

§ 173.357 Chloropicrin and chloropicrin mixtures containing no compressed gas or poison A liquid.

(b) * * *

(1) Specification 3A, 3AA, 3B, 3C, 3D, 3E, 4A, 4B, 4BA, 4BW, or 4C (§§ 178.36, 178.37, 178.38, 178.40, 178.41, 178.42, 178.49, 178.50, 178.51, 178.52, 178.61 of this subchapter). Metal cylinders. Valves and other closing devices must be protected to prevent damage in transit by equipping the cylinders with valve protection required by § 173.301(g) of this subchapter. A cylinder closed by means of a solid plug may have the closure protected by a metal collar. Cylinders having a wall thickness of less than 0.08 inch must be packaged in boxes or crates. Each cylinder having a water capacity over 275 pounds must have a minimum design pressure of 225 p.s.i.g., unless the specification requires a higher minimum design pressure.

15. In § 173.385 paragraph (a)(3) is added to read as follows:

§ 173.385 Tear gas grenades, tear gas candles, or similar devices.

(a) * * *

(3) Specification 12B (§ 178.205 of this subchapter). Fiberboard box with inside tear gas devices meeting specifications 2P or 2Q (§§ 178.33, 178.33a of this subchapter). Each inside container must be placed into spiral wound tubes fitted with metal ends or a double-faced fiberboard box with suitable padding. Not more than 30 inside containers shall be placed in one outside box and gross weight shall not exceed 35 pounds.

18. In § 173.505 paragraph (b) is added to read as follows:

§ 173.505 Exceptions for other regulated material (ORM).

(b) Strong outside packagings as specified in § 173.1200 of this subchapter are not required for materials classed as ORM-D when unitized in cages, carts, or similar overpacks and when shipped by private motor carrier from a distribution center to retail outlet.

PART 178—SHIPPING CONTAINER SPECIFICATIONS

17. In § 178.24a, § 178.24a-2 is revised to read as follows:

§ 178.24a Specification 2E; inside polyethylene bottle.

§ 178.24a-2 Rated capacity.

(a) Maximum capacity not to exceed 5 quarts.

18. In § 178.37, the first table in § 178.37-5(a) is revised and paragraph 178.37-5(b) is added to read as follows:

§ 178.37 Specification 3AA; seamless steel cylinders made of definitely prescribed steels or 3AAX; seamless steel

cylinders made of definitely prescribed steels of capacity over 1,000 pounds water volume.

§ 178.37-5 Authorized steel.

(a) Open-hearth, basic oxygen, or electric steel of uniform quality. The following chemical analyses are authorized (See Note 1):

Designation	4130X (percent) (see note 2)	NE-8630 (percent) (see note 2)	9115 (percent) (see note 2)	9125 (percent) (see note 2)	Carbon-boron steel (percent) (see par. b)	Intermediate manganese (percent)
Carbon	0.25/0.35	0.28/0.33	0.10/0.20	0.20/0.30	0.27-0.37	0.40 max.
Manganese	0.40/0.90	0.70/0.90	0.50/0.75	0.50/0.75	0.80-1.40	1.35/1.65
Phosphorus	0.04 max.	0.04max	0.04max	0.04max	0.035max	0.04 max.
Sulfur	0.05 max.	0.04 max.	0.04 max.	0.04 max.	0.045 max.	0.05 max.
Silicon	0.15/0.35	0.20/0.35	0.60/0.90	0.60/0.90	0.3 max.	0.10/0.30
Chromium	0.80/1.10	0.40/0.60	0.50/0.65	0.50/0.65		
Molybdenum	0.15/0.25	0.15/0.25				
Zirconium			0.05/0.15	0.05/0.15		
Nickel		0.40/0.70				
Boron					0.005-0.003	

NOTE 1.—A heat of steel made under the above specifications, check chemical analysis of which is slightly out of the specified range, is acceptable, if satisfactory in all other respects, provided the tolerances shown in the following tables are not exceeded, except as approved by the Department:

(b) When a carbon-boron steel is used, a hardenability test must be performed on the first and last ingot of each heat of steel. The results of this test must be recorded on the Record of Chemical Analysis of Material for Cylinders required by § 178.37-22 of this section. This hardness test must be made $\frac{1}{16}$ -inch from the quenched end of the Jominy quench bar and the hardness shall be at least Rc 33 and no more than Rc 53.

