State, or local government officials having authority to declare emergencies; or

(2) A request by a police officer for tow trucks to move wrecked or disabled motor vehicles.

\* \* \* \* \*

*Exempt intracity zone* means the geographic area of a municipality or the commercial zone of that municipality described in appendix A to part 372 of this chapter. The term “exempt intracity zone” does not include any municipality or commercial zone in the State of Hawaii. For purposes of § 391.62 of this chapter, a driver may be considered to operate a commercial motor vehicle wholly within an exempt intracity zone notwithstanding any common control, management, or arrangement for a continuous carriage or

shipment to or from a point without such zone.

\* \* \* \* \*

*Field Administrator* means the head of an FMCSA Service Center who has been delegated authority to initiate compliance and enforcement actions on behalf of FMCSA or an authorized delegee.

\* \* \* \* \*

- 44. Amend § 390.5T by:
  - a. Adding the definition of “Assistant Administrator” in alphabetical order;
  - b. Revising the definitions of “Emergency” and “Exempt intracity zone”; and
  - c. Adding the definition of “Field Administrator” in alphabetical order.

The additions and revisions read as follows:

**§ 390.5T Definitions.**

\* \* \* \* \*

*Assistant Administrator* means the Assistant Administrator of the Federal Motor Carrier Safety Administration or an authorized delegee.

\* \* \* \* \*

*Emergency* means any hurricane, tornado, storm (e.g. thunderstorm, snowstorm, icestorm, blizzard, sandstorm, etc.), high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, mud slide, drought, forest fire, explosion, blackout, or other occurrence, natural or man-made, which interrupts the delivery of essential services (such as, electricity, medical care, sewer, water, telecommunications, and telecommunication transmissions) or essential supplies (such as, food and fuel) or otherwise immediately threatens human life or public welfare, provided such hurricane, tornado, or other event results in:

(1) A declaration of an emergency by the President of the United States, the Governor of a State, or their authorized representatives having authority to declare emergencies; by FMCSA; or by other Federal, State, or local government officials having authority to declare emergencies; or

(2) A request by a police officer for tow trucks to move wrecked or disabled motor vehicles.

\* \* \* \* \*

*Exempt intracity zone* means the geographic area of a municipality or the commercial zone of that municipality described in appendix A to part 372 of this chapter. The term “exempt intracity zone” does not include any municipality or commercial zone in the State of Hawaii. For purposes of § 391.62 of this chapter, a driver may be considered to operate a commercial motor vehicle wholly within an exempt intracity zone notwithstanding any common control, management, or arrangement for a continuous carriage or shipment to or from a point without such zone.

\* \* \* \* \*

*Field Administrator* means the head of an FMCSA Service Center who has been delegated authority to initiate compliance and enforcement actions on behalf of FMCSA or an authorized delegee.

\* \* \* \* \*

- 45. Add § 390.8 to subpart A to read as follows:

**§ 390.8 Separation of functions.**

(a) An Agency employee who has taken an active part in investigating, prosecuting, advocating, or making an initial Agency determination in a proceeding under § 380.723, § 382.717, § 390.115, § 390.135, or § 391.47 of this chapter or section 5.4 to appendix A to subpart B of part 395 of this chapter may not, in that case or a factually-related case, advise or assist the Agency official authorized to issue a final decision in the applicable proceeding.

(b) Nothing in this section shall preclude the Agency official authorized to issue a final decision or anyone advising that Agency official from taking part in a determination to launch an investigation or issue a complaint, or similar preliminary decision.

**§§ 390.23 and 390.25 [Amended]**

- 46. In the table below, for each section indicated in the left column, remove the text indicated in the middle column from wherever it appears, and add in its place the text indicated in the right column:

Section	Remove	Add
390.23(a)(1)(i)(B) and (a)(2)(i)(B)	The FMCSA Field Administrator	FMCSA
390.23(a)(1)(ii)(A) and (a)(2)(ii)	the FMCSA Field Administrator	FMCSA
390.25	the FMCSA Field Administrator	FMCSA
390.25	The FMCSA Field Administrator	FMCSA

