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rollover phenomenon. The discussion must include a review of unsafe acts and the role they play in producing hazardous situations.

Unit 4.3—Maintenance and trouble-shooting. This unit must introduce driver-students to the basic servicing and checking procedures for the various vehicle components and provide knowledge of conducting preventive maintenance functions, making simple emergency repairs, and diagnosing and reporting vehicle malfunctions.

SECTION 5—NON-DRIVING ACTIVITIES

The units in this section must cover activities that are not directly related to the vehicle itself but must be performed by an LCV driver. The units in this section must ensure these activities are performed in a manner that ensures the safety of the driver, vehicle, cargo, and other road users.

Unit 5.1—Routes and trip planning. This unit must address the importance of and requirements for planning routes and trips. This must include classroom discussion of Federal and State requirements for a number of topics including permits, vehicle size and weight limitations, designated highways, local access, the reasonable access rule, staging areas, and access zones.

Unit 5.2—Cargo and weight considerations. This unit must address the importance of proper cargo documentation, loading, securing and unloading cargo, weight distribution, load sequencing and trailer placement. Emphasis must be placed on the importance of axle weight distribution, as well as on trailer placement and its effect on vehicle handling.

[69 FR 29404, May 21, 2004, as amended at 78 FR 58479, Sept. 24, 2013. Redesignated at 81 FR 88794, Dec. 8, 2016]

PART 381—WAIVERS, EXEMPTIONS, AND PILOT PROGRAMS

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

SOURCE: 63 FR 67608, Dec. 8, 1998, unless otherwise noted.

EDITORIAL NOTE: Nomenclature changes to part 381 appear at 66 FR 49872, Oct. 1, 2001.

Subpart A—General

§ 381.100 What is the purpose of this part?

This part prescribes the rules and procedures for requesting waivers and applying for exemptions from those provisions of the Federal Motor Carrier Safety Regulations (FMCSRs) which were issued on the authority of 49 U.S.C. 31136 or chapter 313, and the initiation and administration of pilot programs.

§ 381.105 Who is required to comply with the rules in this part?

(a) You must comply with the rules in this part if you are going to request a waiver or apply for an exemption.

(b) You should follow the instructions in subpart D of this part if you would like to recommend the agency initiate a pilot program.

§ 381.110 What definitions are applicable to this part?

Commercial motor vehicle means any motor vehicle that meets the definition of ''commercial motor vehicle'' found at 49 CFR 382.107 concerning controlled substances and alcohol use and testing, 49 CFR 383.5 concerning commercial driver's license standards, or 49 CFR 390.5 concerning parts 390 through 399 of the FMCSRs.

Federal Motor Carrier Safety Administrator (the Administrator) means the chief executive of the Federal Motor Carrier Safety Administration, an agency within the Department of Transportation.

FMCSRs means Federal Motor Carrier Safety Regulations (49 CFR parts 380, 382, 383, and 384; 49 CFR 390.19 and 390.21; and 49 CFR parts 391 through 393, 395, 396, and 399).

You means an individual or motor carrier or other entity that is, or will be, responsible for the operation of a CMV(s). The term includes a motor carrier's agents, officers and representatives as well as employees responsible for hiring, supervising, training, assigning, or dispatching of drivers and employees concerned with the installation, inspection, and maintenance of motor vehicle equipment and/or accessories. *You* also includes any interested party who would like to suggest or recommend that the FMCSA initiate a pilot program.

[63 FR 67608, Dec. 8, 1998, as amended at 80 FR 59072, Oct. 1, 2015; 86 FR 35639, July 7, 2021]

Subpart B—Procedures for Requesting Waivers

§ 381.200 What is a waiver?

(a) A waiver is temporary regulatory relief from one or more FMCSR given to a person subject to the regulations, or a person who intends to engage in an activity that would be subject to the regulations.

(b) A waiver provides the person with relief from the regulations for up to three months.

(c) A waiver is intended for non-emergency and unique events, and is subject to conditions imposed by the Administrator.

(d) Waivers may only be granted from one or more of the requirements contained in the following parts and sections of the FMCSRs:

(1) Part 380—Special Training Requirements;

(2) Part 382—Controlled Substances and Alcohol Use and Testing;

(3) Part 383—Commercial Driver's License Standards; Requirements and Penalties;

(4) Part 384—State Compliance with Commercial Driver's License Program;

(5) § 390.19 Motor Carrier Identification Report;

(6) § 390.21 Marking of commercial motor vehicles;

(7) Part 391—Qualifications of Drivers;

(8) Part 392—Driving of Commercial Motor Vehicles;

(9) Part 393—Parts and Accessories Necessary for Safe Operation;

(10) Part 395—Hours of Service of Drivers;

(11) Part 396—Inspection, Repair, and Maintenance (except § 396.25); and

(12) Part 399—Step, Handhold and Deck Requirements.