19. In § 178.211 the title is revised to read as follows:

§ 178.211 Specification 12P; fiberboard boxes. Nonreusable containers for inside plastic containers greater than 1-gallon capacity, as prescribed in Part 173 of this subchapter.

20. In § 178.343, paragraph (a) of § 178.343-3 is revised to read as follows:

§ 178.343 Specification MC-312; cargo tanks.

§ 178.343-3 Closure for manholes.

(a) Each compartment shall be accessible through a manhole conforming to paragraph UG-46(g)(1) of the ASME Code. The manhole cover shall be designed to provide a secure closure of the manhole. All joints between manhole covers and their seats shall be tight against leakage of vapor and liquid. Gaskets, if used, shall be of suitable material not subject to attack by lading.

(49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53, App. A to Part 1, and paragraph (a)(4) App. A to Part 106)

Note.—The Materials Transportation Bureau has determined that this proposed regulation will not have major economic impact under the terms of Executive Order 12044 and DOT implementing procedures (44 FR 11034), nor an environmental impact under the National Environmental Policy Act (49 U.S.C. 4321 et seq.). A regulatory evaluation and environmental assessment are available for review in the docket.

Issued in Washington, D.C. on June 27, 1980.

L. D. Santman,

Director, Materials Transportation Bureau.

[FR Doc. 80-20310 Filed 7-9-80; 8:45 am]

BILLING CODE 4910-60-M

Federal Highway Administration

49 CFR 389, 391, 392, 393, 395, 396, and Ch. III

[BMCS Amdt. No. 79-5]

Federal Motor Carrier Safety Regulations; Miscellaneous Amendments

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule.

SUMMARY: The purpose of these rule changes is to clarify and update certain sections of the Federal Motor Carrier Safety Regulations (FMCSR). These

miscellaneous changes are not substantive.

EFFECTIVE DATE: This rule becomes effective on July 10, 1980.

FOR FURTHER INFORMATION CONTACT:

Mr. Gerald J. Davis, Chief, Development Branch, Bureau of Motor Carrier Safety, (202) 426-9767; or Mr. Gerald M. Tierney, Office of the Chief Counsel, (202) 426-0346, Federal Highway Administration, U.S. Department of Transportation, 400 Seventh Street SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: The FHWA is making a number of technical, nonsubstantive amendments to the FMCSR. The amendments remove improper and outdated references, add proper references, make corrections, and revise the arrangement of wording within sections.

Section 391.11(b)(6) is being amended by adding a reference to § 391.43 and § 391.45. This revision is necessary so that § 391.11(b)(6) encompasses all sections which define the medical certification process.

Section 392.10(a)(3) is being amended to conform with the Hazardous Materials Placarding Requirements.

Section 392.10(b)(5) is being amended to conform with the "Manual on Uniform Traffic Control Devices,"¹ and the "Uniform Vehicle Code."¹

Technical amendments are also being made to the following sections: 389.31(b)(1), 391.51(b)(2), 393.19, 393.45(a)(5), 393.67(f), 395.2(a)(9), 395.2(b), 395.3(a), 395.8(t)(1)(iv), 395.9(a)(2), 395.9(v)(1)(iv), 396.11(b), and Appendix B.

Therefore, Parts 389, 391, 392, 393, 395, and 396 of Title 49 and Appendix B to Subchapter B of Chapter III of the Code of Federal Regulations are amended as follows:

PART 389—RULEMAKING PROCEDURES—FEDERAL MOTOR CARRIER SAFETY REGULATIONS

1. Section 389.31(b)(1) is amended to indicate the correct BMCS mailing address as follows:

§ 389.31 Petitions for rulemaking.

(b) * * *

(1) Be submitted in duplicate to the Bureau of Motor Carrier Safety, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590.

¹ This document is available for inspection and copying as prescribed in 49 CFR Part 7, App. D.

PART 391—QUALIFICATIONS OF DRIVERS

2. Section 391.11(b)(6) is amended to read as follows:

§ 391.11 Qualifications of drivers.

