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the commercial motor vehicle to proceed across the railroad tracks without slowing or stopping.

(4) An abandoned railroad grade crossing which is marked with a sign indicating that the rail line is abandoned.

(5) An industrial or spur line railroad grade crossing marked with a sign reading “Exempt.” Such “Exempt” signs shall be erected only by or with the consent of the appropriate State or local authority.

(Sec. 12, 80 Stat. 931; 49 U.S.C. 1651 note; 49 U.S.C. 304, 1655; 49 CFR 1.48(b) and 301.60)

[33 FR 19732, Dec. 25, 1968, as amended at 35 FR 7801, May 21, 1970; 38 FR 1589, Jan. 16, 1973; 40 FR 44555, Sept. 29, 1975; 45 FR 46424, July 10, 1980; 47 FR 47837, Oct. 28, 1982; 59 FR 63924, Dec. 12, 1994; 60 FR 38746, 38747, July 28, 1995; 84 FR 51435, Sept. 30, 2019]

§ 392.11 Railroad grade crossings; slowing down required.

Every commercial motor vehicle other than those listed in § 392.10 shall, upon approaching a railroad grade crossing, be driven at a rate of speed which will permit said commercial motor vehicle to be stopped before reaching the nearest rail of such crossing and shall not be driven upon or over such crossing until due caution has been taken to ascertain that the course is clear.

[33 FR 19732, Dec. 25, 1968, as amended at 60 FR 38747, July 28, 1995]

§ 392.12 Highway-rail crossings; safe clearance.

No driver of a commercial motor vehicle shall drive onto a highway-rail grade crossing without having sufficient space to drive completely through the crossing without stopping.

[78 FR 58923, Sept. 25, 2013]

§ 392.13 [Reserved]

§ 392.14 Hazardous conditions; extreme caution.

Extreme caution in the operation of a commercial motor vehicle shall be exercised when hazardous conditions, such as those caused by snow, ice, sleet, fog, mist, rain, dust, or smoke, adversely affect visibility or traction. Speed shall be reduced when such conditions exist. If conditions become suf-

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ficiently dangerous, the operation of the commercial motor vehicle shall be discontinued and shall not be resumed until the commercial motor vehicle can be safely operated. Whenever compliance with the foregoing provisions of this rule increases hazard to passengers, the commercial motor vehicle may be operated to the nearest point at which the safety of passengers is assured.

[33 FR 19732, Dec. 25, 1968, as amended at 60 FR 38747, July 28, 1995]

§ 392.15 Prohibited driving status.

No driver, who holds a commercial learner’s permit or a commercial driver’s license, shall operate a commercial motor vehicle if prohibited by § 382.501(a) of this subchapter.

[86 FR 55743, Oct. 7, 2021]

§ 392.16 Use of seat belts.

(a) *Drivers.* No driver shall operate a commercial motor vehicle, and a motor carrier shall not require or permit a driver to operate a commercial motor vehicle, that has a seat belt assembly installed at the driver’s seat unless the driver is properly restrained by the seat belt assembly.

(b) *Passengers.* No driver shall operate a property-carrying commercial motor vehicle, and a motor carrier shall not require or permit a driver to operate a property-carrying commercial motor vehicle, that has seat belt assemblies installed at the seats for other occupants of the vehicle unless all other occupants are properly restrained by such seat belt assemblies.

[81 FR 36479, June 7, 2016; 81 FR 43957, July 6, 2016]

§ 392.18 [Reserved]

Subpart C—Stopped Commercial Motor Vehicles

§§ 392.20–392.21 [Reserved]

§ 392.22 Emergency signals; stopped commercial motor vehicles.

(a) *Hazard warning signal flashers.* Whenever a commercial motor vehicle is stopped upon the traveled portion of a highway or the shoulder of a highway for any cause other than necessary

traffic stops, the driver of the stopped commercial motor vehicle shall immediately activate the vehicular hazard warning signal flashers and continue the flashing until the driver places the warning devices required by paragraph (b) of this section. The flashing signals shall be used during the time the warning devices are picked up for storage before movement of the commercial motor vehicle. The flashing lights may be used at other times while a commercial motor vehicle is stopped in addition to, but not in lieu of, the warning devices required by paragraph (b) of this section.

(b) *Placement of warning devices*—(1) *General rule.* Except as provided in paragraph (b)(2) of this section, whenever a commercial motor vehicle is stopped upon the traveled portion or the shoulder of a highway for any cause other than necessary traffic stops, the driver shall, as soon as possible, but in any event within 10 minutes, place the warning devices required by § 393.95 of this subchapter, in the following manner:

(i) One on the traffic side of and 4 paces (approximately 3 meters or 10 feet) from the stopped commercial motor vehicle in the direction of approaching traffic;

(ii) One at 40 paces (approximately 30 meters or 100 feet) from the stopped commercial motor vehicle in the center of the traffic lane or shoulder occupied by the commercial motor vehicle and in the direction of approaching traffic; and

(iii) One at 40 paces (approximately 30 meters or 100 feet) from the stopped commercial motor vehicle in the center of the traffic lane or shoulder occupied by the commercial motor vehicle and in the direction away from approaching traffic.

(2) *Special rules*—(i) *Fusees and liquid-burning flares.* The driver of a commercial motor vehicle equipped with only fusees or liquid-burning flares shall place a lighted fusee or liquid-burning flare at each of the locations specified in paragraph (b)(1) of this section. There shall be at least one lighted fusee or liquid-burning flare at each of the prescribed locations, as long as the commercial motor vehicle is stopped. Before the stopped commercial motor

vehicle is moved, the driver shall extinguish and remove each fusee or liquid-burning flare.

