

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 418-2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order*, MM Docket No. 92-247, adopted July 14, 1995, and released July 25, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: Sections 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, as amended.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Virgin Islands, is amended by adding Channel 285A at Christiansted.

Federal Communications Commission.

Andrew J. Rhodes,

Acting Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 95-18560 Filed 7-27-95; 8:45 am]

BILLING CODE 6712-01-F

47 CFR Part 73

[MM Docket No. 93-320; RM-8407]

Radio Broadcasting Services; Ellison Bay, WI

AGENCY: Federal Communications Commission.

ACTION: Final rule; petition for reconsideration.

SUMMARY: The Commission denies the petition filed by The Eden Broadcast Group ("petitioner") for reconsideration of the *Report and Order* in MM Docket No. 93-320, 59 FR 28014, May 31, 1994. The *Report and Order* denied the allotment of Channel 223A to Ellison Bay, Wisconsin, as Ellison Bay does not qualify as a community for allotment purposes. As petitioner has provided no new information which would show

community status, there is no basis to set aside our earlier action denying the allotment of an FM channel at Ellison Bay.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418-2180.

Federal Communications Commission.

Douglas W. Webbink,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 95-18562 Filed 7-27-95; 8:45 am]

BILLING CODE 6712-01-F

47 CFR Part 73

[MM Docket No. 94-122; RM-8513]

Radio Broadcasting Services; Atlantic and Glenwood, IA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Valley Broadcasting, Inc., reallocates Channel 279C from Atlantic to Glenwood, Iowa, as its first local aural service, and modifies the license of Station KXKT to specify Glenwood as its community of license. See 59 FR 54545, November 1, 1994. Channel 279C can be allotted to Glenwood in compliance with the Commission's minimum distance separation requirements with a site restriction of 24.6 kilometers (15.3 miles) north to accommodate petitioner's desired transmitter site. The coordinates for Channel 279C at Glenwood are 41-15-49 North Latitude and 95-46-21 West Longitude. With this action, this proceeding is terminated.

EFFECTIVE DATE: September 8, 1995.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 418-2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order*, MM Docket No. 94-122, adopted July 14, 1995, and released July 25, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: Secs. 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, as amended.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Iowa, is amended by removing Atlantic, Channel 279C and adding Glenwood, Channel 279C.

Federal Communications Commission.

Andrew J. Rhodes,

Acting Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 95-18564 Filed 7-27-95; 8:45 am]

BILLING CODE 6712-01-F

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Chapter III and Parts 325, 350, 382, 385, 387, 390, 391, 392, 395, 396, and 397

RIN 2125-AD55

Zero Base Review of the Federal Motor Carrier Safety Regulations; Correcting Amendments

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule; correcting amendments.

SUMMARY: The FHWA is making technical corrections to keep the Federal Motor Carrier Safety Regulations accurate and up to date. This rulemaking action is one part of the FHWA's Zero Base Regulatory Review.

EFFECTIVE DATE: July 28, 1995.

FOR FURTHER INFORMATION CONTACT: Mr. Peter C. Chandler, Office of Motor Carrier Research and Standards, (202) 366-5763, or Mr. Charles E. Medalen, Office of the Chief Counsel, (202) 366-1354, Federal Highway Administration, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

The first Federal Motor Carrier Safety Regulations (FMCSRs) were promulgated in 1937, and have been amended many times since then. In September 1992, the FHWA began a

comprehensive multi-year project to develop modern, uniform safety regulations that are up to date, clear, concise, easier to understand, and more performance-oriented. This project has been named the "Zero Base Regulatory Review."

Upon the announcement of the first four public outreach sessions in the **Federal Register** (57 FR 37392) on August 18, 1992, the FHWA opened public docket No. MC-92-33 to allow interested parties who were unable to attend an outreach session the opportunity to make comments and recommendations for the improvement of the FMCSRs. The FHWA has completed an extensive review of the FMCSRs and has identified technical changes that are needed to correct errors and obsolete references. The corrections are discussed below.

Terminology Changes

In chapter III, the words "he," "his," "him," and "himself" are used where there is no intention to exclude the feminine gender. The words "he/she," "his/her," "him/her," and "himself/herself," respectively, would be more appropriate. In chapter III, the words "he," "his," "him," and "himself" are being replaced with the words "he/she," "his/her," "him/her," and "himself/herself," respectively, in all instances except in the phrases "he or she," "his or her," and "him or her." The rule in § 390.7(a)(3) that words in part 325 of subchapter A and in subchapter B imparting the masculine gender include the feminine gender is being removed.

In parts 390, 391, 392, and 395, the term "vehicle" is used where "motor vehicle" or "commercial motor vehicle" would be more precise. The term "vehicle" in all instances has been removed or replaced either with "motor vehicle" or "commercial motor vehicle," whichever is appropriate. In addition, the term "motor vehicle" is often used in these parts where "commercial motor vehicle" would be more precise. The term "motor vehicle" has been replaced with "commercial motor vehicle" wherever appropriate.

There are numerous places in chapter III of title 49, CFR, where the Office of Motor Carriers is mentioned by its former name, the Bureau of Motor Carrier Safety. The FHWA is making a nomenclature change to correct these obsolete names.

Tires (Section 325.93)

The introductory paragraph of § 325.93(b) refers to the Director of the Bureau of Motor Carrier Safety, a position that no longer exists, when it should refer to the Associate

Administrator for Motor Carriers. Section 325.93(b) is being amended to correct this reference.

Definitions (Section 350.3)

The definition of *motor carrier* in § 350.3 does not include a private motor carrier of passengers. The FHWA published a final rule, "Private Motor Carriers of Passengers," on February 23, 1994, which made private motor carriers of passengers involved in interstate transportation subject to the FMCSRs (with certain exceptions) [59 FR 8748]. This rule became effective on January 1, 1995. Since private motor carriers of passengers are now subject to the FMCSRs and part 350 prescribes requirements for Federal assistance to the States for programs to adopt and enforce the FMCSRs, the definition of *motor carrier* in § 350.3 is being amended to cross-reference the definition of *motor carrier* in § 390.5 which was revised by the February 23, 1994, final rule.

Tolerance Guidelines for Adopting Compatible State Rules and Regulations (Part 350, app. C)

In part 350, appendix C, paragraph 3(e), there is an error in the reference to the 100 air-mile radius exemption. This exemption was moved from § 395.8(l) to § 395.1(e) on July 30, 1992 [57 FR 33638, at 33647]. A technical correction is being made to include the proper regulatory citation for the exemption.

Controlled Substances and Alcohol Use and Testing; Authority

Citation (Part 382)

The authority citation for Part 382 is being amended to include "49 U.S.C. 31133" which pertains to the general powers of the Secretary of Transportation.

Safety Fitness Procedures; Failure to Report (Section 385.23)

Section 385.23 incorrectly refers to itself as the source of the requirement that a motor carrier operating in interstate or foreign commerce file a Motor Carrier Identification Report. This requirement is found in § 385.21. Section 385.23 is being amended to correct this error.