(b) * * *

(6) Is physically qualified to drive a motor vehicle in accordance with Subpart E—Physical Qualifications and Examinations—of Part 391;

3. Section 391.51(b)(2) is amended by replacing the word "Director's" with the words "Regional Federal Highway Administrator's" as follows:

§ 391.51 Driver qualification files.

(b) * * *

(2) The Regional Federal Highway Administrator's letter granting a waiver of a physical disqualification, if a waiver was issued under § 391.49;

PART 392—DRIVING OF MOTOR VEHICLES

4. Section 392.10(a)(3) is amended to read as follows:

§ 392.10 Railroad grade crossings; stopping required.

(a) * * *

(3) Every motor vehicle which, in accordance with the regulations of the Department of Transportation, is required to be marked or placarded with one of the following markings:

- (i) Explosives A
- (ii) Explosives B
- (iii) Poison Gas
- (iv) Flammable solid W
- (v) Radioactive
- (vi) Flammable
- (vii) Blasting Agent
- (viii) Nonflammable Gas
- (ix) Chlorine
- (x) Poison
- (xi) Oxygen
- (xii) Flammable Gas
- (xiii) Combustible
- (xiv) Flammable Solid
- (xv) Oxidizer
- (xvi) Organic Peroxide
- (xvii) Corrosive
- (xviii) Dangerous

5. Section 392.10(b)(5) is amended to delete the word "crossing" from "Exempt" signs as follows:

§ 392.10 Railroad grade crossings; stopping required.

(b) * * *

(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.

PART 393—PARTS AND ACCESSORIES NECESSARY FOR SAFE OPERATION

6. Section 393.19 is amended to delete the reference "§ 392.23." Such section reads as follows:

§ 393.19 Requirements for turn signaling systems.

Every motor vehicle shall be equipped with a signaling system that in addition to signaling turning movements as required by § 392.15 shall have a switch or combination of switches that will cause the two front turn signals and the two rear signals to flash simultaneously as a vehicular traffic hazard warning required by § 392.22(a). The system shall be capable of flashing simultaneously with the ignition of the vehicle turned on or off.

7. Section 393.45(a)(5) is amended to correct the spelling error "Contacing" as follows:

§ 393.45 Brake tubing and hose adequacy.

(a) * * *

(5) Be installed in a manner that prevents it from contacting the vehicle's exhaust system or any other source of high temperatures; and

8. In § 393.67(f) the introductory paragraph is amended for clarification purposes only as follows:

§ 393.67 Liquid fuel tanks.

(f) *Certification.* Each liquid fuel tank shall be legibly and permanently marked with the month and year of its manufacture and with a certificate that it conforms to the rules in this section applicable to the tank. The certificate for a liquid fuel tank manufactured on or after July 1, 1973, must be in the form set forth in either of the following:

PART 395—HOURS OF SERVICE OF DRIVERS

9. Section 395.2(a)(9) is removed from the listing of definitions and is redesignated as § 395.3(f).

10. Section 395.2(b) is amended by making the second sentence a separate paragraph which will become paragraph (i) within § 395.2.

§ 395.2 Definitions.

* * * * *

(b) *Driving time.* The terms "drive" and "driving time" shall include all time spent at the driving controls of a motor vehicle in operation.

(i) *Multiple stops.* All stops made in any one village, town, or city may be computed as one.

11. Section 395.3(a) is revised by separating into three individual paragraphs, within paragraph (a), the 10-hour rule, the 15-hour rule, and the sleeper berth exemption. Section 395.3(a) is revised to read as follows:

§ 395.3 Maximum driving and on-duty time.

(a) Except as provided in paragraphs (c) and (e) of this section and in § 395.10, no motor carrier shall permit or require any driver used by it to drive nor shall any such driver drive:

(1) More than 10 hours following 8 consecutive hours off duty; or

(2) For any period after having been on duty 15 hours following 8 consecutive hours off duty.

(3) Exemption: Drivers using sleeper berth equipment as defined in § 395.2(g), or who are off duty at a natural gas or oil well location, may cumulate the required 8 consecutive hours off duty resting in a sleeper berth in two separate periods totaling 8 hours, neither period to be less than 2 hours, or resting while off duty in other sleeping accommodations at a natural gas or oil well location.