[63 FR 67608, Dec. 8, 1998, as amended at 86 FR 35639, July 7, 2021; 86 FR 57069, Oct. 14, 2021]

§ 381.205 How do I determine when I may request a waiver?

(a) You may request a waiver if one or more FMCSR would prevent you from using or operating CMVs, or make it unreasonably difficult to do so, during a unique, non-emergency event that will take no more than three months to complete.

(b) Before you decide to request a waiver, you should carefully review the regulation to determine whether there are any practical alternatives already available that would allow your use or operation of CMVs during the event. You should also determine whether you need a waiver from all of the requirements in one or more parts of the regulations, or whether a more limited waiver of certain sections within one or more of the parts of the regulations would provide an acceptable level of regulatory relief. For example, if you need relief from one of the recordkeeping requirements concerning driver qualifications, you should not request relief from all of the requirements of part 391.

§ 381.210 How do I request a waiver?

(a) You must send a written request (for example, a typed or handwritten (printed) letter), which includes all of the information required by this section, to the Administrator, Federal Motor Carrier Safety Administration, 1200 New Jersey Ave., SE., Washington, DC 20590–0001.

(b) You must identify the person who would be covered by the waiver. The application for a waiver must include:

(1) Your name, job title, mailing address, and daytime telephone number;

(2) The name of the individual, motor carrier, or other entity that would be responsible for the use or operation of CMVs during the unique, non-emergency event;

(3) Principal place of business for the motor carrier or other entity (street address, city, State, and zip code); and

(4) The USDOT identification number for the motor carrier, if applicable.

(c) You must provide a written statement that:

(1) Describes the unique, non-emergency event for which the waiver would be used, including the time period during which the waiver is needed;

(2) Identifies the regulation that you believe needs to be waived;

(3) Provides an estimate of the total number of drivers and CMVs that would be operated under the terms and conditions of the waiver; and

(4) Explains how you would ensure that you could likely 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.

[72 FR 67608, Dec. 8, 1998, as amended at 72 FR 55699, Oct. 1, 2007; 89 FR 90619, Nov. 18, 2024]

§ 381.215 What will the FMCSA do after the agency receives my request for a waiver?

(a) The Federal Motor Carrier Safety Administration will review your request and make a recommendation to the Administrator. The final decision whether to grant or deny the application for a waiver will be made by the Administrator.

(b) After a decision is signed by the Administrator, you will be sent a copy of the document, which will include the terms and conditions for the waiver or the reason for denying the application for a waiver.

§ 381.220 How long will it take the agency to respond to my request for a waiver?

You should receive a response from the agency within 60 calendar days from the date the Administrator receives your request. However, depending on the complexity of the issues discussed in your application, and the availability of staff to review the material, a final decision may take up to 120 days.

§ 381.225 Who should I contact if I have questions about the information I am required to submit to FMCSA or about the status of my request for a waiver?

You should contact the Federal Motor Carrier Safety Administration, Office of Carrier, Driver & Vehicle Safety (MC–PS), 1200 New Jersey Ave. SE, Washington, DC 20590–0001.

[88 FR 80180, Nov. 17, 2023]

Subpart C—Procedures for Applying for Exemptions

§ 381.300 What is an exemption?

(a) An exemption is temporary regulatory relief from one or more FMCSR given to a person or class of persons subject to the regulations, or who intend to engage in an activity that would make them subject to the regulations.

(b) An exemption provides the person or class of persons with relief from the regulations for up to 5 years, and may be renewed, upon request, for subsequent 5-year periods.

(c) Exemptions may only be granted from one or more of the requirements contained in the following parts and sections of the FMCSRs:

(1) Part 380—Special Training Requirements;

(2) Part 382—Controlled Substances and Alcohol Use and Testing;

(3) Part 383—Commercial Driver's License Standards; Requirements and Penalties;

(4) Part 384—State Compliance with Commercial Driver's License Program;

(5) Part 391—Qualifications of Drivers;

(6) Part 392—Driving of Commercial Motor Vehicles;

(7) Part 393—Parts and Accessories Necessary for Safe Operation;

(8) Part 395—Hours of Service of Drivers;

(9) Part 396—Inspection, Repair, and Maintenance (except for § 396.25); and

(10) Part 399—Step, Handhold and Deck Requirements.