Financial Responsibility Required (Section 387.31)

Section 387.31(b)(3) provides an exception allowing Mexican motor carriers to meet the minimum financial responsibility requirements by obtaining the required amount of insurance coverage for periods of 24 hours or longer from insurers that meet the requirements of § 387.35. Section

387.31(b)(3)(i) requires Mexican motor carriers so insured to have a copy of the certificate of registration, issued by the Interstate Commerce Commission, in each of its buses. Since the certificate requirement applies only to foreign motor carriers and foreign motor private carriers "of property" [49 U.S.C. 10530(b)(1), (2)], Mexican passenger carriers are not required to apply for a certificate of registration for entry into the United States. Therefore, § 387.31(b)(3)(i) is being removed.

Federal Motor Carrier Safety Regulations; General Definitions (Section 390.5)

There is an error in the definition of *employee*. Paragraph (d) of the definition reads "Any individual, other than an employee * * *." The statutory definition [formerly 49 U.S.C. App. 2503(2)(D), now recodified in slightly different language at 49 U.S.C. 31132(2)] reads "Any individual, other than an employer * * *." The regulatory language is being corrected.

The citation in the definition of *Exempt intracity zone* is out of date. The section referred to in this definition (§ 390.3(g)) was removed on March 24, 1989 [54 FR 12200] and replaced with language required by statute [49 U.S.C. 31136(f), formerly 49 U.S.C. App. 2505(h)]. That language is codified at § 391.2(d) and the definition of *Exempt intracity zone* is being corrected to refer to that section.

The definition of *Principal place of business* refers to the records required by parts 387, 390, 391, 395, and 396. The records required by part 396 must be maintained where the motor vehicle is either housed or maintained (§ 396.3(c)), not at the principal place of business. Therefore, this reference to part 396 is being removed.

The FHWA published a final rule, "Controlled Substances and Alcohol Use and Testing," on February 15, 1994, which added part 382 to the FMCSRs [59 FR 7484, at 7505]. Section 382.401(d) requires all records required by part 382 to be made available for inspection at the employer's principal place of business within two business days after a request has been made by an authorized official of the FHWA. A reference to these recordkeeping requirements is being added to the definition of *Principal place of business*.

Locations of Regional Motor Carrier Safety Offices (Section 390.27)

The title of § 390.27 requires a technical correction. The Office of Motor Carrier Safety has been renamed the Office of Motor Carriers. The title of § 390.27 is being changed to read

"Locations of regional offices of motor carriers" to reflect this name change.

General Exemptions (Section 391.2); Disqualification of Drivers (Section 391.15)

Section 391.2(c) contains a general exemption from the rules in part 391 for certain farm vehicle drivers. This general exemption does not apply to a farm vehicle driver of an articulated (combination) motor vehicle that has a gross weight, including load, of more than 10,000 pounds. This exception to the general exemption requires a technical correction. The jurisdiction of the FHWA depends on the gross vehicle weight rating (GVWR) or gross combination weight rating (GCWR), not the gross weight, of a motor vehicle. Section 391.2(c) is being amended to state that the rules in part 391 do not apply to a farm vehicle driver except a farm vehicle driver who drives an articulated (combination) "commercial motor vehicle." A GVWR or GCWR of 10,001 or more pounds is included in the definition of a *commercial motor vehicle* in § 390.5.

The citation for the Hazardous Materials Transportation Act in §§ 391.2(d)(4) and 391.15(d)(2)(iv) is obsolete because 49 U.S.C. app. 1801–1813 were recodified at 49 U.S.C. 5101 *et seq.* These references are being amended.

Qualifications of Drivers (Section 391.11)

Section 391.11(b)(7) requires a commercial motor vehicle driver to have a currently valid commercial motor vehicle operator's license issued only from one State or jurisdiction. It contains an exception not effective after December 31, 1989. Since this date has passed, the exception is obsolete and is being removed.

Disqualification of Drivers (Section 391.15); Physical Qualifications for Drivers (Section 391.41); Drugs and Other Substances (Section 392.4)

The footnotes to §§ 391.15(c)(2)(ii) and (iii), 391.41(b)(12), and 392.4(a)(1) mention that a list of Schedule I drugs and other substances can be obtained by writing the "Director, Office of Motor Carrier Standards" or a "Regional Office of Motor Carrier and Highway Safety of the Federal Highway Administration." The current names for these offices are the "Office of Motor Carrier Research and Standards" and "Regional Office of Motor Carriers of the Federal Highway Administration," respectively, and the footnotes are being changed accordingly.

Examinations and Tests; Subpart D Heading (Part 391)

The heading of subpart D of part 391 requires a technical correction. The FHWA published a final rule, "Removal of Obsolete and Redundant Regulations and Appendices," on November 23, 1994, which removed the requirements related to the written examination, §§ 391.35 and 391.37. Subpart D of part 391 now contains only the requirements related to the road test, §§ 391.31 and 391.33. Therefore, the heading of subpart D of part 391 is being changed to read "Tests."

Medical Examination; Certificate of Physical Examination (Section 391.43)

Section 391.43(g) contains the mandatory form for a medical examiner's certificate. Previous forms are allowed to be used until depleted, but no later than November 8, 1994, provided the medical examiner writes down all required information. Since this date has passed, this provision in § 391.43(g) is obsolete and is being removed.

Resolution of Conflicts of Medical Evaluation (Section 391.47)

The term "Director" referred to in § 391.47(c) through (f) is the Director of the Bureau of Motor Carrier Safety, a position that no longer exists. Determinations of a driver's medical qualification in cases of conflicting medical evaluations are now made by the Director, Office of Motor Carrier Research and Standards. All references to "Director" in § 391.47 have been replaced with "Director, Office of Motor Carrier Research and Standards."

Drivers of Articulated (Combination) Farm Vehicles (Section 391.67)

Section 391.67(d) exempts a farm vehicle driver who is at least 18 years old and operates an articulated commercial motor vehicle from the requirements to be medically examined and to have a medical examiner's certificate on his/her person until January 1, 1973. Since this date has passed, § 391.67(d) is obsolete and is being removed.

Private Motor Carriers of Passengers (Nonbusiness) (Section 391.68)

Section 391.68(b) exempts a private motor carrier of passengers (business) driver from the rules in part 391 relating to road tests (subpart D). This exemption is in a section which should only contain exemptions for private motor carriers of passengers (nonbusiness). It is also redundant because § 391.73 exempts private motor carriers of passengers (business) from

the road test requirements. Therefore, § 391.68 is being amended by removing the paragraph (a) designation, redesignating paragraphs (a)(1) through (a)(6) to read as (a) through (f), respectively, and removing paragraph (b).

Definitions (Section 395.2)

The FHWA published a final rule, "Removal of Obsolete and Redundant Regulations and Appendices," on November 23, 1994, which removed paragraph (6) and redesignated paragraphs (7) through (9) of the definition of *On duty time* in § 395.2 as paragraphs (6) through (8), respectively [59 FR 60319, at 60323]. Paragraph (10) of the definition of *On duty time* was not appropriately redesignated as paragraph (9). The definition of *On duty time* is being amended accordingly.

Maximum Driving and On-duty Time (Section 395.3)

The title of § 395.3 requires a technical correction. Section 395.3(b) formerly stated that no driver shall be on duty in excess of 60 hours in any period of 7 consecutive days or 70 hours in any period of 8 consecutive days (except driver salespersons). The FHWA published a final rule on October 30, 1987, which amended § 395.3(b) to allow a driver to perform nondriving duties after reaching 60 hours of on duty time in 7 consecutive days or 70 hours of on duty time in 8 consecutive days, but prohibited a driver to drive a commercial motor vehicle after reaching this limit [52 FR 41718, at 41721]. The FMCSRs no longer limit how long a driver may remain on duty. The title of § 395.3 is being changed to read "Maximum Driving Time" to reflect this amendment.