(ii) *Daylight hours.* Except as provided in paragraph (b)(2)(iii) of this section, during the period lighted lamps are not required, three bidirectional reflective triangles, or three lighted fusees or liquid-burning flares shall be placed as specified in paragraph (b)(1) of this section within a time of 10 minutes. In the event the driver elects to use only fusees or liquid-burning flares in lieu of bidirectional reflective triangles or red flags, the driver must ensure that at least one fusee or liquid-burning flare remains lighted at each of the prescribed locations as long as the commercial motor vehicle is stopped or parked.

(iii) *Business or residential districts.* The placement of warning devices is not required within the business or residential district of a municipality, except during the time lighted lamps are required and when street or highway lighting is insufficient to make a commercial motor vehicle clearly discernable at a distance of 500 feet to persons on the highway.

(iv) *Hills, curves, and obstructions.* If a commercial motor vehicle is stopped within 500 feet of a curve, crest of a hill, or other obstruction to view, the driver shall place the warning signal required by paragraph (b)(1) of this section in the direction of the obstruction to view a distance of 100 feet to 500 feet from the stopped commercial motor vehicle so as to afford ample warning to other users of the highway.

(v) *Divided or one-way roads.* If a commercial motor vehicle is stopped upon the traveled portion or the shoulder of a divided or one-way highway, the driver shall place the warning devices required by paragraph (b)(1) of this section, one warning device at a distance of 200 feet and one warning device at a distance of 100 feet in a direction toward approaching traffic in the center of the lane or shoulder occupied by the commercial motor vehicle. He/she shall place one warning device at the traffic side of the commercial motor vehicle within 10 feet of the rear of the commercial motor vehicle.

(vi) *Leaking, flammable material.* If gasoline or any other flammable liquid,

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or combustible liquid or gas seeps or leaks from a fuel container or a commercial motor vehicle stopped upon a highway, no emergency warning signal producing a flame shall be lighted or placed except at such a distance from any such liquid or gas as will assure the prevention of a fire or explosion.

[37 FR 17175, Aug. 25, 1972, as amended at 40 FR 10685, Mar. 7, 1975; 47 FR 47837, Oct. 28, 1982; 48 FR 57139, Dec. 23, 1983; 59 FR 34711, July 6, 1994; 60 FR 38747, July 28, 1995; 63 FR 33279, June 18, 1998]

§ 392.24 Emergency signals; flame-producing.

No driver shall attach or permit any person to attach a lighted fusee or other flame-producing emergency signal to any part of a commercial motor vehicle.

[33 FR 19732, Dec. 25, 1968, as amended at 60 FR 38747, July 28, 1995]

§ 392.25 Flame producing devices.

No driver shall use or permit the use of any flame-producing emergency signal for protecting any commercial motor vehicle transporting Division 1.1, Division 1.2, or Division 1.3 explosives; any cargo tank motor vehicle used for the transportation of any Class 3 or Division 2.1, whether loaded or empty; or any commercial motor vehicle using compressed gas as a motor fuel. In lieu thereof, emergency reflective triangles, red electric lanterns, or red emergency reflectors shall be used, the placement of which shall be in the same manner as prescribed in § 392.22(b).

[59 FR 63925, Dec. 12, 1994, as amended at 60 FR 38747, July 28, 1995]

Subpart D—Use of Lighted Lamps and Reflectors

§§ 392.30–392.32 [Reserved]

§ 392.33 Obscured lamps or reflective devices/material.

(a) No commercial motor vehicle shall be driven when any of the lamps or reflective devices/material required by subpart B of part 393 of this title are obscured by the tailboard, or by any part of the load or its covering, by dirt,

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or other added vehicle or work equipment or otherwise.

(b) *Exception.* The conspicuity treatments on the front end protection devices of the trailer may be obscured by part of the load being transported.

[70 FR 48025, Aug. 15, 2005]

Subpart E—License Revocation; Duties of Driver

§§ 392.40–392.41 [Reserved]

Subpart F—Fueling Precautions

§ 392.50 Ignition of fuel; prevention.

No driver or any employee of a motor carrier shall:

(a) Fuel a commercial motor vehicle with the engine running, except when it is necessary to run the engine to fuel the commercial motor vehicle;

(b) Smoke or expose any open flame in the vicinity of a commercial motor vehicle being fueled;

(c) Fuel a commercial motor vehicle unless the nozzle of the fuel hose is continuously in contact with the intake pipe of the fuel tank;

(d) Permit, insofar as practicable, any other person to engage in such activities as would be likely to result in fire or explosion.

[33 FR 19732, Dec. 25, 1968, as amended at 60 FR 38747, July 28, 1995]

§ 392.51 Reserve fuel; materials of trade.

Small amounts of fuel for the operation or maintenance of a commercial motor vehicle (including its auxiliary equipment) may be designated as materials of trade (see 49 CFR 171.8).

(a) The aggregate gross weight of all materials of trade on a motor vehicle may not exceed 200 kg (440 pounds).

(b) Packaging for gasoline must be made of metal or plastic and conform to requirements of 49 CFR Parts 171, 172, 173, and 178 or requirements of the Occupational Safety and Health Administration contained in 29 CFR 1910.106.

(c) For Packing Group II (including gasoline), Packing Group III (including aviation fuel and fuel oil), or ORM-D, the material is limited to 30 kg (66 pounds) or 30 L (8 gallons).