[63 FR 67608, Dec. 8, 1998, as amended at 81 FR 47720, July 22, 2016; 86 FR 35639, July 7, 2021]

§ 381.305 How do I determine when I may apply for an exemption?

(a) You may apply for an exemption if one or more FMCSR prevents you from implementing more efficient or effective operations that would maintain a level of safety equivalent to, or greater than, the level achieved without the exemption.

(b) Before you decide to apply for an exemption you should carefully review the regulation to determine whether there are any practical alternatives already available that would allow you to conduct your motor carrier operations. You should also determine whether you need an exemption from all of the requirements in one or more parts of the regulations, or whether a more limited exemption from certain sections within one or more parts of the regulations would provide an acceptable level of regulatory relief. For example, if you need regulatory relief from one of the recordkeeping requirements concerning driver qualifications, you should not request regulatory relief from all of the requirements of part 391.

§ 381.310 How do I apply for an exemption?

(a) You must send a written request (for example, a typed or handwritten (printed) letter), which includes all of the information required by this section, to the Administrator, Federal Motor Carrier Safety Administration, 1200 New Jersey Ave., SE., Washington, DC 20590–0001.

(b) You must identify the person or class of persons who would be covered by the exemption. The application for an exemption must include:

(1) Your name, job title, mailing address, and daytime telephone number;

(2) The name of the individual or motor carrier that would be responsible for the use or operation of CMVs;

(3) Principal place of business for the motor carrier (street address, city, State, and zip code); and

(4) The USDOT identification number for the motor carrier.

(c) You must provide a written statement that:

(1) Describes the reason the exemption is needed, including the time period during which it is needed;

(2) Identifies the regulation from which you would like to be exempted;

(3) Provides an estimate of the total number of drivers and CMVs that would be operated under the terms and conditions of the exemption;

(4) Assesses the safety impacts the exemption may have;

(5) Explains how you would ensure that you could likely achieve a level of safety that is equivalent to, or greater than, the level of safety that would be achieved absent such exemption; and

(6) Describes the impacts (e.g., inability to test innovative safety management control systems, etc.) you could experience if the exemption is not granted by the FMCSA.

(d) Your application must include a copy of all research reports, technical papers, and other publications and documents you reference.

[63 FR 67608, Dec. 8, 1998, as amended at 72 FR 55700, Oct. 1, 2007; 69 FR 29404, May 21, 2004, 78 FR 58479, Sept. 24, 2013; 89 FR 90619, Nov. 18, 2024]

§ 381.315 What will FMCSA do after the agency receives my application for an exemption?

(a) The Federal Motor Carrier Safety Administration will review your application and prepare, for the Administrator's signature, a FEDERAL REGISTER notice requesting public comment on your application for an exemption. The notice will give the public an opportunity to review your request and your safety assessment or analysis (required by § 381.310) and any other relevant information known to the agency.

(b) After a review of the comments received in response to the FEDERAL REGISTER notice described in paragraph (a) of this section, the Federal Motor Carrier Safety Administration will make a recommendation(s) to the Administrator either to grant or to deny the exemption. Notice of the Administrator's decision will be published in the FEDERAL REGISTER.

(c)(1) If the exemption is granted, the notice will identify the provisions of the FMCSRs from which you will be exempt, the effective period, and all terms and conditions of the exemption.

(2) If the exemption is denied, the notice will explain the reason for the denial.

(d) A copy of your application for an exemption and all comments received in response to the FEDERAL REGISTER notice will be included in a public docket and be available for review by interested parties.

(1) Interested parties may view the information contained in the docket by visiting Dockets Operations, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Ground Floor, Washington, DC 20590–0001. All information in the exemption docket will be available for examination at this address from 10 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays.

(2) Internet users can access all information received by Dockets Operations, U.S. Department of Transportation by using the Federal Docket Management System using the uniform resources locator (URL): *https://www.regulations.gov*. It is available 24 hours each day, 365 days each year. Please follow the instructions online for more information and help.

[63 FR 67608, Dec. 8, 1998, as amended at 72 FR 55700, Oct. 1, 2007; 88 FR 80180, Nov. 17, 2023]

§ 381.317 May I resubmit my application for exemption if it is denied?

If the Administrator denies your application for exemption and you can reasonably address the reasons for denial, you may resubmit your application following the procedures in § 381.310.