The FMCSRs have always prohibited a motor carrier from permitting or requiring a driver to violate the hours of service regulations. In addition, the FMCSRs previously prohibited a driver from violating the hours of service regulations. The latter prohibition was inadvertently omitted when § 395.3 was amended on July 30, 1992 [57 FR 33638, at 33649]. The FHWA is therefore amending § 395.3(b) to make it clear that a driver is personally prohibited from driving a commercial motor vehicle after having been on duty 60 hours in any 7 consecutive days or 70 hours in any 8 consecutive days.

Driver's Record of Duty Status (Section 395.8)

The references in § 395.8(h) (2), (3), and (4) to § 395.2 (f), (b), and (a), respectively, are obsolete. Section 395.8(h) (2), (3), and (4) should refer to

§ 395.2 because lettered paragraphs for specific definitions were removed on July 30, 1992 [57 FR 33638, at 33648–33649]. These references are being amended accordingly.

The term “vehicle condition reports” is used in the graph grid illustration after § 395.8(k)(2). However, the term “driver vehicle inspection report” is the appropriate term. The former is being replaced with the latter.

Automatic On-Board Recording Devices (Section 395.15)

Section 395.15 contains various provisions related to the use of automatic on-board recording devices. The requirements of §§ 395.15(i)(4) and (i)(7) became effective on October 2, 1989. Since this date has passed, the words “No later than October 2, 1989” are unnecessary and are being removed.

Equivalent to Periodic Inspection (Section 396.23)

The first sentence of § 396.23(a) incorrectly references the requirements of § 393.17. This sentence should refer to § 396.17, and § 396.23(a) is being amended accordingly.

Application of the Rules in This Part (Section 397.1)

Section 397.1(a) refers to “paragraph (c) of this section,” which does not exist. Section 397.1(c) was removed on May 19, 1988 [53 FR 18042, at 18058], but the reference to paragraph (c) in paragraph (a) was not revised. Therefore, § 397.1(a) is amended by removing the phrase “Except as provided in paragraph (c) of this section.”

Special Agents (Appendix B to Subchapter B)

Paragraph 3 of appendix B to subchapter B defines the term “special agent,” in part by listing the FHWA’s statutory authority to regulate motor carrier safety. The list is out of date, and is therefore being amended to reflect the agency’s current authority and the recent recodification of title 49, United States Code. Paragraph 3 also refers to the Director of the Bureau of Motor Carrier Safety, a position that no longer exists, when it should refer to the Associate Administrator for Motor Carriers. Paragraph 3 is being amended to correct this reference.

Rulemaking Analyses and Notices

This final rule makes only minor, technical corrections to the Federal Motor Carrier Safety Regulations. The rule deletes a provision for which there is no authority, corrects or removes inaccurate references, and replaces

outdated language with terms more consistent with current statutory authority. Substantive regulatory standards are not changed in any way. Therefore, the FHWA finds good cause to adopt the rule without prior notice or opportunity for public comment [5 U.S.C. 553(b)]. The DOT’s regulatory policies and procedures also authorize promulgation of the rule without prior notice because it is anticipated that such action would not result in the receipt of useful information. The FHWA is making the rule effective upon publication in the **Federal Register** because it imposes no new burdens and merely corrects or clarifies existing regulations [5 U.S.C. 553(d)].

Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

The FHWA has determined that this action is not a significant regulatory action within the meaning of Executive Order 12866 or significant within the meaning of Department of Transportation regulatory policies and procedures. Since this rulemaking action makes only technical corrections to the current regulations, it is anticipated that the economic impact of this rulemaking will be minimal; therefore, a full regulatory evaluation is not required.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (5 U.S.C. 601–612), the FHWA has evaluated the effects of this rule on small entities. Based on the evaluation, and since this rulemaking action makes only technical corrections to the current regulations, the FHWA hereby certifies that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12612 (Federalism Assessment)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this action does not have sufficient federalism implications to warrant the preparation of a federalism assessment.

Executive Order 12372 (Intergovernmental Review)

Catalog of Federal Domestic Assistance Program Number 20.217, Motor Carrier Safety. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.

Paperwork Reduction Act

This action does not contain a collection of information requirement for purposes of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

National Environmental Policy Act

The agency has analyzed this action for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and has determined that this action would not have any effect on the quality of the environment.

Regulation Identification Number

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects in 49 CFR Parts 325, 350, 382, 385, 387, 390, 391, 392, 395, 396, and 397

Highway safety, Highways and roads, Motor carriers, Motor vehicle safety.

Issued on: July 19, 1995.

Rodney E. Slater,

Federal Highway Administrator.

In consideration of the foregoing and under the authority of 42 U.S.C. 4917 and 49 U.S.C. 104, 501 *et seq.*, 521 *et seq.*, 5101 *et seq.*, 5113, 5901 *et seq.*, 31101–31104, 31108, 31131 *et seq.*, 31161, 31301 *et seq.*, 31501 *et seq.*; and 49 CFR 1.48, the FHWA amends title 49, Code of Federal Regulations, Chapter III, as follows:

CHAPTER III—[AMENDED]

1. Chapter III is amended by substituting the term “he/she” for each appearance of the word “he” in the chapter except in the phrase “he or she.”

2. Chapter III is amended by substituting the term “his/her” for each appearance of the word “his” in the chapter except in the phrase “his or her.”

3. Chapter III is amended by substituting the term “him/her” for each appearance of the word “him” in the chapter except in the phrase “him or her.”

4. Chapter III is amended by substituting the term “himself/herself” for each appearance of the word “himself” in the chapter.

§§ 325.13, 388.5, and Appendix B
[Amended]

5. In the list below, for each section indicated in the left column, remove the title indicated in the middle column wherever it appears in the section, and add the title indicated in the right column:

Section	Remove	Add
325.13(d)(3)	Bureau of Motor Carrier Safety.	Office of Motor Carriers.
388.5(a)	Bureau of Motor Carrier Safety.	Office of Motor Carriers.
Appendix B to Subchapter B, paragraph 3.	Bureau of Motor Carrier Safety (BMCS).	Office of Motor Carriers.

6. Section 325.93 is amended by revising paragraph (b) to read as follows:

§ 325.93 Tires.

* * * * *

(b) Paragraph (a) of this section does not apply to a motor vehicle operated on a tire having a tread pattern of the type specified in that paragraph, if the motor carrier who operates the motor vehicle demonstrates to the satisfaction of the Associate Administrator for Motor Carriers or his/her designee that either—

(1) The tire did not have that type of tread pattern when it was originally manufactured or newly remanufactured; or

(2) The motor vehicle generates a maximum sound level reading of 90 dB(A) or less when measured at a standard test site for highway operations at a distance of 15.3 meters (50 feet) and under the following conditions:

(i) The measurement must be made at a time and place and under conditions specified by the Associate Administrator or his/her designee.

(ii) The motor vehicle must be operated on the same tires that were installed on it when the inspection specified in paragraph (a) of this section occurred.