12. Section 395.8(t)(1)(iv) is amended to add the retention period of 1 year for the records required in § 395.8(t)(1)(iv), as it was inadvertently omitted. Section 395.8(t)(1)(iv) is amended as follows:

§ 395.8 Driver's daily log.

(i) * * *

(1) * * *

(iv) The motor carrier which employs the driver maintains and retains for a period of 1 year accurate and true records showing—

13. Section 395.9(a)(2) is amended to add the provisions of paragraphs "(t)" and "(u)" of this section. Section 395.9(v)(1)(iv) is amended to add the retention period of 1 year for the records required in § 395.9(v)(1)(iv), as it was inadvertently omitted. Sections 395.9(a)(2) and 395.9(v)(1)(iv) are amended as follows:

§ 395.9 Driver's multi-day log.

(a) * * *

(2) Driver's logs, MCS-139 and MCS-139A, shall be prepared and retained in accordance with the provisions of

paragraphs (b) through (u) of this section.

(v) * * *

(1) * * *

(iv) The motor carrier which employs the driver maintains and retains for a period of 1 year accurate and true records showing—

PART 396—INSPECTION, REPAIR, AND MAINTENANCE

§ 396.11 [Amended]

14. Section 396.11(b) is amended to correct the spelling error "shal" in the third sentence as follows: "In all instances, the driver shall sign the vehicle inspection report."

15. Paragraph 3, "Definition of special agent," in Appendix B to Subchapter B of Chapter III is amended to list the special agents as follows:

3. * * *

Director

Deputy Director

Chief of Operations Division

Chief of Field Programs Branch

Chief of Compliance Analysis Branch

Chief of Regulations Division

Chief of Development Branch

Chief of Evaluation and Analysis Branch

Chief of Hazardous Materials Branch

Regulations Specialist

Director, Regional Motor Carrier Safety

Offices

Accident Investigation Specialist

Hazardous Materials Compliance Officer

Hazardous Materials Liaison Officer

Hazardous Materials Management Specialist

Hazardous Materials Specialist

Highway Safety Management Specialist

Mechanical Engineer (automotive)

Program Managers

Safety Investigators

Trainees

Note.—The FHWA has determined that this document does not contain a significant regulation according to the criteria established by the Department of Transportation pursuant to Executive Order 12044. Due to the fact that the amendments being made are of a technical, nonsubstantive nature and are intended simply to clarify and update existing provisions, a full regulatory evaluation is not considered necessary. For the same reasons, publication of these amendments for notice and comment could not reasonably be anticipated to result in the receipt of useful information, and therefore, the amendments are effective upon publication.

(49 U.S.C. 304; 49 CFR 1.48(b) and 301.60)

(Catalog of Federal Domestic Assistance Program Number 20.217, Motor Carrier Safety)

Issued on: June 30, 1980.

Robert A. Kaye,

Director, Bureau of Motor Carrier Safety.

[FR Doc. 80-20348 Filed 7-9-80; 8:45 am]

BILLING CODE 4910-22-M

49 CFR Part 396

[Notice No. 80-5]

Interpretations of the Federal Motor Carrier Safety Regulations

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of interpretations.

SUMMARY: This notice presents revised and updated interpretations of the Inspection, Repair, and Maintenance regulations for motor carriers operating commercial motor vehicles in interstate or foreign commerce. These new interpretations supersede the Inspection and Maintenance interpretations published on October 31, 1975.

EFFECTIVE DATE: July 10, 1980.

FOR FURTHER INFORMATION CONTACT:

Mr. Gerald J. Davis, Chief, Development Branch, Regulations Division, Bureau of Motor Carrier Safety, 202-426-9767; or Mrs. Kathleen S. Markman, Attorney, Motor Carrier and Highway Safety Law Division, Office of the Chief Counsel, 202-426-0346, Federal Highway Administration, Department of Transportation, Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m., ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: This publication presents revised and updated interpretations of the Inspection, Repair, and Maintenance regulations (49 CFR Part 396) for motor carriers operating commercial motor vehicles in interstate or foreign commerce. The regulations in Part 396 were recently amended and became effective on April 1, 1980 (44 FR 38523, 50041, and 76525). The interpretations pertaining to Part 396 which were published on October 31, 1975 (40 FR 50671), are no longer valid.