**§§ 390.115 and 390.135 [Amended]** text indicated in the middle column place the text indicated in the right column:  
 ■ 47. In the table below, for each section from wherever it appears, and add in its column:  
 indicated in the left column, remove the

Section	Remove	Add
390.115(a) .....	the FMCSA Director, Office of Carrier, Driver and Vehicle Safety Standards.	FMCSA, ATTN: Removal from National Registry of Certified Medical Examiners.
390.115(a), (c) introductory text, (c)(2)(i), (c)(3), (d)(2)(v), (e), (f) introductory text, and (f)(5).	the Director, Office of Carrier, Driver and Vehicle Safety Standards.	FMCSA.
390.115(c)(1) introductory text and (c)(2)(i) and (ii).	The Director, Office of Carrier, Driver and Vehicle Safety Standards.	FMCSA.
390.115(c)(1)(i) and (ii) .....	the Director, Office of Carrier, Driver and Vehicle Safety Standards finds FMCSA.	FMCSA finds it.
390.115(c)(1)(i) and (ii) .....	the Director, Office of Carrier, Driver and Vehicle Safety Standards will.	FMCSA will.
390.115(c)(1)(i) .....	the Director, Office of Carrier, Driver and Vehicle Safety Standards modifies.	FMCSA modifies.
390.115(c)(1)(ii) .....	the Director, Office of Carrier, Driver and Vehicle Safety Standards affirms.	FMCSA affirms.
390.115(d) introductory text .....	the FMCSA Associate Administrator for Policy .....	FMCSA, ATTN: National Registry of Certified Medical Examiners—Request for Administrative Review.
390.115(d)(1) and (d)(2) introductory text.	The Associate Administrator .....	FMCSA.
390.115(d)(1) and (d)(2) introductory text.	the Associate Administrator .....	FMCSA.
390.135(a) .....	the FMCSA Director, Office of Carrier, Driver and Vehicle Safety Standards.	FMCSA, ATTN: Removal from National Registry of Certified Medical Examiners.
390.135(a), (c) introductory text, (c)(2)(i), (c)(3), (d)(2)(v), (e), (f) introductory text, and (f)(5).	the Director, Office of Carrier, Driver and Vehicle Safety Standards.	FMCSA.
390.135(c)(1) introductory text and (c)(2)(i) and (ii).	The Director, Office of Carrier, Driver and Vehicle Safety Standards.	FMCSA.
390.135(c)(1)(i) and (ii) .....	the Director, Office of Carrier, Driver and Vehicle Safety Standards finds FMCSA.	FMCSA finds it.
390.135(c)(1)(i) and (ii) .....	the Director, Office of Carrier, Driver and Vehicle Safety Standards will.	FMCSA will.
390.135(c)(1)(i) .....	the Director, Office of Carrier, Driver and Vehicle Safety Standards modifies.	FMCSA modifies.
390.135(c)(1)(ii) .....	the Director, Office of Carrier, Driver and Vehicle Safety Standards affirms.	FMCSA affirms.
390.135(d) introductory text .....	the FMCSA Associate Administrator for Policy .....	FMCSA, ATTN: National Registry of Certified Medical Examiners—Request for Administrative Review.
390.135(d)(1) and (d)(2) introductory text.	The Associate Administrator .....	FMCSA.
390.135(d)(1) and (d)(2) introductory text.	the Associate Administrator .....	FMCSA.

**PART 391—QUALIFICATIONS OF DRIVERS AND LONGER COMBINATION VEHICLE (LCV) DRIVER INSTRUCTORS**

■ 48. The authority citation for part 391 continues to read as follows:

**Authority:** 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.

**§§ 391.43 and 391.47 [Amended]**

■ 49. In the table below, for each section indicated in the left column, remove the text indicated in the middle column from wherever it appears, and add in its place the text indicated in the right column:

Section	Remove	Add
391.43(g)(5)(i)(A) and (B) .....	the Director, Office of Carrier, Driver and Vehicle Safety Standards.	FMCSA.
391.47(c) .....	The Director, Office of Carrier, Driver and Vehicle Safety Standards.	FMCSA.
391.47(c) .....	the Director .....	FMCSA.
391.47(d)(1) and (2) and (f) .....	the Director, Office of Carrier, Driver and Vehicle Safety Standards.	FMCSA.
391.47(e) .....	the Director's .....	FMCSA's.