(iii) The motor vehicle must be operated on a highway having a posted speed limit of more than 56.3 kph (35 mph).

(iv) The sound level measurement must be made while the motor vehicle is operating at the posted speed limit.

PART 350—[AMENDED]

7. The authority citation for part 350 is revised to read as follows:

Authority: 49 U.S.C. 31101–31104, 31108, 31136, 31140–31141, 31161, 31310–31311, 31502; and 49 CFR 1.48.

8. In part 350, appendix C, paragraph 3(e) is revised to read as follows:

Appendix C to Part 350—Tolerance Guidelines for Adopting Compatible State Rules and Regulations

* * * * *

3. Tolerance Guidelines for State Rules and Regulations Where the U.S. Department of Transportation Regulations do not Apply

* * * * *

(e) Regulatory exemptions based on the distance a motor carrier or driver operates from their home terminal are not deemed to be compatible. This prohibition does not apply to those exemptions already contained in the Federal Motor Carrier Safety Regulations nor to the extension of the mileage radius exemption contained in 49 CFR 395.1(e) from 100 to 150 miles.

* * * * *

9. Section 350.3 is amended by revising the definition for *Motor carrier* to read as follows:

§ 350.3 Definitions.

* * * * *

Motor carrier has the same meaning such term has in § 390.5.

* * * * *

PART 382—[AMENDED]

10. The authority citation for part 382 is revised to read as follows:

Authority: 49 U.S.C. 31133, 31136, 31301 et seq., 31502; and 49 CFR 1.48.

PART 385—[AMENDED]

11. The authority citation for part 385 is revised to read as follows:

Authority: 49 U.S.C. 104, 504, 521(b)(5)(A), 5113, 31136, 31144, 31502; and 49 CFR 1.48.

§ 385.23 [Amended]

12. Section 385.23 is amended by removing the reference “§ 385.23” and replacing it with “§ 385.21.”

PART 387—[AMENDED]

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

Authority: 49 U.S.C. 31138 and 31139; and 49 CFR 1.48.

§ 387.31 [Amended]

14. Section 387.31 is amended by removing paragraph (b)(3)(i) and redesignating paragraphs (b)(3) (ii) and (iii) as paragraphs (b)(3) (i) and (ii), respectively.

PART 390—[AMENDED]

15. The authority citation for Part 390 is revised to read as follows:

Authority: 49 U.S.C. 5901–5907, 31132, 31133, 31136, 31502, and 31504; and 49 CFR 1.48.

16. Section 390.5 is amended by revising paragraph (1)(iii) of the definition of *Accident*; by replacing the word “vehicle” with “motor vehicle” in two places in the definition of *Charter transportation of passengers*; by replacing the word “vehicle” with “motor vehicle” in four places in the definition of *Commercial motor vehicle* except in the phrase “gross vehicle weight rating”; by replacing the words “wheels of the vehicle” with “wheels of the motor vehicle” in the definition of *Driveaway-towaway operation*; by replacing the word “vehicles” with “motor vehicles” in paragraph (2) of the definition of *Emergency*; by replacing the word “vehicle” with “commercial motor vehicle” and replacing the reference “§ 390.3(g)” with “§ 391.2(d)” in the definition of *Exempt intracity zone*; by replacing the words “vehicle” and “motor vehicle” with “commercial motor vehicle” in four places in the definition of *Farm-to-market agricultural transportation*; by replacing the words “vehicle” and “motor vehicle” with “commercial motor vehicle” in two places in the definition of *Farm vehicle driver*; by replacing the word “vehicle” with “motor vehicle” in the definition of *Gross combination weight rating*; by replacing the words “single vehicle” with “single motor vehicle” in the definition of *Gross vehicle weight rating*; by replacing the words “transport vehicle” with “transport motor vehicle” in the definition of *Hazardous substance*; by replacing the word “vehicle” with “commercial motor vehicle” in two places in the definition of *Radar detector*; by replacing the words “towing unit” and “towing vehicle” with “towing motor vehicle” in four places in the definition of *Trailer*; by replacing the word “motor vehicle” with “commercial motor vehicle” in the definition of *Truck*; by replacing the word “motor vehicle” with “commercial motor vehicle” in the definition of *Truck tractor*. Section 390.5 is further amended by revising the definition of *Employee* and the definition of *Principal place of business* to read as follows:

§ 390.5 Definitions.

* * * * *

Accident means—

(1) * * *

(iii) One or more motor vehicles incurring disabling damage as a result of the accident, requiring the motor vehicle to be transported away from the

scene by a tow truck or other motor vehicle.

* * * * *

Employee means any individual, other than an employer, who is employed by an employer and who in the course of his or her employment directly affects commercial motor vehicle safety. Such term includes a driver of a commercial motor vehicle (including an independent contractor while in the course of operating a commercial motor vehicle), a mechanic, and a freight handler. Such term does not include an employee of the United States, any State, any political subdivision of a State, or any agency established under a compact between States and approved by the Congress of the United States who is acting within the course of such employment.

* * * * *

Principal place of business means a single location designated by the motor carrier, normally its headquarters, where records required by parts 387, 390, 391, and 395 of this subchapter will be maintained and where records required by part 382 must be made available for inspection within two business days after a request has been made by an authorized representative of the Federal Highway Administration. Provisions in this subchapter are made for maintaining certain records at

locations other than the principal place of business.

* * * * *

§ 390.7 [Amended]

17. Section 390.7(a) is amended by removing paragraph (a)(3) and redesignating paragraph (a)(4) as paragraph (a)(3).

§ 390.15 [Amended]

18. Section 390.15(b)(1)(vi) is amended by replacing the word "vehicles" with "motor vehicles."

§ 390.19 [Amended]

19. Section 390.19 is amended by replacing the words "motor vehicles" with "commercial motor vehicles."

§ 390.21 [Amended]

20. In § 390.21, amend paragraphs (b)(1), (b)(2), (b)(4), (b)(5), (c)(1), (c)(3), (d), (e)(1), (e)(2) introductory text, (e)(2)(ii), (e)(2)(iv)(B)(2), (e)(2)(iv)(C), and (e)(2)(v) by replacing the words "vehicle" and "motor vehicle" with "commercial motor vehicle."

§ 390.23 [Amended]

21. Section 390.23(a)(3)(i) is amended by replacing the word "vehicles" with "motor vehicles."

22. Section 390.23(b) is amended by replacing the words "driver or vehicle" with "driver or commercial motor vehicle."

§ 390.27 [Amended]

23. Section 390.27 is amended by revising the section heading to read "Locations of regional offices of motor carriers."

§ 390.33 [Amended]

24. Section 390.33 is amended by revising the section heading to read "Commercial motor vehicles used for purposes other than defined." ; and by replacing the words "motor vehicle" with "commercial motor vehicle" in seven places in the text of the section.

PART 391—[AMENDED]

25. The authority citation for part 391 is revised to read as follows:

Authority: 49 U.S.C. 504, 31133, 31136, and 31502; and 49 CFR 1.48.