[81 FR 47720, July 22, 2016]

§ 381.320 How long will it take the agency to respond to my application for an exemption?

The agency will attempt to issue a final decision within 180 days of the date it receives your application. However, if you leave out important details or other information necessary for the FMCSA to prepare a meaningful request for public comments, the agency will attempt to issue a final decision within 180 days of the date it receives the additional information.

§ 381.325 Who should I contact if I have questions about the information I am required to submit to the FMCSA or about the status of my application for an exemption?

You should contact the Federal Motor Carrier Safety Administration, Office of Bus and Truck Standards and Operations (MC–PS), 1200 New Jersey Ave., SE., Washington, DC 20590–0001.

[63 FR 67608, Dec. 8, 1998, as amended at 72 FR 55700, Oct. 1, 2007]

§ 381.330 What am I required to do if the FMCSA grants my application for an exemption?

(a) You must comply with all the terms and conditions of the exemption.

(b) The FMCSA will immediately revoke your exemption if:

(1) You fail to comply with the terms and conditions of the exemption;

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

(3) Continuation of the exemption is determined by the FMCSA to be inconsistent with the goals and objectives of the FMCSRs.

Subpart D—Initiation of Pilot Programs

§ 381.400 What is a pilot program?

(a) A pilot program is a study in which temporary regulatory relief from one or more FMCSR is given to a person or class of persons subject to the regulations, or a person or class of persons who intend to engage in an activity that would be subject to the regulations.

(b) During a pilot program, the participants would be given an exemption from one or more sections or parts of the regulations for a period of up to three years.

(c) A pilot program is intended for use in collecting specific data for evaluating alternatives to the regulations or innovative approaches to safety while ensuring that the safety performance goals of the regulations are satisfied.

(d) The number of participants in the pilot program must be large enough to ensure statistically valid findings.

(e) Pilot programs must include an oversight plan to ensure that participants comply with the terms and conditions of participation, and procedures to protect the health and safety of study participants and the general public.

(f) Exemptions for pilot programs may be granted only from one or more of the requirements contained in the following parts and sections of the FMCSRs:

(1) Part 380—Special Training Requirements;

(2) Part 382—Controlled Substances and Alcohol Use and Testing;

(3) Part 383—Commercial Driver's License Standards; Requirements and Penalties;

(4) Part 384—State Compliance with Commercial Driver's License Program;

(5) Part 391—Qualifications of Drivers;

(6) Part 392—Driving of Commercial Motor Vehicles;

(7) Part 393—Parts and Accessories Necessary for Safe Operation;

(8) Part 395—Hours of Service of Drivers;

(9) Part 396—Inspection, Repair, and Maintenance (except for § 396.25); and

(10) Part 399—Step, Handhold and Deck Requirements.

[63 FR 67608, Dec. 8, 1998, as amended at 86 FR 35639, July 7, 2021]

§ 381.405 Who determines whether a pilot program should be initiated?

(a) Generally, pilot programs are initiated by the FMCSA when the agency determines that there may be an effective alternative to one or more of the requirements in the FMCSRs, but does not have sufficient research data to support the development of a notice of proposed rulemaking to change the regulation.

(b) You may request the FMCSA to initiate a pilot program. However, the decision of whether to propose a pilot program will be made at the discretion of the FMCSA. The FMCSA is not required to publish a notice in the FEDERAL REGISTER requesting public comment on your ideas or suggestions for pilot programs.

§ 381.410 What may I do if I have an idea or suggestion for a pilot program?

(a) You may send a written statement (for example, a typed or handwritten (printed) letter) to the Administrator, Federal Motor Carrier Safety Administration, 1200 New Jersey Ave., SE., Washington, DC 20590–0001.

(b) You should identify the persons or class of persons who would be covered by the pilot program exemptions. Your letter should include:

(1) Your name, job title, mailing address, and daytime telephone number;

(2) The name of the individuals or motor carrier that would be responsible for the use or operation of CMVs covered by the pilot program, if there are motor carriers that have expressed an interest in participating in the program;

(3) Principal place of business for the motor carrier (street address, city, State, and zip code); and

(4) The USDOT identification number for the motor carrier.