These new and revised interpretations will appear as Chapter VII, Interpretations of the Federal Motor Carrier Safety Regulations. They will not appear in the Code of Federal Regulations. The interpretations are written in the form of questions and answers relating to specific sections of the Inspection, Repair, and Maintenance regulations.

PART 396—INSPECTION, REPAIR, AND MAINTENANCE

Sec.

396.1 Scope.

Sec.

- 396.3 Inspection, repair, and maintenance.
 396.9 Inspection of motor vehicles in operation.
 396.11 Driver vehicle inspection report(s).
 396.13 Driver inspection.

§ 396.1 Scope.**§ 396.1(b)**

Question. If a driver operates a combination vehicle (tractor/trailer) in exempt intracity operation, and one of the vehicles comprising that combination has been operated beyond the exempt area, must the driver prepare and submit a vehicle inspection report?

Answer. No, an exempt intracity driver does not have to comply with Part 396.

§ 396.3 Inspection, repair, and maintenance.**§ 396.3(a)**

Question. Who has the responsibility of inspecting and maintaining leased vehicles and their maintenance records?

Answer. The motor carrier must either inspect, repair, maintain, and keep suitable records for all vehicles subject to its control or cause another party to perform such activities. The motor carrier is solely responsible for ensuring that the vehicles under its control are in safe operating condition and that defects have been corrected. Additionally, records of maintenance and repair must be produced in a timely manner by the motor carrier upon request.

§ 396.3(b)(2)

Question. What time or mileage basis must be used when establishing an inspection and maintenance program?

Answer. Motor carriers are required to provide a systematic means to indicate the nature and due date of the various inspection and maintenance operations to be performed. The period between systematic vehicle inspections may be determined on a mileage or time basis. The exact elapsed mileage or time is left to the discretion of the motor carrier, but the program must be reasonable and systematic.

§ 396.3(b)(5)

Question. Section 396.3(b)(5) speaks of a "record of tests * * *". What tests are required of push-out windows and emergency door lamps on buses?

Answer. Inspection of a push-out window would require pushing out the window. Inspection of emergency door marking lights would require opening the emergency door to test the lights. Both actions would be considered tantamount to tests.

§ 396.9 Inspection of motor vehicles in operation.**§ 396.9(c)(2)**

Question. Under what conditions may a vehicle that has been declared "out of service" be moved?

Answer. The vehicle that has been declared "out of service" may be towed by a vehicle equipped with a crane or hoist. The vehicle combination consisting of the towing vehicle and the "out of service" vehicle must meet all performance requirements of the Federal Motor Carrier Safety Regulations (FMCSR) except for those for which the towed vehicle was placed "out of service."

Example. The steering assembly of a power unit has been determined to be defective. The towing vehicle may lift the front wheels of the defective power unit off the ground and tow it in that manner. Any vehicle declared "out of service" may be placed entirely upon another vehicle, secured properly and then moved.

§ 396.11 Driver vehicle inspection report(s).**§ 396.11(a)**

Question. Does the driver's vehicle inspection report have to be turned in each day by a driver dispatched on a trip of more than one day's duration?

Answer. A driver dispatched on a trip of more than one day's duration may submit a daily written vehicle inspection report for each day to the motor carrier upon the driver's return to the home terminal. This does not relieve the motor carrier or its agent(s) from the responsibility of effecting repairs and certification of any items listed on the vehicle inspection report, prepared at the end of each day's work, that would be likely to affect the safety of operation of the motor vehicle.

Question. Must the trailer be inspected, just as the power unit must be inspected?

Answer. Yes. A tractor-trailer combination is considered to be a motor vehicle (§ 390.1). Therefore, a driver must satisfy himself/herself that the trailer is in safe operating condition before operating it. At the completion of each day's work, the driver must report any defect or deficiency discovered by or reported to the driver which would affect safety of operation of the motor vehicle.

Question. Does the term, "the report shall cover," mean that the items in § 396.11(a) must be specifically listed on the vehicle inspection report?

Answer. No, the items shown are to be considered by the driver when preparing the vehicle inspection report.

