

1998—Subsecs. (a), (b). Pub. L. 105-178, § 4011(h)(1), as added by Pub. L. 105-206, substituted “section 104(b)(1), (3), and (4) of title 23” for “section 104(b)(1), (3), and (5) of title 23”.

Pub. L. 105-178, § 4011(g)(1), substituted “section 104(b)(1), (3), and (5) of title 23” for “section 104(b)(1), (2), (5), and (6) of title 23”.

Subsec. (c). Pub. L. 105-178, § 4011(g)(2), struck out par. (2) designation and struck out par. (1) which read as follows: “Amounts withheld under this section from apportionment to a State before October 1, 1995, remain available for apportionment to the State as follows:

“(A) If the amounts would have been apportioned under section 104(b)(5)(B) of title 23 but for this section, the amounts remain available until the end of the 2d fiscal year following the fiscal year for which the amounts are authorized to be appropriated.

“(B) If the amounts would have been apportioned under section 104(b)(1), (2), or (6) of title 23 but for this section, the amounts remain available until the end of the 3d fiscal year following the fiscal year for which the amounts are authorized to be appropriated.”

Subsec. (d). Pub. L. 105-178, § 4011(h)(2), as added by Pub. L. 105-206, struck out heading and text of subsec. (d). Text read as follows: “If, at the end of the period for which amounts withheld under this section from apportionment are available for apportionment to a State under subsection (c)(1) of this section, the State has not substantially complied with all of the requirements of section 31311(a) of this title for a 365-day period, the amounts lapse or, for amounts withheld from apportionment under section 104(b)(5) of title 23, the amounts lapse and are available for projects under section 118(b) of title 23.”

Pub. L. 105-178, § 4011(g)(3), (4), redesignated subsec. (e) as (d) and struck out heading and text of former subsec. (d). Text read as follows:

“(1) If, before the last day of the period for which amounts withheld under this section from apportionment are to remain available for apportionment to a State under subsection (c)(1) of this section, the State substantially complies with all of the requirements of section 31311(a) of this title for a period of 365 days, the Secretary, on the day following the last day of that period, shall apportion to the State the withheld amounts remaining available for apportionment to that State.

“(2) Amounts apportioned under paragraph (1) of this subsection remain available for expenditure until the end of the 3d fiscal year following the fiscal year in which the amounts are apportioned. Amounts not obligated at the end of that period lapse or, for amounts apportioned under section 104(b)(5) of title 23, lapse and are available for projects under section 118(b) of title 23.”

Subsec. (e). Pub. L. 105-178, § 4011(g)(4), redesignated subsec. (e) as (d).

#### EFFECTIVE DATE OF 1998 AMENDMENT

Title IX of Pub. L. 105-206 effective simultaneously with enactment of Pub. L. 105-178 and to be treated as included in Pub. L. 105-178 at time of enactment, and provisions of Pub. L. 105-178, as in effect on day before July 22, 1998, that are amended by title IX of Pub. L. 105-206 to be treated as not enacted, see section 9016 of Pub. L. 105-206, set out as a note under section 101 of Title 23, Highways.

### § 31315. Waivers, exemptions, and pilot programs

(a) **WAIVERS.**—The Secretary may grant a waiver that relieves a person from compliance in whole or in part with a regulation issued under this chapter or section 31136 if the Secretary determines that it is in the public interest to grant the waiver and that the waiver is likely to achieve a level of safety that is equivalent to, or greater than, the level of safety that would be obtained in the absence of the waiver—

- (1) for a period not in excess of 3 months;
- (2) limited in scope and circumstances;
- (3) for nonemergency and unique events; and
- (4) subject to such conditions as the Secretary may impose.

#### (b) EXEMPTIONS.—

(1) **IN GENERAL.**—Upon receipt of a request pursuant to paragraph (3), the Secretary of Transportation may grant to a person or class of persons an exemption from a regulation prescribed under this chapter or section 31136 if the Secretary finds such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption. An exemption may be granted for no longer than 2 years from its approval date and may be renewed upon application to the Secretary.

(2) **AUTHORITY TO REVOKE EXEMPTION.**—The Secretary shall immediately revoke an exemption if—

(A) the person fails to comply with the terms and conditions of such exemption;

(B) the exemption has resulted in a lower level of safety than was maintained before the exemption was granted; or

(C) continuation of the exemption would not be consistent with the goals and objectives of this chapter or section 31136, as the case may be.

(3) **REQUESTS FOR EXEMPTION.**—Not later than 180 days after the date of enactment of this section and after notice and an opportunity for public comment, the Secretary shall specify by regulation the procedures by which a person may request an exemption. Such regulations shall, at a minimum, require the person to provide the following information for each exemption request:

(A) The provisions from which the person requests exemption.

(B) The time period during which the requested exemption would apply.

(C) An analysis of the safety impacts the requested exemption may cause.

(D) The specific countermeasures the person would undertake to ensure an equivalent or greater level of safety than would be achieved absent the requested exemption.