§§ 391.1, 391.11, 391.15, 391.21, 391.25, 391.31, 391.33, 391.41, 391.43, 391.49, 391.51, 391.61, 391.63, 391.65, 391.67, 391.69, 391.71, and 391.73 [Amended]

26. In part 391, make nomenclature changes as follows:

(a) In the list below, for each section indicated in the left column, remove the word or words indicated in the middle column wherever they appear in the section, and add the words indicated in the right column:

Section	Remove	Add
391.1(a)	Motor vehicles	Commercial motor vehicles.
391.11(a)	Motor vehicle (in four places)	Commercial motor vehicle.
391.11(b) introductory paragraph	Motor vehicle	Commercial motor vehicle.
391.11(b)(3)	Motor vehicle	Commercial motor vehicle.
391.11(b)(4)	Motor vehicle (in two places)	Commercial motor vehicle.
391.11(b)(5)	Motor vehicle	Commercial motor vehicle.
391.11(b)(6)	Motor vehicle	Commercial motor vehicle.
391.11(b)(9)	Motor vehicle	Commercial motor vehicle.
391.15(c)(2)(ii)	Motor vehicle	Commercial motor vehicle.
391.15(c)(2)(v)	Motor vehicle	Commercial motor vehicle.
391.21(a)	Motor vehicle	Commercial motor vehicle.
391.21(b)(5)	Motor vehicle	Commercial motor vehicle.
391.25	Motor vehicle	Commercial motor vehicle.
391.31(a)	Motor vehicle	Commercial motor vehicle.
391.31(b)	Vehicle	Commercial motor vehicle.
391.31(c) introductory paragraph	Motor vehicle (in two places)	Commercial motor vehicle.
391.31(c)(3)	Vehicle	Commercial motor vehicle.
391.31(c)(4)	Vehicles	Commercial motor vehicles.
391.31(c)(5)	Vehicle	Commercial motor vehicle.
391.31(c)(5)	Vehicles	Motor vehicles.
391.31(c)(6)	Vehicle	Commercial motor vehicle.
391.31(c)(7)	Vehicle	Commercial motor vehicle.
391.31(c)(8)	Vehicle	Commercial motor vehicle.
391.33(a) introductory paragraph	Motor vehicle	Commercial motor vehicle.
391.33(a)(1)	Motor vehicles	Commercial motor vehicles.
391.33(a)(1)	Motor vehicle	Commercial motor vehicle.
391.41(a)	Motor vehicle (in two places)	Commercial motor vehicle.
391.41(b) introductory paragraph	Motor vehicle	Commercial motor vehicle.
391.41(b)(2)(ii)	Motor vehicle (in two places)	Commercial motor vehicle.
391.41(b)(5)	Motor vehicle	Commercial motor vehicle.
391.41(b)(6)	Motor vehicle	Commercial motor vehicle.
391.41(b)(7)	Motor vehicle	Commercial motor vehicle.
391.41(b)(8)	Motor vehicle	Commercial motor vehicle.
391.41(b)(9)	Motor vehicle	Commercial motor vehicle.

Section	Remove	Add
391.41(b)(12)	Motor vehicle	Commercial motor vehicle.
391.43(f)	Motor vehicle	Commercial motor vehicle.
391.49(a)	Motor vehicle (in two places)	Commercial motor vehicle.
391.49(d)(3)(i)(A)	Motor vehicle	Commercial motor vehicle.
391.49(e)(4)	Motor vehicle	Commercial motor vehicle.
391.49(g)	Motor vehicle(s)	Commercial motor vehicle(s).
391.51(b)(1)	Motor vehicle	Commercial motor vehicle.
391.51(b)(5)	Motor vehicle	Commercial motor vehicle.
391.51(d)(1)	Motor vehicle	Commercial motor vehicle.
391.51(d)(3)	Motor vehicle	Commercial motor vehicle.
391.51(e)	Motor vehicle	Commercial motor vehicle.
391.51(h)(1)	Motor vehicle	Commercial motor vehicle.
391.61	Motor vehicle	Commercial motor vehicle.
391.63(a) introductory paragraph	Motor vehicle	Commercial motor vehicle.
391.63(b)	Motor vehicle (in two places)	Commercial motor vehicle.
391.65(a)(2)	Motor vehicle	Commercial motor vehicle.
391.65(a)(2)(iv)	Motor vehicle	Commercial motor vehicle.
391.65(a)(2)(vii) in the form	Vehicle	Commercial motor vehicle.
391.67 introductory paragraph	Articulated motor vehicle	Articulated commercial motor vehicle.
391.69	Motor vehicle	Commercial motor vehicle.
391.71(a) introductory paragraph	Motor vehicle	Commercial motor vehicle.
391.71(b) introductory paragraph	Vehicle	Commercial motor vehicle.
391.73	Motor vehicle	Commercial motor vehicle.

(b) In § 391.43(e) in the "Instructions for Performing and Recording Physical Examinations" under the headings *General information, Throat, Blood pressure, Abnormal masses, Tenderness, Genito-urinary, Extremities, and Diabetes* replace the words "motor vehicle" with the words "commercial motor vehicle" each place they appear.

27. Section 391.2 is amended by revising paragraphs (a), (b), (c) and (d)(4) to read as follows:

§ 391.2 General exemptions.

(a) *Farm custom operation.* The rules in this part do not apply to a driver who drives a commercial motor vehicle controlled and operated by a person engaged in custom-harvesting operations, if the commercial motor vehicle is used to—

(1) Transport farm machinery, supplies, or both, to or from a farm for custom-harvesting operations on a farm; or

(2) Transport custom-harvested crops to storage or market.

(b) *Apiarian industries.* The rules in this part do not apply to a driver who is operating a commercial motor vehicle controlled and operated by a beekeeper engaged in the seasonal transportation of bees.

(c) *Certain farm vehicle drivers.* The rules in this part do not apply to a farm vehicle driver except a farm vehicle driver who drives an articulated (combination) commercial motor vehicle, as defined in § 390.5. (For limited exemptions for farm vehicle drivers of articulated commercial motor vehicles, see § 391.67.)

(d) * * *

(4) Does not operate a commercial motor vehicle used in the transportation of hazardous materials in a quantity requiring placarding under regulations issued by the Secretary under the Hazardous Materials Transportation Act (49 U.S.C. 5101 *et seq.*); and

* * * * *

28. Section 391.11 is amended by revising paragraph (b)(7) to read as follows:

§ 391.11 Qualifications of drivers.

* * * * *

(b) * * *

(7) Has a currently valid commercial motor vehicle operator's license issued only from one State or jurisdiction.

* * * * *

29. Footnote number one in §§ 391.15(c)(2)(ii) and (iii) and in § 391.41(b)(12) is revised to read "1 A copy of the Schedule I drugs and other substances may be obtained by writing to the Director, Office of Motor Carrier Research and Standards, Washington, DC 20590, or to any Regional Office of Motor Carriers of the Federal Highway Administration at the address given in § 390.27 of this subchapter."

30. Section 391.15(d)(2)(iv) is revised to read as follows:

§ 391.15 Disqualification of drivers.

* * * * *

(d) * * *

(2) * * *

(iv) *Special rule for hazardous materials and passenger offenses.* A driver is disqualified for a period of not less than 180 days nor more than two years if the driver is convicted of a first violation of an out-of-service order while transporting hazardous materials

required to be placarded under the Hazardous Materials Transportation Act (49 U.S.C. 5101 *et seq.*), or while operating commercial motor vehicles designed to transport more than 15 passengers, including the driver. A driver is disqualified for a period of not less than three years nor more than five years if, during any 10-year period, the driver is convicted of any subsequent violations of out-of-service orders, in separate incidents, while transporting hazardous materials required to be placarded under the Hazardous Materials Transportation Act, or while operating commercial motor vehicles designed to transport more than 15 passengers, including the driver.