- 50. Amend § 391.49 by:
- a. Revising paragraph (a);
- b. Removing the heading from paragraph (b);
- c. Revising paragraphs (b)(2), (c)(1)(i), (c)(2)(i), (c)(4)(i), (c)(5)(ii), (d)(1) and (2), (d)(3) introductory text, and (d)(5)(i);
- d. Removing the heading from paragraph (e);
- e. Revising paragraphs (e)(1), (g), (h), (i) introductory text, (i)(7), (j), and (k).

The revisions read as follows:

**§ 391.49 Alternative physical qualification standards for the loss or impairment of limbs.**

(a) A person who is not physically qualified to drive under § 391.41(b)(1) or (2) and who is otherwise qualified to drive a commercial motor vehicle, may drive a commercial motor vehicle if FMCSA has granted a Skill Performance Evaluation (SPE) Certificate to that person.

(b) \* \* \*

(2) *Application address.* The application must be addressed to the SPE Certificate Program at the applicable FMCSA service center for the State in which the co-applicant motor carrier's principal place of business is located. The address of each, and the States serviced, are listed in § 390.27 of this chapter.

\* \* \* \* \*

(c) \* \* \*

(1) \* \* \*

(i) Name and complete address of the motor carrier co-applicant;

\* \* \* \* \*

(2) \* \* \*

(i) State(s) in which the driver will operate for the motor carrier co-applicant (if more than 10 States, designate general geographic area only);

\* \* \* \* \*

(4) \* \* \*

(i) The co-applicant motor carrier must certify that the driver applicant is otherwise qualified under the regulations of this part;

\* \* \* \* \*

(5) \* \* \*

(ii) Motor carrier official's signature (if application has a co-applicant), title, and date signed. Depending upon the motor carrier's organizational structure (corporation, partnership, or proprietorship), the signer of the application shall be an officer, partner, or the proprietor.

(d) \* \* \*

(1) A copy of the Medical Examination Report Form, MCSA-5875, documenting the results of the medical examination performed pursuant to § 391.43;

(2) A copy of the Medical Examiner's Certificate, Form MCSA-5876, completed pursuant to § 391.43(h);

(3) A medical evaluation summary completed by either a board qualified or board certified psychiatrist (doctor of physical medicine) or orthopedic surgeon. The co-applicant motor carrier or the driver applicant shall provide the psychiatrist or orthopedic surgeon with a description of the job-related tasks the driver applicant will be required to perform;

\* \* \* \* \*

(5) \* \* \*

(i) A copy of the driver applicant's road test administered by the motor carrier co-applicant and the certificate issued pursuant to § 391.31(b) through (g); or

\* \* \* \* \*

(e) \* \* \*

(1) File promptly (within 30 days of the involved incident) with the SPE Certificate Program, FMCSA service center, such documents and information as may be required about driving activities, accidents, arrests, license suspensions, revocations, or withdrawals, and convictions which involve the driver applicant. This paragraph (e)(1) applies whether the driver SPE certificate is a unilateral one or has a co-applicant motor carrier;

(i) A motor carrier who is a co-applicant must file the required documents with the SPE Certificate Program, FMCSA service center, for the State in which the carrier's principal place of business is located; or

(ii) A motor carrier who employs a driver who has been issued a unilateral SPE certificate must file the required documents with the SPE Certificate Program, FMCSA service center, for the State in which the driver has legal residence.

\* \* \* \* \*

(g) FMCSA may require the driver applicant to demonstrate his or her ability to safely operate the commercial motor vehicle(s) the driver intends to drive to an agent of FMCSA. The SPE certificate form will identify the power unit (bus, truck, truck tractor) for which the SPE certificate has been granted. The SPE certificate forms will also identify the trailer type used in the Skill Performance Evaluation; however, the SPE certificate is not limited to that specific trailer type. A driver may use the SPE certificate with other trailer types if a successful trailer road test is completed in accordance with paragraph (e)(2) of this section. Job tasks, as stated in paragraph (e)(3) of this section, are not evaluated during the Skill Performance Evaluation.