#### (4) NOTICE AND COMMENT.—

(A) **UPON RECEIPT OF A REQUEST.**—Upon receipt of an exemption request, the Secretary shall publish in the Federal Register a notice explaining the request that has been filed and shall give the public an opportunity to inspect the safety analysis and any other relevant information known to the Secretary and to comment on the request. This subparagraph does not require the release of information protected by law from public disclosure.

(B) **UPON GRANTING A REQUEST.**—Upon granting a request for exemption, the Secretary shall publish in the Federal Register the name of the person granted the exemption, the provisions from which the person will be exempt, the effective period, and all terms and conditions of the exemption.

(C) **AFTER DENYING A REQUEST.**—After denying a request for exemption, the Secretary

shall publish in the Federal Register the name of the person denied the exemption and the reasons for such denial. The Secretary may meet the requirement of this subparagraph by periodically publishing in the Federal Register the names of persons denied exemptions and the reasons for such denials.

(5) APPLICATIONS TO BE DEALT WITH PROMPTLY.—The Secretary shall grant or deny an exemption request after a thorough review of its safety implications, but in no case later than 180 days after the filing date of such request.

(6) TERMS AND CONDITIONS.—The Secretary shall establish terms and conditions for each exemption to ensure that it will likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption. The Secretary shall monitor the implementation of the exemption to ensure compliance with its terms and conditions.

(7) NOTIFICATION OF STATE COMPLIANCE AND ENFORCEMENT PERSONNEL.—Before granting a request for exemption, the Secretary shall notify State safety compliance and enforcement personnel, including roadside inspectors, and the public that a person will be operating pursuant to an exemption and any terms and conditions that will apply to the exemption.

(c) PILOT PROGRAMS.—

(1) IN GENERAL.—The Secretary may conduct pilot programs to evaluate alternatives to regulations relating to, or innovative approaches to, motor carrier, commercial motor vehicle, and driver safety. Such pilot programs may include exemptions from a regulation prescribed under this chapter or section 31136 if the pilot program contains, at a minimum, the elements described in paragraph (2). The Secretary shall publish in the Federal Register a detailed description of each pilot program, including the exemptions to be considered, and provide notice and an opportunity for public comment before the effective date of the program.

(2) PROGRAM ELEMENTS.—In proposing a pilot program and before granting exemptions for purposes of a pilot program, the Secretary shall require, as a condition of approval of the project, that the safety measures in the project are designed to achieve a level of safety that is equivalent to, or greater than, the level of safety that would otherwise be achieved through compliance with the regulations prescribed under this chapter or section 31136. The Secretary shall include, at a minimum, the following elements in each pilot program plan:

- (A) A scheduled life of each pilot program of not more than 3 years.
- (B) A specific data collection and safety analysis plan that identifies a method for comparison.
- (C) A reasonable number of participants necessary to yield statistically valid findings.
- (D) An oversight plan to ensure that participants comply with the terms and conditions of participation.

(E) Adequate countermeasures to protect the health and safety of study participants and the general public.

(F) A plan to inform State partners and the public about the pilot program and to identify approved participants to safety compliance and enforcement personnel and to the public.

(3) AUTHORITY TO REVOKE PARTICIPATION.—The Secretary shall immediately revoke participation in a pilot program of a motor carrier, commercial motor vehicle, or driver for failure to comply with the terms and conditions of the pilot program or if continued participation would not be consistent with the goals and objectives of this chapter or section 31136, as the case may be.

(4) AUTHORITY TO TERMINATE PROGRAM.—The Secretary shall immediately terminate a pilot program if its continuation would not be consistent with the goals and objectives of this chapter or section 31136, as the case may be.

(5) REPORT TO CONGRESS.—At the conclusion of each pilot program, the Secretary shall report to Congress the findings, conclusions, and recommendations of the program, including suggested amendments to laws and regulations that would enhance motor carrier, commercial motor vehicle, and driver safety and improve compliance with national safety standards.

(d) PREEMPTION OF STATE RULES.—During the time period that a waiver, exemption, or pilot program is in effect under this chapter or section 31136, no State shall enforce any law or regulation that conflicts with or is inconsistent with the waiver, exemption, or pilot program with respect to a person operating under the waiver or exemption or participating in the pilot program.

(Pub. L. 103-272, § 1(e), July 5, 1994, 108 Stat. 1029; Pub. L. 105-178, title IV, § 4007(a), June 9, 1998, 112 Stat. 401.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
31315 .....	49 App.:2711.	Oct. 27, 1986, Pub. L. 99-570, § 12013, 100 Stat. 3207-186.

The words “Notwithstanding any other provision of this chapter” are omitted as surplus.

REFERENCES IN TEXT

The date of enactment of this section, referred to in subsec. (b)(3), probably means the date of enactment of Pub. L. 105-178, which amended this section generally and was approved June 9, 1998.

AMENDMENTS

1998—Pub. L. 105-178 amended section catchline and text generally. Prior to amendment, text read as follows: “After notice and an opportunity for comment, the Secretary of Transportation may waive any part of this chapter or a regulation prescribed under this chapter as it applies to a class of individuals or commercial motor vehicles if the Secretary decides the waiver is not contrary to the public interest and does not diminish the safe operation of commercial motor vehicles. A waiver under this section shall be published in the Federal Register with reasons for the waiver.”