31. In § 391.27, the form in paragraph (c) is revised to read as follows:

§ 391.27 Record of violations.

* * * * *

(c) * * *

Driver's Certification

I certify that the following is a true and complete list of traffic violations (other than parking violations) for which I have been convicted or forfeited bond or collateral during the past 12 months.

Date of conviction Offense
Location Type of motor vehicle operated

If no violations are listed above, I certify that I have not been convicted or forfeited bond or collateral on account of any violation required to be listed during the past 12 months.

(Date of certification) (Driver's signature)

(Motor carrier's name)

(Motor carrier's address)

(Reviewed by: Signature) (Title)

32. Part 391 is amended by revising the heading for subpart D to read "Tests".

33. In § 391.43, the text of paragraph (g) preceding the certificate is revised to read as follows:

§ 391.43 Medical examination; certificate of physical examination.

* * * * *

(g) The medical examiner's certificate shall be substantially in accordance with the following form:

* * * * *

34. In § 391.47, paragraphs (c), (d) (1) and (2), and (f) are amended by replacing the word "Director" with "Director, Office of Motor Carrier Research and Standards."

35. Section 391.49 is amended by revising paragraphs (c)(2)(v), (c)(3) introductory text, and (c)(3) (vii) and (viii) to read as follows:

§ 391.49 Waiver of certain physical defects.

* * * * *

(c) * * *

(2) * * *

(v) Number of years experience operating the type of commercial motor vehicle(s) requested in the letter of application and total years of experience operating all types of motor vehicles.

(3) Description of the commercial motor vehicle(s) the driver applicant intends to drive:

* * * * *

(vii) For commercial motor vehicles designed to transport passengers, indicate the seating capacity of the commercial motor vehicle; and

(viii) Description of any modification(s) made to the commercial

motor vehicle for the driver applicant; attach photograph(s) where applicable.

* * * * *

§ 391.67 [Amended]

36. Section 391.67 is amended by revising the section heading to read "Farm vehicle drivers of articulated commercial motor vehicles."; and by removing paragraph (d) and redesignating paragraph (e) as paragraph (d).

37. Section 391.68 is revised to read as follows:

§ 391.68 Private motor carrier of passengers (nonbusiness).

The following rules in this part do not apply to a private motor carrier of passengers (nonbusiness) and their drivers:

(a) Section 391.11 (b)(8), (b)(10), and (b)(11), (relating to driver qualifications in general).

(b) Subpart C (relating to disclosure of, investigation into, and inquiries about the background, character, and driving record of, drivers).

(c) Subpart D (relating to road tests).

(d) So much of §§ 391.41 and 391.45 as require a driver to be medically examined and to have a medical examiner's certificate on his/her person.

(e) Subpart F (relating to maintenance of files and records).

(f) Subpart H (relating to controlled substances testing).

§ 391.71 [Amended]

38. Section 391.71 is amended by revising the section heading to read "Intrastate drivers of commercial motor vehicles transporting Class 3 combustible liquids."

§ 391.85 [Amended]

39. Section 391.85 is amended in the definition of *Commercial motor vehicle* by replacing the word "vehicle" with "motor vehicle" in each of the four places it appears.

PART 392—[AMENDED]

40. The authority citation for part 392 continues to read as follows:

Authority: 49 U.S.C. 31136 and 31502; and 49 CFR 1.48.

41. Part 392 is amended by revising the part heading to read "Driving of Commercial Motor Vehicles"; by revising the heading for subpart B to read "Driving of Commercial Motor Vehicles"; and by revising the heading for subpart C to read "Stopped Commercial Motor Vehicles".

§ 392.4 [Amended]

42. In § 392.4(a)(1), footnote number one is revised to read "¹ A copy of the Schedule I drugs and other substances may be obtained by writing to the Director, Office of Motor Carrier Research and Standards, Washington, DC 20590, or to any Regional Office of Motor Carriers of the Federal Highway Administration at the address given in § 390.27 of this subchapter."

§§ 392.1, 392.2, 392.3, 392.4, 392.6, 392.7, 392.8, 392.9, 392.10, 392.11, 392.13, 392.14, 392.15, 392.16, 392.20, 392.22, 392.24, 392.33, 392.50, 392.51, 392.63, 392.64, 392.66, 392.67, and 392.68 [Amended]

43. In the list below, for each section indicated in the left column, remove the word or words indicated in the middle column wherever they appear in the section, and add the words indicated in the right column:

Section	Remove	Add
392.1	Motor vehicles	Commercial motor vehicles.
392.2	Motor vehicle	Commercial motor vehicle.
392.3	Vehicle	Commercial motor vehicle.
392.3	Motor vehicle (in four places)	Commercial motor vehicle.
392.4(a)(4)	Motor vehicle	Commercial motor vehicle.
392.4(c)	Motor vehicle	Commercial motor vehicle.
392.6	Motor vehicle	Commercial motor vehicle.
392.6	Vehicle (in two places)	Commercial motor vehicle.
392.7	Motor vehicle	Commercial motor vehicle.
392.8	Motor vehicle	Commercial motor vehicle.
392.9(a) Introductory paragraph	Motor vehicle (in two places)	Commercial motor vehicle.
392.9(a)(1)	Vehicle's	Commercial motor vehicle's.
392.9(a)(2)	Vehicle's (in two places)	Commercial motor vehicle's.
392.9(a)(3)	Vehicle's (in two places)	Commercial motor vehicle's.
392.9(b)(1)	Vehicle	Commercial motor vehicle.
392.9(b)(2)	Vehicle's (in two places)	Commercial motor vehicle's.
392.9(b)(3)	Vehicle's (in two places)	Commercial motor vehicle's.
392.9(b)(3)(ii)	Vehicle	Commercial motor vehicle.
392.9(b)(3)(iii)	Vehicle	Commercial motor vehicle.
392.9(b)(4)	Vehicle (in two places)	Commercial motor vehicle.
392.10(a) introductory paragraph	Motor vehicle	Commercial Motor vehicle.
392.10(a) introductory paragraph	Vehicle (in three places)	Commercial motor vehicle.
392.10(a)(2)	Motor vehicle	Commercial motor vehicle.
392.10(a)(3)	Motor vehicle	Commercial motor vehicle.