(c) You should provide a written statement that:

(1) Presents your estimate of the potential benefits to the motor carrier industry, the FMCSA, and the general public if the pilot program is conducted, and describes how you developed your estimate;

(2) Estimates of the amount of time that would be needed to conduct the pilot program (e.g., the time needed to complete the collection and analysis of data);

(3) Identifies the regulation from which the participants would need to be exempted;

(4) Recommends a reasonable number of participants necessary to yield statistically valid findings;

(5) Provides ideas or suggestions for a monitoring plan to ensure that participants comply with the terms and conditions of participation;

(6) Provides ideas or suggestions for a plan to protect the health and safety of study participants and the general public.

(7) Assesses the safety impacts the pilot program exemption may have; and

(8) Provides recommendations on how the safety measures in the pilot project would be designed to achieve a level of safety that is equivalent to, or greater than, the level of safety that would be obtained by complying with the regulation.

(d) Your recommendation should include a copy of all research reports, technical papers, publications and other documents you reference.

[63 FR 67608, Dec. 8, 1998, as amended at 72 FR 55700, Oct. 1, 2007; 78 FR 58479, Sept. 24, 2013]

§ 381.415 Who should I contact if I have questions about the information to be included in my suggestion?

You should contact the Federal Motor Carrier Safety Administration, Office of Bus and Truck Standards and Operations (MC–PS), 1200 New Jersey Ave., SE., Washington, DC 20590–0001.

[63 FR 67608, Dec. 8, 1998, as amended at 72 FR 55700, Oct. 1, 2007]

§ 381.420 What will the FMCSA do after the agency receives my suggestion for a pilot program?

(a) The Federal Motor Carrier Safety Administration will review your suggestion for a pilot program and make a recommendation to the Administrator. The final decision whether to propose the development of a pilot program based upon your recommendation will be made by the Administrator.

(b) You will be sent a copy of the Administrator's decision. If the pilot program is approved, the agency will follow the administrative procedures contained in subpart E of this part.

Subpart E—Administrative Procedures for Pilot Programs

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

(a) The FMCSA may conduct pilot programs to evaluate alternatives to regulations, or innovative approaches, concerning motor carrier, CMV, and driver safety.

(b) Pilot programs may include exemptions from the regulations listed in § 381.400(f) of this part.

(c) Pilot programs must, at a minimum, include all of the program elements listed in § 381.505.

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

[63 FR 67608, Dec. 8, 1998, as amended at 78 FR 60231, Oct. 1, 2013]

§ 381.505 What are the minimum elements required for a pilot program?

(a) *Safety measures.* Before granting exemptions for a pilot program, the FMCSA will ensure that the safety measures in a pilot program 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.

(b) *Pilot program plan.* Before initiating a pilot program, the FMCSA will ensure that there is a pilot program plan which includes the following elements:

(1) A scheduled duration of three years or less;

(2) A specific data collection and safety analysis plan that identifies a method of comparing the safety performance for motor carriers, CMVs, and drivers operating under the terms and conditions of the pilot program, with the safety performance of motor carriers, CMVs, and drivers that comply with the regulation;

(3) A reasonable number of participants necessary to yield statistically valid findings;

(4) A monitoring plan to ensure that participants comply with the terms and conditions of participation in the pilot program;

(5) Adequate safeguards to protect the health and safety of study participants and the general public; and

(6) A plan to inform the States and the public about the pilot program and to identify approved participants to enforcement personnel and the general public.

[63 FR 67608, Dec. 8, 1998, as amended at 89 FR 90619, Nov. 18, 2024]

§ 381.510 May the FMCSA end a pilot program before its scheduled completion date?

The FMCSA will immediately terminate a pilot program if there is reason to believe the program is not achieving a level of safety that is at least equivalent to the level of safety that would be achieved by complying with the regulations.

§ 381.515 May the FMCSA remove approved participants from a pilot program?

The Administrator will immediately revoke participation in a pilot program of a motor carrier, CMV, or driver for failure to comply with the terms and conditions of the pilot program, or if continued participation is inconsistent with the goals and objectives of the safety regulations.

§ 381.520 What will the FMCSA do with the results from a pilot program?

At the conclusion of each pilot program, the FMCSA will report to Congress the findings and conclusions of the program and any recommendations it considers appropriate, including suggested amendments to laws and regulations that would enhance motor carrier, CMV, and driver safety and improve compliance with the FMCSRs.

Subpart F—Preemption of State Rules

§ 381.600 Do waivers, exemptions, and pilot programs preempt State laws and regulations?

Yes. During the time period that a waiver, exemption, or pilot program authorized by this part is in effect, 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.

PART 382—CONTROLLED SUBSTANCES AND ALCOHOL USE AND TESTING

Subpart A—General

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