PROTECTION OF EXISTING EXEMPTIONS

For provisions making amendment by section 4007 of Pub. L. 105-178 inapplicable to or otherwise not affecting waiver, exemption, or pilot program in effect the day before June 9, 1998, under this chapter or section 31136(e) of this title, see section 4007(d) of Pub. L. 105-178, set out as a note under section 31136 of this title.

§ 31316. Limitation on statutory construction

This chapter does not affect the authority of the Secretary of Transportation to regulate commercial motor vehicle safety involving motor vehicles with a gross vehicle weight rating of less than 26,001 pounds or a lesser gross vehicle weight rating the Secretary decides is appropriate under section 31301(4)(A) of this title.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1029.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Revised Section, Source (U.S. Code), Source (Statutes at Large). Row 1: 31316, 49 App.:2714, Oct. 27, 1986, Pub. L. 99-570, §12017, 100 Stat. 3207-187.

The words "This chapter does not affect" are substituted for "Nothing in this chapter shall be construed to diminish, limit, or otherwise affect" to eliminate unnecessary words.

§ 31317. Procedure for prescribing regulations

Regulations prescribed by the Secretary of Transportation to carry out this chapter (except section 31307) shall be prescribed under section 553 of title 5 without regard to sections 556 and 557 of title 5.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1029.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Revised Section, Source (U.S. Code), Source (Statutes at Large). Row 1: 31317, 49 App.:2715, Oct. 27, 1986, Pub. L. 99-570, §12018, 100 Stat. 3207-187.

The text of 49 App.:2715(a) is omitted as surplus because of 49:322(a). The words "(except section 31307)" are added because the source provisions restated in this section do not apply to the source provisions restated in section 31307 of the revised title.

CHAPTER 315—MOTOR CARRIER SAFETY

- Sec. 31501. Definitions. 31502. Requirements for qualifications, hours of service, safety, and equipment standards. 31503. Research, investigation, and testing. 31504. Identification of motor vehicles.

HISTORICAL AND REVISION NOTES

Chapter 315 is a restatement of existing chapter 31 of title 49, United States Code, that is redesignated as chapter 315 by section 1(c) of the bill.

§ 31501. Definitions

In this chapter—

(1) "migrant worker" means an individual going to or from employment in agriculture as provided under section 3121(g) of the Internal Revenue Code of 1986 (26 U.S.C. 3121(g)) or sec-

tion 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f)).

(2) "motor carrier", "motor common carrier", "motor private carrier", "motor vehicle", and "United States" have the same meanings given those terms in section 13102 of this title.

(3) "motor carrier of migrant workers"—

(A) means a person (except a motor common carrier) providing transportation referred to in section 13501 of this title by a motor vehicle (except a passenger automobile or station wagon) for at least 3 migrant workers at a time to or from their employment; but

(B) does not include a migrant worker providing transportation for migrant workers and their immediate families.

(Pub. L. 97-449, Jan. 12, 1983, 96 Stat. 2438, §3101; renumbered §31501 and amended Pub. L. 103-272, §1(c), (e), July 5, 1994, 108 Stat. 745, 1029; Pub. L. 103-429, §6(26), Oct. 31, 1994, 108 Stat. 4380; Pub. L. 104-88, title III, §308(k)(1), (2), Dec. 29, 1995, 109 Stat. 947, 948.)

HISTORICAL AND REVISION NOTES

PUB. L. 97-449

Table with 3 columns: Revised Section, Source (U.S. Code), Source (Statutes at Large). Rows for 3101(1), 3101(2), 3101(3) with various source citations.

In clause (1), the words "going to or from" are substituted for "proceeding to or returning from" for clarity.

Clause (2) is included to ensure that the identical definitions that are relevant are used without repeating them. The source provisions for the quoted definitions are found in the revision notes for section 10102 of the revised title.

In clause (3), the words "including any 'contract common carrier by motor vehicle'" are omitted as covered by the definition of "motor carrier". The words "referred to in section 10521(a) of this title" are substituted for "in interstate or foreign commerce" for clarity and consistency in the revised title. The word "except" is substituted for "but not including" for clarity. The words "at least" are substituted for "or more", and the words "but the term does not include" are substituted for "except", for consistency.

PUB. L. 103-429

This amends 49:31501(1) to correct an erroneous cross-reference.

AMENDMENTS

1995—Par. (2). Pub. L. 104-88, §308(k)(1), substituted "13102" for "10102".

Par. (3)(A). Pub. L. 104-88, §308(k)(2), substituted "13501" for "10521(a)".

1994—Pub. L. 103-272 renumbered section 3101 of this title as this section and amended it generally, restating it without substantive change.

Par. (1). Pub. L. 103-429 substituted "section 3(f)" for "section 203(f)".

EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104-88 effective Jan. 1, 1996, see section 2 of Pub. L. 104-88, set out as an Effective Date note under section 701 of this title.