(h) FMCSA may deny the application for SPE certificate or may grant it totally or in part and issue the SPE certificate

subject to such terms, conditions, and limitations as deemed consistent with the public interest. The SPE certificate is valid for a period not to exceed 2 years from date of issue, and may be renewed 30 days prior to the expiration date.

(i) The SPE certificate renewal application shall be submitted to the SPE Certificate Program, FMCSA service center, for the State in which the driver has legal residence, if the SPE certificate was issued unilaterally. If the SPE certificate has a co-applicant, then the renewal application is submitted to the SPE Certificate Program, FMCSA service center, for the State in which the co-applicant motor carrier's principal place of business is located. The SPE certificate renewal application shall contain the following:

\* \* \* \* \*

(7) A current Medical Examination Report Form, MCSA-5875;

\* \* \* \* \*

(j)(1) Upon granting an SPE certificate, FMCSA will notify the driver applicant and co-applicant motor carrier (if applicable) by letter. The terms, conditions, and limitations of the SPE certificate will be set forth. A motor carrier shall maintain a copy of the SPE certificate in its driver qualification file. A copy of the SPE certificate shall be retained in the motor carrier's file for a period of 3 years after the driver's employment is terminated. The driver applicant shall have the SPE certificate (or a legible copy) in his/her possession whenever on duty.

(2) Upon successful completion of the skill performance evaluation, FMCSA must notify the driver by letter and enclose an SPE certificate substantially in the following form:

Skill Performance Evaluation Certificate

Name of Issuing Agency: \_\_\_\_\_

Agency Address: \_\_\_\_\_

Telephone Number: ( ) \_\_\_\_\_

Issued Under 49 CFR 391.49, subchapter B of \_\_\_\_\_

the Federal Motor Carrier Safety Regulations

Driver's Name: \_\_\_\_\_

Effective Date: \_\_\_\_\_

SSN: \_\_\_\_\_

DOB: \_\_\_\_\_

Expiration Date: \_\_\_\_\_

Address: \_\_\_\_\_

Driver Disability: \_\_\_\_\_

Check One:  New  Renewal

Driver's License: \_\_\_\_\_

(State) (Number)

In accordance with 49 CFR 391.49, subchapter B of the Federal Motor Carrier Safety Regulations (FMCSRs), the driver application for a skill performance evaluation (SPE) certificate is hereby granted authorizing the above-named driver to operate in interstate or foreign commerce under the provisions set forth below. This

certificate is granted for the period shown above, not to exceed 2 years, subject to periodic review as may be found necessary. This certificate may be renewed upon submission of a renewal application. Continuation of this certificate is dependent upon strict adherence by the above-named driver to the provisions set forth below and compliance with the FMCSRs. Any failure to comply with provisions herein may be cause for cancellation.

**CONDITIONS:** As a condition of this certificate, reports of all accidents, arrests, suspensions, revocations, withdrawals of driver licenses or permits, and convictions involving the above-named driver shall be reported in writing to the Issuing Agency by the EMPLOYING MOTOR CARRIER within 30 days after occurrence.

- LIMITATIONS:**
1. Vehicle Type (power unit):\* \_\_\_\_\_
  2. Vehicle modification(s): \_\_\_\_\_
  3. Prosthetic or Orthotic device(s) (Required to be Worn While Driving): \_\_\_\_\_
  4. Additional Provision(s): \_\_\_\_\_

**NOTICE:** To all MOTOR CARRIERS employing a driver with an SPE certificate. This certificate is granted for the operation of the *power unit only*. It is the responsibility of the employing motor carrier to evaluate the driver with a road test using the trailer type(s) the motor carrier intends the driver to transport, or in lieu of, accept the trailer road test done during the SPE if it is a similar trailer type(s) to that of the prospective motor carrier. Also, it is the responsibility of the employing motor carrier to evaluate the driver for those non-driving safety-related job tasks associated with the type of trailer(s) utilized, as well as, any other non-driving

safety-related or job-related tasks unique to the operations of the employing motor carrier.