Question. May more than one power unit be included on the vehicle inspection report if two or more were used by a driver during one day's work?

Answer. No, a separate vehicle inspection report must be prepared for each power unit operated during the day's work.

§ 396.11(b)

Question. May a motor carrier continue to use the type of vehicle condition report used in the past as long as there are no repairs required?

Answer. A motor carrier may continue to use any type of vehicle condition report used in the past so long as the report contains the information and signatures required. When defects or deficiencies are reported, the vehicle inspection report must contain the motor carrier's certification and the subsequent driver's signature acknowledging that the report has been reviewed and that it contains the required certification by the motor carrier or its agent.

Question. Is a separate vehicle inspection report required for a tractor and a trailer; a double-bottom (tractor pulling two trailers); a tractor, two trailers, and a dolly hookup; or may one vehicle inspection report be used for any type combination?

Answer. One vehicle inspection report may be used for any type combination, provided—

1. The defects or deficiencies, if any, are identified for each vehicle and the driver signs the report;

2. The repairs made to each vehicle are properly identified, the repairs not required because they were not safety related are properly identified for each vehicle, and the carrier certification is signed, if necessary;

3. The vehicle inspection report, or a copy thereof, is placed in the power unit for the subsequent driver's review; and

4. The subsequent driver signs the vehicle inspection report, or a copy thereof, attesting to the fact that the vehicle inspection report has the carrier's certification thereon.

§ 396.11(c)

Question. How does a motor carrier determine which defects, listed on the vehicle inspection report, would be likely to "affect the safety of operation of the vehicle?"

Answer. The parts and accessories required by Parts 393 and 396 of the FMCSR, if found to be defective or deficient, would "affect the safety of operation of the vehicle."

Question. Is a motor carrier required to effect repair of all items listed on a

vehicle inspection report prepared by a driver?

Answer. It is the motor carrier's responsibility to make the determination, in accordance with § 396.3(a)(1), whether a reported defect will affect the safety of operation of the motor vehicle.

§ 396.11(c)(1)

Question. What constitutes a "certification" as required by § 396.11(c)(1) and (2)?

Answer. To "certify" or prepare a "certification" requires a motor carrier or its agent to assert, in writing, that certain defects or deficiencies, listed on the vehicle inspection report, have been corrected or that correction was unnecessary. That assertion, in writing, must be immediately followed by the signature of the person making such an assertion.

Question. Who must make the required certification of repairs?

Answer. The motor carrier or its designated agent must make the required certification. This could include the driver employed by the motor carrier.

Question. Who certifies that repairs have been made when a motor vehicle is repaired en route by the driver or a commercial repair facility?

Answer. The driver who effects the repair may, as the carrier's agent, make the required certification. When repairs are made to a motor vehicle by a commercial repair facility, the repair facility may make the required certification on the vehicle inspection report. Should the repair facility choose not to make such a certification, the driver, as the carrier's agent, may make the required certification.

Question. Where must certification be made?

Answer. Certification must be made on the vehicle inspection report.

Question. When the vehicle inspection report indicates that certain repairs were made and the motor carrier has determined others to be unnecessary, must two certifications be made?

Answer. No, only one certification is required. However, the motor carrier must specifically identify the repairs that were made and those that were considered unnecessary.

Question. Must certification for trailer repairs be made?

Answer. Yes, certification must be made that all reported defects or deficiencies have been corrected or that correction was unnecessary. The certification need only appear on the carrier's copy of the report if the trailer is separated from the tractor.

Question. What responsibility does a vehicle leasing company, engaged in the daily rental of commercial motor vehicles, have regarding the placement of the driver vehicle inspection report in the power unit?

Answer. A leasing company, engaged in the daily rental of commercial motor vehicles, has no responsibility to comply with the FMCSR. The motor carrier (lessee) must comply with § 396.3(c) before taking possession of the leased vehicle. The records required by § 396.3(c) must be retained by the motor carrier in accordance with § 396.3(d).

§ 396.11(c)(2)

Question. How long must the vehicle inspection report be retained?

Answer. The original vehicle inspection report, bearing the required motor carrier certification, must be retained by the motor carrier for at least 3 months. The copy of the vehicle inspection reports carried on the power unit need only be on the motor vehicle until another vehicle inspection report is prepared. The copy required to be carried on the power unit need not be retained in the motor carrier's files.