Section	Remove	Add
392.10(b)(3)	Vehicle	Commercial motor vehicle.
392.11	Motor vehicle (in two places)	Commercial motor vehicle.
392.13	Motor vehicle (in two places)	Commercial motor vehicle.
392.14	Motor vehicle (in two places)	Commercial motor vehicle.
392.14	Vehicle (in two places)	Commercial motor vehicle.
392.15(a)	Motor vehicle, vehicle	Commercial motor vehicle.
392.15(b)	Vehicle (in two places)	Commercial motor vehicle.
392.15(c)	Vehicle (in two places)	Commercial motor vehicle.
392.15(d)	Vehicles	Commercial motor vehicles.
392.15(e)	Vehicles	Motor vehicles.
392.16	Motor vehicle	Commercial motor vehicle.
392.20	Motor vehicle, vehicle	Commercial motor vehicle.
392.22(a)	Motor vehicle	Commercial motor vehicle.
392.22(a)	Vehicle (in three places)	Commercial motor vehicle.
392.22(b)(1) introductory text	Vehicle (in two places)	Commercial motor vehicle.
392.22(b)(1)(i)	Vehicle (in two places)	Commercial motor vehicle.
392.22(b)(1)(ii)	Vehicle (in two places)	Commercial motor vehicle.
392.22(b)(1)(iii)	Vehicle (in two places)	Commercial motor vehicle.
392.22(b)(2)(i)	Vehicle (in two places)	Commercial motor vehicle.
392.22(b)(2)(ii)	Vehicle	Commercial motor vehicle.
392.22(b)(2)(iii)	Vehicle	Commercial motor vehicle.
392.22(b)(2)(iv)	Motor vehicle, vehicle	Commercial motor vehicle.
392.22(b)(2)(v)	Motor vehicle	Commercial motor vehicle.
392.22(b)(2)(v)	Vehicle (in three places)	Commercial motor vehicle.
392.22(b)(2)(vi)	Motor vehicle	Commercial motor vehicle.
392.24	Motor vehicle	Commercial motor vehicle.
392.33	Motor vehicle	Commercial motor vehicle.
392.50(a)	Motor vehicle, vehicle	Commercial motor vehicle.
392.50(b)	Vehicle	Commercial motor vehicle.
392.50(c)	Motor vehicle	Commercial motor vehicle.
392.51	Motor vehicle (in two places)	Commercial motor vehicle.
392.63	Vehicle	Motor vehicle.
392.64	Motor vehicle	Commercial motor vehicle.
392.67	Vehicle	Commercial motor vehicle.
392.68	Motor vehicle	Commercial motor vehicle.

§ 392.13 [Amended]

44. Section 392.13 is amended by revising the section heading to read "Drawbridges; slowing down of commercial motor vehicles." and by deleting the word "other" in the text of the section.

§ 392.20 [Amended]

45. Section 392.20 is amended by revising the section heading to read "Unattended commercial motor vehicles; precautions."

§ 392.22 [Amended]

46. Section 392.22 is amended by revising the section heading to read "Emergency signals; stopped commercial motor vehicles."

§ 392.25 [Amended]

47. Section 392.25 is amended by replacing the words "motor vehicle" each place they appear, except in the term "cargo tank motor vehicle," with the words "commercial motor vehicle."

48. Section 392.60 is revised to read as follows:

§ 392.60 Unauthorized persons not to be transported.

(a) Unless specifically authorized in writing to do so by the motor carrier

under whose authority the commercial motor vehicle is being operated, no driver shall transport any person or permit any person to be transported on any commercial motor vehicle other than a bus. When such authorization is issued, it shall state the name of the person to be transported, the points where the transportation is to begin and end, and the date upon which such authority expires. No written authorization, however, shall be necessary for the transportation of:

(1) Employees or other persons assigned to a commercial motor vehicle by a motor carrier;

(2) Any person transported when aid is being rendered in case of an accident or other emergency;

(3) An attendant delegated to care for livestock.

(b) This section shall not apply to the operation of commercial motor vehicles controlled and operated by any farmer and used in the transportation of agricultural commodities or products thereof from his/her farm or in the transportation of supplies to his/her farm.

49. Section 392.64 is amended by revising the section heading to read "Riding within closed commercial motor vehicles without proper exits."

50. Section 392.66 is revised to read as follows:

§ 392.66 Carbon monoxide; use of commercial motor vehicle when detected.

(a) No person shall dispatch or drive any commercial motor vehicle or permit any passengers thereon, when the following conditions are known to exist, until such conditions have been remedied or repaired:

(1) Where an occupant has been affected by carbon monoxide;

(2) Where carbon monoxide has been detected in the interior of the commercial motor vehicle;

(3) When a mechanical condition of the commercial motor vehicle is discovered which would be likely to produce a hazard to the occupants by reason of carbon monoxide.

(b) [Reserved]

§ 392.67 [Amended]

51. Section 392.67 is amended by revising the section heading to read "Heater, flame-producing; on commercial motor vehicle in motion."

PART 395—[AMENDED]

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

Authority: 49 U.S.C. 31133, 31136, and 31502; and 49 CFR 1.48.

53. Section 395.1(b) is revised to read as follows:

§ 395.1 Scope of rules in this part.

* * * * *

(b) Adverse driving conditions. (1) Except as provided in paragraph (i)(2) of this section, a driver who encounters adverse driving conditions, as defined in § 395.2, and cannot, because of those conditions, safely complete the run within the 10-hour maximum driving time permitted by § 395.3(a) may drive and be permitted or required to drive a commercial motor vehicle for not more than 2 additional hours in order to complete that run or to reach a place offering safety for the occupants of the commercial motor vehicle and security for the commercial motor vehicle and its cargo. However, that driver may not drive or be permitted to drive—

(i) For more than 12 hours in the aggregate following 8 consecutive hours off duty; or

(ii) After he/she has been on duty 15 hours following 8 consecutive hours off duty.

(2) *Emergency conditions.* In case of any emergency, a driver may complete his/her run without being in violation of the provisions of the regulations in this part, if such run reasonably could have been completed absent the emergency.

* * * * *

54. Section 395.1(d)(2) is amended by replacing the words “specially constructed oil well servicing vehicles” with “commercial motor vehicles which are specially constructed to service oil wells.”

§ 395.2 [Amended]

55. Section 395.2 is amended by replacing the word “vehicle” with “commercial motor vehicle” in the definition of *Automatic on-board recording device*; by replacing the word “vehicle” with “commercial motor

vehicle” each place it appears in paragraphs (5) and (6) of the definition of *On duty time*; and by redesignating paragraph (10) as paragraph (9) of the definition of *On duty time*.

56. In § 395.3, the section heading and paragraph (b) are revised to read as follows:

§ 395.3 Maximum driving time.

* * * * *

(b) No motor carrier shall permit or require a driver of a commercial motor vehicle to drive, nor shall any driver drive, regardless of the number of motor carriers using the driver's services, for any period after—

(1) Having been on duty 60 hours in any 7 consecutive days if the employing motor carrier does not operate commercial motor vehicles every day of the week; or

(2) Having been on duty 70 hours in any period of 8 consecutive days if the employing motor carrier operates commercial motor vehicles every day of the week.

57. Section 395.8 is amended by revising paragraphs (f)(5) and (6); and paragraphs (h)(2) through (h)(4) to read as follows:

§ 395.8 Driver's record of duty status.

* * * * *

(f) * * *

(5) *Commercial motor vehicle identification.* The driver shall show the number assigned by the motor carrier or State and the license number of each commercial motor vehicle operated during each 24-hour period on his/her record of duty status. The driver of an articulated (combination) commercial motor vehicle shall show the number assigned by the motor carrier or the State and the license number of each motor vehicle used in each commercial motor vehicle combination operated during that 24-hour period on his/her record of duty status.

(6) *Name of motor carrier.* The name(s) of the motor carrier(s) for which work is performed shall be shown on the form containing the driver's record of duty status. When work is performed for more than one motor carrier during the same 24-hour period, the beginning and finishing time, showing a.m. or p.m., worked for each motor carrier shall be shown after each motor carrier's name. Drivers of leased commercial motor vehicles shall show the name of the motor carrier performing the transportation.