The SPE of the above-named driver was given by an SPE Evaluator. It was successfully completed utilizing the above-named power unit and \_\_\_\_\_ (trailer, if applicable)

The tractor or truck had a \_\_\_\_\_ transmission.  
 Please read the *NOTICE* paragraph above.  
 Name: \_\_\_\_\_  
 Signature: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Date: \_\_\_\_\_

(k) FMCSA may revoke an SPE certificate after the person to whom it was issued is given notice of the proposed revocation and has been allowed a reasonable opportunity to appeal.

\* \* \* \* \*

■ 51. Amend § 391.51 by revising paragraph (b)(8) to read as follows:

**§ 391.51 General requirements for driver qualification files.**

\* \* \* \* \*

(b) \* \* \*  
 (8) A Skill Performance Evaluation Certificate issued by FMCSA in accordance with § 391.49; or the Medical Exemption document issued by a Federal medical program in accordance with part 381 of this chapter; and

\* \* \* \* \*

**CLAMP-TYPE BRAKE CHAMBERS**

Type	Outside diameter	Brake readjustment limit: standard stroke chamber	Brake readjustment limit: long stroke chamber
36	9 in. (229 mm)	2½ in. (63.5 mm)	

\* \* \* \* \*

**§ 393.71 [Amended]**

■ 55. Amend § 393.71 by removing the word “insure” adding in its place the word “ensure” in paragraphs (h)(1) introductory text, (j)(5)(i), (k)(2), and (k)(3)(i).

**PART 395—HOURS OF SERVICE OF DRIVERS**

■ 56. The authority citation for part 395 is revised to read as follows:

**Authority:** 49 U.S.C. 504, 21104(e), 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), 113 Stat. 1748, 1773; sec. 4133, Pub. L. 109–59, 119 Stat. 1144, 1744; 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.

■ 57. Amend § 395.13 by revising the section heading and paragraphs (a), (c)(1)(i) and (ii), and (d)(1) through (3) to read as follows:

**§ 395.13 Drivers ordered out of service.**

(a) *Authority to order drivers out of service.* Every special agent of the Federal Motor Carrier Safety Administration (as defined in appendix B to this subchapter) is authorized to order a driver out of service and to notify the motor carrier of that order, upon finding at the time and place of examination that the driver has violated the out-of- service criteria as set forth in paragraph (b) of this section.

\* \* \* \* \*

- (c) \* \* \*  
 (1) \* \* \*

■ 52. Revise § 391.61 to read as follows:

**§ 391.61 Drivers who were regularly employed before January 1, 1971.**

The provisions of §§ 391.21 (relating to applications for employment), 391.23 (relating to investigations and inquiries), and 391.31 (relating to road tests) do not apply to a driver who has been a single-employer driver (as defined in § 390.5 of this subchapter) of a motor carrier for a continuous period which began before January 1, 1971, as long as he/she continues to be a single-employer driver of that motor carrier.

**PART 393—PARTS AND ACCESSORIES NECESSARY FOR SAFE OPERATION**

■ 53. The authority citation for part 393 is revised to read as follows:

**Authority:** 49 U.S.C. 31136, 31151, 31502; sec. 1041(b), Pub. L. 102–240, 105 Stat. 1914, 1993; secs. 5301 and 5524, Pub. L. 114–94, 129 Stat. 1312, 1543, 1560; and 49 CFR 1.87.

■ 54. Amend § 393.47(e)(1) in the table titled “Clamp-Type Brake Chambers” by revising the entry for type 36 chambers to read as follows:

**§ 393.47 Brake actuators, slack adjusters, linings/pads and drums/rotors.**

\* \* \* \* \*

- (e) \* \* \*  
 (1) \* \* \*

(i) Require or permit a driver who has been ordered out of service to operate a commercial motor vehicle until that driver may lawfully do so under the rules in this part.

(ii) Require a driver who has been ordered out of service for failure to prepare a record of duty status to operate a commercial motor vehicle until that driver has been off duty for the appropriate number of consecutive hours required by this part and is in compliance with this section. The appropriate consecutive hours off duty may include sleeper berth time.

\* \* \* \* \*

- (d) \* \* \*  
 (1) No driver who has been ordered out of service shall operate a commercial motor vehicle until that driver may lawfully do so under the rules of this part.