Question. When a trip lease arrangement is involved, who gets the original driver vehicle inspection report?

Answer. The motor carrier controlling (i.e. the lessee) the vehicle during the term of the lease must be given the original of the driver vehicle inspection report. The controlling motor carrier is also responsible for obtaining and retaining records relating to "on-the-road" repairs.

Question. Must the motor carrier's certification be shown on all copies of the vehicle inspection report?

Answer. Yes, if the motor carrier's certification is required.

Question. Can the completed original vehicle inspection report be carried on the power unit, until replaced by the next original report?

Answer. A motor carrier may use the original of a vehicle inspection report for the motor carrier certification that repairs were made or were unnecessary. The motor carrier may return the original to the power unit for the subsequent driver's review and signature. The original must be returned to the motor carrier's file upon completion of the driver's work day and the completion of another vehicle inspection report, to be retained by the motor carrier for at least 3 months.

§ 396.11(c)(3)

Question. What is the purpose of requiring the copy of the driver vehicle inspection report to be placed in a power unit, if it does not have to be

retained following the completion of a subsequent report?

Answer. The copy of the driver vehicle inspection report provides the next driver with the necessary information, relative to the prior condition of the vehicle, as to whether any reported safety-related defects or deficiencies have been repaired.

Question. Will there be times when a driver will not be given a copy of a driver vehicle inspection report to review as required by §§ 396.11(c)(3) and 396.13(b)?

Answer. Yes, a number of instances are listed below:

1. The first day a power unit is transferred from an exempt intracity operation to an intercity operation.
2. The first time a power unit is placed in service.
3. When a rented power unit is placed in service.

Question. What happens when a piggyback trailer (from a railroad) is picked up, joined in combination with a motor carrier's power unit, and used to deliver goods to one or more points? Must a vehicle inspection report be supplied by the railroad for the trailer?

Answer. A copy of a railroad-generated vehicle inspection report is not required. The driver must comply with §§ 392.7 and 392.8 and with all applicable rules in Part 396 of the FMCSR before moving the trailer.

§ 396.13 Driver inspection.

§ 396.13(a)

Question. What rights do the Inspection, Repair, and Maintenance regulations bestow on drivers of commercial motor vehicles?

Answer. The FMCSR do not grant, provide, or ensure "rights" to any person. The regulations set forth minimal requirements with which all persons coming under their purview must comply.

Question. What protection does a driver have if that driver refuses to operate a motor vehicle that does not meet the requirements of Part 396 of the FMCSR?

Answer. There is no provision in the FMCSR that would protect such a driver. However, operation of motor vehicles which do not meet the requirements of Part 396 is unlawful. The driver may be protected under section 11(c) of the Occupational Safety and Health Act, which allows persons who believe they have been discriminated against through reprisal actions taken by employers to file complaints with the Secretary of Labor.

Question. If a driver who has determined that a defect previously

reported was not corrected refuses to sign the vehicle inspection report, and the motor carrier has determined that the repair was unnecessary, may the driver refuse to operate the motor vehicle?

Answer. There are no provisions in the FMCSR to permit the driver to refuse to operate the motor vehicle. Under § 396.11(c), a motor carrier must effect the repair of any items listed on the vehicle inspection report that would be likely to affect the safety of operation of the vehicle prior to its operation.

§ 396.13(c)

Question. If a vehicle inspection report indicates that certain defects have not been repaired and the motor carrier has not certified in writing that such repairs were considered unnecessary, may the driver refuse to operate the motor vehicle?

Answer. Repairs to items that would likely affect safety of operation must be made prior to a driver operating the motor vehicle. The motor carrier must certify that the repairs were made and/or that repairs were unnecessary. The driver is prohibited from operating the motor vehicle if the motor carrier fails to make that certification. Operation of the vehicle by the driver would cause the driver and the motor carrier to be in violation of § 396.11(c), and both would be subject to appropriate penalties.

Question. At the end of the day's work and upon completion of the required driver vehicle inspection report, what does the driver do with the copy of the previous vehicle inspection report carried on the power unit?