* * * * *

(h) * * *

(2) *Sleeper berth.* A continuous line shall be drawn between the appropriate time markers to record the period(s) of time off duty resting in a sleeper berth, as defined in § 395.2. (If a non-sleeper berth operation, sleeper berth need not be shown on the grid.)

(3) *Driving.* A continuous line shall be drawn between the appropriate time markers to record the period(s) of driving time, as defined in § 395.2.

(4) *On duty not driving.* A continuous line shall be drawn between the appropriate time markers to record the period(s) of time on duty not driving specified in § 395.2.

* * * * *

§ 395.8 [Amended]

58. The paragraph *Graph Grid (Midnight to Midnight Operation)* following the executed specimen grid illustration at § 395.8(k)(2) is amended by replacing the term “vehicle condition report” with the term “driver vehicle inspection report.”

§ 395.13 [Amended]

59. In the list below, for each section indicated in the left column, remove the word or words indicated in the middle column wherever they appear in the section, and add the words indicated in the right column:

Section	Remove	Add
395.13(c)(1)(i)	Motor vehicle	Commercial motor vehicle.
395.13(c)(1)(ii)	Motor vehicle	Commercial motor vehicle.
395.13(d)(1)	Motor vehicle	Commercial motor vehicle.
395.13(d)(2)	Motor vehicle	Commercial motor vehicle.
395.13(d)(4)	Motor vehicles	Commercial motor vehicles.

60. Section 395.15 is amended by revising paragraphs (d)(2), the introductory text of paragraph (g); paragraphs (i)(2), (4), and (7); and paragraph (j)(2)(iv) to read as follows:

§ 395.15 Automatic on-board recording devices.

* * * * *

(d) * * *

(2) Motor carriers are permitted to use location codes in lieu of the requirements of paragraph (d)(1) of this section. A list of such codes showing all possible location identifiers shall be carried in the cab of the commercial motor vehicle and available at the motor

carrier's principal place of business. Such lists shall be made available to an enforcement official on request.

* * * * *

(g) *On-board information.* Each commercial motor vehicle must have on-board the commercial motor vehicle

an information packet containing the following items:

* * * *

(i) * * *

(2) The automatic on-board recording device permits duty status to be updated only when the commercial motor vehicle is at rest, except when registering the time a commercial motor vehicle crosses a State boundary;

* * * *

(4) The automatic on-board recording device warns the driver visually and/or audibly that the device has ceased to function. Devices installed and operational as of October 31, 1988, and authorized to be used in lieu of the handwritten record of duty status by the FHWA are exempted from this requirement.

* * * *

(7) The on-board recording device/system identifies sensor failures and edited data when reproduced in printed form. Devices installed and operational as of October 31, 1988, and authorized to be used in lieu of the handwritten record of duty status by the FHWA are exempted from this requirement.

* * * *

(j) * * *

(2) * * *

(iv) The motor carrier or driver has tampered with or otherwise abused the automatic on-board recording device on any commercial motor vehicle.

PART 396—[AMENDED]

61. The authority citation for part 396 is revised to read as follows:

Authority: 49 U.S.C. 31133, 31136, and 31502; 49 CFR 1.48.

62. Section 396.23 is amended by revising paragraph (a) to read as follows:

§ 396.23 Equivalent to periodic inspection.

(a) The motor carrier may meet the requirements of § 396.17 through a State or other jurisdiction's roadside inspection program. The inspection must have been performed during the preceding 12 months. In using the roadside inspection, the motor carrier would need to retain a copy of an annual inspection report showing that the inspection was performed in accordance with the minimum periodic inspection standards set forth in appendix G to this subchapter. When accepting such an inspection report, the motor carrier must ensure that the report complies with the requirements of § 396.21(a).

* * * *

PART 397—[AMENDED]

63. The authority citation for part 397 continues to read as follows:

Authority: 49 U.S.C. 5101 et seq.; and 49 CFR 1.48.

64. Section 397.1 is amended by revising paragraph (a) to read as follows:

§ 397.1 Application of the rules in this part.

(a) The rules in this part apply to each motor carrier engaged in the transportation of hazardous materials by a motor vehicle which must be marked or placarded in accordance with § 177.823 of this title and to—

(1) Each officer or employee of the motor carrier who performs supervisory duties related to the transportation of hazardous materials; and

(2) Each person who operates or who is in charge of a motor vehicle containing hazardous materials.

* * * *

65. In appendix B to subchapter B, paragraph 3 is revised to read as follows:

APPENDIX B TO SUBCHAPTER B— SPECIAL AGENTS

* * * *

3. *Definition of special agent.* Federal Highway Administration (FHWA) employees charged with enforcing 42 U.S.C. 4917 and 49 U.S.C. 104, 501 et seq., 521 et seq., 5101 et seq., 5901 et seq., 31101–31104, 31108, 31131 et seq., 31161, 31301 et seq., and 31501 et seq., including employees within the Office of Motor Carriers and such other persons as the Federal Highway Administrator or the Associate Administrator for Motor Carriers may specify in writing, in possession of credentials issued by the FHWA, are special agents. They are hereby authorized to inspect and copy records and to inspect and examine lands, buildings, and equipment to the manner and extent provided by law.

* * * *

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National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 88–06, Notice 24]

RIN 2127–AE49

Federal Motor Vehicle Safety Standards; Side Impact Protection— Light Trucks, Buses and Multipurpose Passenger Vehicles

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: This rule amends Federal Motor Vehicle Safety Standard No. 214, “Side Impact Protection,” to extend its dynamic testing requirements to light trucks, multipurpose passenger vehicles and buses with a gross vehicle weight rating (GVWR) of 6,000 pounds or less. (Light trucks, multipurpose passenger vehicles and buses are hereinafter referred to as LTVs.) The dynamic testing requirements currently apply to passenger cars only. This rule extends the dynamic procedures now used to test passenger cars, without modification, to LTVs. Based on current vehicle sales data, the agency estimates that the percentage of LTVs will increase significantly in the future. Small LTVs, which are potentially vulnerable in side crashes, will comprise much of the LTV fleet by the year 2000. This extension ensures these vehicles provide side impact protection for the same crash conditions under which passenger cars provide such protection. It also furthers the goal of the NHTSA Authorization Act of 1991 (sections 2500–2509 of the Intermodal Surface Transportation Efficiency Act (“ISTEA”)), which directed NHTSA to initiate rulemaking on LTV side impact safety.

DATES: This rule is effective on September 1, 1998.

Petitions for reconsideration of the rule must be received by August 28, 1995.

ADDRESSES: Petitions for reconsideration should refer to the docket and number of this document and must be submitted to: Administrator, Room 5220, National Highway Traffic Safety Administration, 400 Seventh Street S.W., Washington, D.C., 20590.

FOR FURTHER INFORMATION CONTACT: Dr. Joseph Kianianthra, Chief, Side and Rollover Crash Protection Division, Office of Vehicle Safety Standards (telephone 202–366–4924), or Ms. Deirdre Fujita, Office of the Chief Counsel (202–366–2992), National Highway Traffic Safety Administration, 400 Seventh St., S.W., Washington, D.C., 20590.

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