(2) No driver who has been ordered out of service, for failing to prepare a record of duty status, shall operate a commercial motor vehicle until the driver has been off duty for the appropriate number of consecutive hours required by this part and is in compliance with this section.

(3) A driver to whom a form has been tendered ordering the driver out of service shall within 24 hours thereafter deliver or mail the copy to a person or place designated by the motor carrier to receive it.

\* \* \* \* \*

■ 58. Amend appendix A to subpart B of part 395 as follows:  
 ■ a. In the table below, for each section indicated in the left column, remove the text indicated in the middle column from wherever it appears, and add in its place the text indicated in the right column:

Section	Remove	Add
5.4.3 introductory text .....	the Director, Office of Carrier Driver, and Vehicle Safety Standards ...	FMCSA.
5.4.4(b) .....	the Director, Office of Carrier, Driver, and Vehicle Safety Standards ..	FMCSA.
5.4.4(c) .....	the Director .....	FMCSA.
5.4.4(d) .....	The Director, Office of Carrier, Driver, and Vehicle Safety Standards	FMCSA.
5.4.4(d) .....	the Director .....	FMCSA.
5.4.5(b) .....	the FMCSA Associate Administrator for Policy .....	FMCSA, ATTN: ELD Removal—Request for Administrative Review.
5.4.5(c) and (d) .....	The Associate Administrator .....	FMCSA.
5.4.5(c) .....	the Associate Administrator .....	FMCSA.

■ b. In section 7.19, revise the entry for “Data Range”.

The revision reads as follows:

**Appendix A to Subpart B of Part 395—Functional Specifications for All Electronic Logging Devices (ELDs)**

\* \* \* \* \*

7.19. \* \* \*

*Data Range:* For <{Total} Engine hours>, range is between 0.0 and

99999.9; for <{Elapsed} Engine hours>, range is between 0.0 and 99999.9.

\* \* \* \* \*

**PART 396—INSPECTION, REPAIR, AND MAINTENANCE**

■ 59. 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, Public Law 114–94, 129 Stat. 1312, 1560; and 49 CFR 1.87.

**§§ 396.17, 396.19, and 396.21 [Amended]**

■ 60. In the table below, for each section indicated in the left column, remove the text indicated in the middle column from wherever it appears, and in its place add the text indicated in the right column:

Section	Remove	Add
396.17(a), (c) introductory text, and (f) .....	appendix G of this subchapter .....	appendix A to this part.
396.17(g) .....	appendix G to this subchapter .....	appendix A to this part.
396.19(a)(1) .....	appendix G of this subchapter .....	appendix A to this part.
396.21(a)(5) .....	appendix G to this subchapter .....	appendix A to this part.

■ 61. Amend newly redesignated appendix A to part 396 in section 1 in the table titled “Clamp-Type Brake

Chambers” by revising the entry for type 36 chambers to read as follows:

**Appendix A to Part 396—Minimum Periodic Inspection Standards**

\* \* \* \* \*

1. \* \* \*

**CLAMP-TYPE BRAKE CHAMBERS**

Type	Outside diameter	Brake readjustment limit: standard stroke chamber	Brake readjustment limit: long stroke chamber
* .....	* .....	* .....	* .....
36 .....	9 in. (229 mm) .....	2½ in. (63.5 mm).	

\* \* \* \* \*

**PART 398—TRANSPORTATION OF MIGRANT WORKERS**

■ 62. The authority citation for part 398 is revised to read as follows:

**Authority:** 49 U.S.C. 13301, 13902, 31132, 31133, 31136, 31502, 31504; sec. 204, Pub. L. 104–88, 109 Stat. 803, 941; sec. 212, Pub. L. 106–159, 113 Stat. 1748, 1766; and 49 CFR 1.87.

**§ 398.4 [Amended]**

■ 63. Amend § 398.4 by removing the word “insure” and adding in its place the word “ensure” in paragraph (a).

**§ 398.7 [Amended]**

■ 64. Amend § 398.7 by removing the word “insure” and adding in its place the word “ensure.”

Issued under authority delegated in 49 CFR 1.87.

**John Van Steenburg,**  
*Executive Director.*

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