Answer. There is no requirement that the driver submit the copy of that previous vehicle inspection report to the motor carrier nor is there a retention requirement for the motor carrier. The BMCS will be able to determine, through its roadside inspection program and terminal inspection activities, if the vehicle inspection report is being placed in the power unit and if the driver is acknowledging that the report has been reviewed.

Question. Must a driver sign the vehicle inspection report placed in the power unit when no defects or deficiencies were reported by the previous driver and the report bears no motor carrier certification?

Answer. No. The driver must review the vehicle inspection report to ascertain if any defects or deficiencies were reported by the previous driver and if the motor carrier's certification has been made. There is no reasonable need for a driver to sign a report indicating no defects or deficiencies.

(49 U.S.C. 304, 1655; 49 CFR 1.48(f) and 301.60) (Catalog of Federal Domestic Assistance Program Number 20.217, Motor Carrier Safety.)

Issued on: June 30, 1980.
Robert A. Kaye,
Director, Bureau of Motor Carrier Safety.
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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 32

Hunting; National Wildlife Refuges in Kentucky, North Carolina, South Carolina, and Tennessee

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulations.

SUMMARY: The Director has determined that the opening of certain national wildlife refuges to migratory game bird and resident game hunting in Kentucky, North Carolina, South Carolina, and Tennessee is compatible with the objectives for which the areas were established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public. The name of each affected refuge and the special regulations for each refuge are set forth below.

EFFECTIVE DATES: See the dates listed for each refuge under Supplementary Information below.

FOR FURTHER INFORMATION CONTACT: The Area Manager or appropriate Refuge Manager at the address or telephone number listed below:

William C. Hickling, Area Manager, U.S. Fish and Wildlife Service, 279 Federal Building, Asheville, N.C. 28801.
Telephone: 704-258-2850, Ext. 321.
Steven W. Frick, Refuge Manager, Mattamuskeet (and Swanquarter) National Wildlife Refuge, Rt. 1, Box N-2, Swanquarter, N.C. 27885.
Telephone: 919-926-4021.
Marvin T. Hurdle, Refuge Manager, Carolina Sandhills National Wildlife Refuge, Route 2, Box 130, McBee, South Carolina 29101. Telephone: 803-335-8401.
George R. Garris, Refuge Manager, Cape Romain National Wildlife Refuge, Rt. 1, Box 191, Awendaw, S.C. 29429.
Telephone: 803-928-3368.
Paul Ferguson, Refuge Manager, Santee National Wildlife Refuge, Route 2, Box 66, Summerton, S.C. 29148. Telephone: 803-478-2217.
J. C. Bryant, Refuge Manager, Hatchie National Wildlife Refuge, Box 187,

Brownsville, Tennessee 38012.

Telephone: 901-772-0501.

Wendell C. Crews, Refuge Manager, Reelfoot (and Lake Isom) National Wildlife Refuge, P.O. Box 98, Samburg, Tennessee 38254.
Telephone: 901-538-2481.

Vandiver L. Childs, Refuge Manager, Tennessee National Wildlife Refuge, Box 849, Paris, Tennessee 38242.
Telephone: 901-642-2091.

John C. Fields, Refuge Manager, Pungo National Wildlife Refuge, P.O. Box 267, Plymouth, North Carolina 27962.
Telephone: 919-793-2143.

SUPPLEMENTARY INFORMATION:

General

Hunting on portions of the following refuges shall be in accordance with applicable State and Federal regulations, subject to additional special regulations and conditions as indicated. Portions or refuges which are open to hunting are designated by signs and/or delineated on maps. Special conditions applying to individual refuges and maps are available at refuge headquarters or from the Office of the Area Manager (addresses listed above).

The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the areas were established. In addition, the Refuge Recreation Act requires that before any area of the refuge system is used for forms of recreation not directly related to the primary purposes and functions of the area, the Secretary must find that: (1) Such recreational use will not interfere with the primary purposes for which the area was established; and (2) funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which these refuges were established. This determination is based upon consideration of, among other things, the Service's Final Environmental Impact Statement on the Operation of the National Wildlife Refuge System, published in November 1976.

Funds are available for the administration of the recreational activities permitted by these regulations.

The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.