

(d) *Requirements.* Any person or entity may use documents signed, certified, generated, maintained, or exchanged using electronic methods if the documents accurately reflect the information otherwise required to be contained in them. Records, documents or signatures generated, maintained, or exchanged using electronic methods do not satisfy the requirements of this section if they are not capable of being retained, are not used for the purpose for which they were created, or cannot be accurately reproduced within required timeframes for reference by any party entitled to access. Records or documents generated electronically do not satisfy the requirements of this section if they do not include proof of consent to use electronically generated records or documents, as required by 15 U.S.C. 7001(c).

[83 FR 16226, Apr. 16, 2018]

§ 390.33 Commercial motor vehicles used for purposes other than defined.

Whenever a commercial motor vehicle of one type is used to perform the functions normally performed by a commercial motor vehicle of another type, the requirements of this subchapter and part 325 of subchapter A shall apply to the commercial motor vehicle and to its operation in the same manner as though the commercial motor vehicle were actually a commercial motor vehicle of the latter type. *Example:* If a commercial motor vehicle other than a bus is used to perform the functions normally performed by a bus, the regulations pertaining to buses and to the transportation of passengers shall apply to that commercial motor vehicle.

[53 FR 18052, May 19, 1988, as amended at 60 FR 38744, July 28, 1995]

§ 390.35 Certificates, reports, and records: Falsification, reproduction, or alteration.

No motor carrier, its agents, officers, representatives, or employees shall make or cause to make—

(a) A fraudulent or intentionally false statement on any application, certificate, report, or record required by part 325 of subchapter A or this subchapter;

(b) A fraudulent or intentionally false entry on any application, certificate, report, or record required to be used, completed, or retained, to comply with any requirement of this subchapter or part 325 of subchapter A; or

(c) A reproduction, for fraudulent purposes, of any application, certificate, report, or record required by this subchapter or part 325 of subchapter A.

§ 390.36 Harassment of drivers prohibited.

(a) *Harass or harassment defined.* As used in this section, harass or harassment means an action by a motor carrier toward a driver employed by the motor carrier (including an independent contractor while in the course of operating a commercial motor vehicle on behalf of the motor carrier) involving the use of information available to the motor carrier through an ELD, as defined in § 395.2 of this chapter, or through other technology used in combination with and not separable from the ELD, that the motor carrier knew, or should have known, would result in the driver violating § 392.3 or part 395 of this subchapter.

(b) *Prohibition against harassment.* (1) No motor carrier may harass a driver.

(2) Nothing in paragraph (b)(1) of this section shall be construed to prevent a motor carrier from using technology allowed under this subchapter to monitor productivity of a driver provided that such monitoring does not result in harassment.

(c) *Complaint process.* A driver who believes he or she was the subject of harassment by a motor carrier may file a written complaint under § 386.12(b) of this subchapter.

[80 FR 78383, Dec. 16, 2015]

§ 390.37 Violation and penalty.

Any person who violates the rules set forth in this subchapter or part 325 of subchapter A may be subject to civil or criminal penalties.

§ 390.38 Exemptions for pipeline welding trucks.

(a) *Federal requirements.* A pipeline welding truck, as defined in paragraph (b) of this section, including the individuals operating such vehicle and the

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employer of such individual, is exempt from the following:

(1) Any requirement relating to registration as a motor carrier, including the requirement to obtain and display a Department of Transportation number, in 49 CFR part 365 or 390.

(2) Any requirement relating to driver qualifications in 49 CFR part 391.

(3) Any requirement relating to driving of commercial motor vehicles in 49 CFR part 392.

(4) Any requirement relating to parts and accessories and inspection, repair, and maintenance of commercial motor vehicles in 49 CFR parts 393 and 396.

(5) Any requirement relating to hours of service of drivers, including maximum driving and on duty time, found in 49 CFR part 395.

(b) *Definition.* “Pipeline welding truck” means a motor vehicle that is travelling in the State in which the vehicle is registered or another State, is owned by a welder, is a pick-up style truck, is equipped with a welding rig that is used in the construction or maintenance of pipelines, and has a gross vehicle weight and combination weight rating and weight of 15,000 pounds or less.

[81 FR 47720, July 22, 2016]

§ 390.39 Exemptions for “covered farm vehicles.”

(a) *Federal requirements.* A covered farm vehicle, as defined in § 390.5, including the individual operating that vehicle, is exempt from the following:

(1) Any requirement relating to commercial driver’s licenses in 49 CFR Part 383 or controlled substances and alcohol use and testing in 49 CFR Part 382;

(2) Any requirement in 49 CFR Part 391, Subpart E, Physical Qualifications and Examinations.

(3) Any requirement in 49 CFR Part 395, Hours of Service of Drivers.

(4) Any requirement in 49 CFR Part 396, Inspection, Repair, and Maintenance.

(b) *State requirements*—(1) *In general.* Federal transportation funding to a State may not be terminated, limited, or otherwise interfered with as a result of the State exempting a covered farm vehicle, including the individual operating that vehicle, from—

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(i) A requirement described in paragraph (a) of this section; or

(ii) Any other minimum standard provided by a State relating to the operation of that vehicle.

(2) *Exception.* Paragraph (b)(1) of this section does not apply with respect to a covered farm vehicle transporting hazardous materials that require a placard.

(c) *Other exemptions and exceptions.* The exemptions in paragraphs (a) and (b) of this section are in addition to, not in place of, the agricultural exemptions and exceptions in §§ 383.3(d)(1), 383.3(e), 383.3(f), 391.2(a), 391.2(b), 391.2(c), 391.67, 395.1(e)(1), 395.1(e)(2), 395.1(h), 395.1(i), and 395.1(k) of this chapter. Motor carriers and drivers may utilize any combination of these exemptions and exceptions, providing they comply fully with each separate exemption and exception.

[78 FR 16194, Mar. 14, 2013, as amended at 81 FR 47720, July 22, 2016]

Subpart C—Requirements and Information for Intermodal Equipment Providers and for Motor Carriers Operating Intermodal Equipment

SOURCE: 73 FR 76822, Dec. 17, 2008, unless otherwise noted.

§ 390.40 What responsibilities do intermodal equipment providers have under the Federal Motor Carrier Safety Regulations (49 CFR parts 350–399)?

An intermodal equipment provider must—

(a) Identify its operations to the FMCSA by filing the Form MCSA–1 required by § 390.201.

(b) Mark its intermodal equipment with the USDOT number as required by § 390.21 before tendering the equipment to a motor carrier.

(c) Systematically inspect, repair, and maintain, or cause to be systematically inspected, repaired, and maintained, in a manner consistent with § 396.3(a)(1), as applicable, all intermodal equipment intended for interchange with a motor carrier.