

support an NSEP function. Priority levels will not normally be assigned to backup services on a continuing basis, absent additional justification, e.g., a service user specifies a requirement for physically diverse routing or contracts for additional continuity-of-service features. The Executive Office of the President may also establish limitations upon the relative numbers of services which may be assigned any restoration priority level. These limitations will not take precedence over laws or executive orders. Such limitations shall not be exceeded absent waiver by the Executive Office of the President.

e. *Non-NSEP services.* Telecommunication services in the non-NSEP category will be those which do not meet the criteria for either Emergency NSEP or Essential NSEP.

[FR Doc. 88-27108 Filed 11-22-88; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Parts 387, 390, 391, and 395

[FHWA Docket No. MC-114]

RIN 2125-AA34

Federal Motor Carrier Safety Regulations; General; Technical Amendments

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Corrections to final rule.

SUMMARY: This document includes seven technical amendments: Five technical amendments correct the final rule that appeared in the *Federal Register* on Thursday, May 19, 1988 (53 FR 18042); one amendment corrects a typographical error in 49 CFR 387.41 that appeared in the final rule addressing minimum levels of financial responsibility for motor carriers which was published in the *Federal Register* on Monday, November 21, 1983 (48 FR 52683); and one amendment that corrects typographical errors in 49 CFR 395.2 and 395.13 that appeared in the final rule addressing hours of service of drivers and the use of automatic on-board recording devices which was published in the *Federal Register* on Friday, September 30, 1988 (53 FR 38666). The first correction is necessary to reinstate an exemption in 49 CFR 391.2 for certain farm vehicle drivers which was inadvertently omitted from the final rule. The second correction amends 49 CFR 390.5 by removing a definition that is not needed.

The third correction amends 49 CFR 390.5 by revising the definition "exempt intracity zone" to make it comport with the FHWA's original intent. The fourth

correction amends 49 CFR 390.27 to correctly state the addresses of FHWA's regional motor carrier safety offices. The fifth correction amends 49 CFR 387.41 so that the provisions of the section will be clearly understood and the rule will correctly reflect a reorganization within the agency. The sixth correction amends 49 CFR 390.21 so that the provisions of the section are consistent. The seventh correction redesignates a paragraph in 49 CFR 395.2 and amends 49 CFR 395.13 so that the referral to another section is correct.

EFFECTIVE DATE: November 15, 1988.

FOR FURTHER INFORMATION CONTACT:

Mr. Thomas P. Kozlowski, Office of Motor Carrier Standards, (202) 366-2981, or Mr. Thomas P. Holian, Office of the Chief Counsel, (202) 366-1350, 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., ET, Monday through Friday, except legal holidays.

SUPPLEMENTARY INFORMATION: In a notice of proposed rulemaking (NPRM) published in the *Federal Register* at 52 FR 26278 on July 13, 1987, the FHWA proposed to amend Part 390 of the Federal Motor Carrier Safety Regulations (FMCSRs), and to make certain conforming amendments to other Parts of the FMCSRs. Inadvertently, it was proposed to remove § 391.2(c), which exempted certain farm vehicle drivers from the driver qualification rules of Part 391, while leaving the partial exemption for drivers of articulated (combination) farm vehicles, which appears at § 391.67, intact. The farm driver exemptions found in § 391.2 and § 391.67 have been in effect since December 22, 1971, and were issued to meet specific, unique transportation needs of the country's farm community. We have received no evidence that those needs have changed and the FHWA received no comments regarding the removal of § 391.2(c). In view of the fact that the removal of § 391.2(c) in the final rule that was published in the *Federal Register* on Thursday, May 19, 1988 (53 FR 18042) was inadvertent, the FHWA is reinstating § 391.2(c).

The second technical amendment made today corrects § 390.27, Locations of regional motor carrier safety offices, to reflect several recent address changes which were not incorporated in the final rule that was published in the *Federal Register* on Thursday, May 19, 1988 (53 FR 18042).

Section 390.5, Definitions, as published in the *Federal Register* on May 19, 1988 (53 FR 18054), contained a definition of "taxicab." Since vehicles having a gross vehicle weight rating

(GVWR) of 10,000 pounds or less or vehicles designed to transport less than 15 passengers, including the driver, are not subject to the FMCSRs, the definition of "taxicab" is not needed and is, therefore, being removed.

The definition of "exempt intracity zone" also published in the *Federal Register* on May 19, 1988 (53 FR 18054) is amended to make it comport with the FHWA's original intent. In describing exempt intracity zones, the FHWA intended to refer to the ICC definition of a "commercial zone" simply for purposes of delineating the geographic area within which a driver or vehicle otherwise subject to the agency's safety regulations would be exempt from those requirements. It was not the FHWA's intent to limit the exemption to those drivers who were "not under a common control, management, or arrangement for a continuous carriage or shipment." See 49 CFR 1048.101 (republished as section 44 of Appendix F to Subchapter B, 53 FR 18042, 18069 (1988)). In fact, drivers under such common control, management, or arrangement were subject to a similar ICC exemption when operating in "terminal areas." 49 U.S.C. 10523. The amendment to the definition of "exempt intracity zone" is intended to make clear that it applies to drivers in these geographic locations regardless of whether the driver is under a common control, management, or arrangement for a continuous carriage or shipment.

The financial responsibility requirements for motor carriers was published in the *Federal Register* on Monday, November 21, 1983 (48 FR 52653). Section 387.41, Violation and penalty, was originally published with a typographical error that changed the intended meaning of the section. The word "capability" was used when the proper word for the appropriate sentence should have been "culpability." This error was discovered recently and is not being corrected by this technical amendment. This technical correction also reflects a reorganization within the agency.

Paragraph (b)(4) of § 390.21, Marking of motor vehicles, refers to paragraphs (b)(1) and (b)(2), but should also have referred to (b)(3) for completeness (pertaining to information which must be marked on a motor vehicle). The omission of (b)(3) from this paragraph was inadvertent, and paragraph (b)(4) is being revised to include the reference to paragraph (b)(3).

A final rule concerning automatic on-board recording devices was published in the *Federal Register* on Monday, September 30, 1988 (53 FR 39666). This rule included a definition of "automatic

on-board recording device," but it incorrectly designated this definition as paragraph (k). That paragraph should have been designated as paragraph (i) to conform to changes made on May 19, 1988. See 53 FR 18958. Also, § 395.13(b)(2) referred incorrectly to the provisions of "§ 395.13." That typographical error is being corrected by changing the referral to "§ 395.15."

Finally, the agency has received several calls questioning the discussion concerning rescission of the intracity zone exemption that begins on page 18046 of the May 19, 1988, *Federal Register*. The discussion heading incorrectly appears as "Exempt Intercity Operation Drivers." The heading should have read "Exempt Intracity Operation Drivers." Two additional references to "intercity zones" were incorrectly made in the body of the discussion. These were typographical errors made during printing preparation. The entire discussion addresses the "intracity zone exemption" and should be interpreted that way.

List of Subjects in 49 CFR Parts 387, 390, and 391

Highway safety, Highways and roads, Financial responsibility, Motor carriers, Motor vehicle safety, Reporting and recordkeeping requirements, Motor vehicle safety.

In view of the above, the FHWA is amending 49 CFR Parts 387, 390, 391, and 395 as follows:

PART 387—[AMENDED]

1. The authority citation for Part 387 is revised to read as follows:

Authority: 49 U.S.C. 10927 note; 49 CFR 1.48.

2. Section 387.41 is revised to read as follows:

§ 387.41 Violation and penalty.

Any person (except an employee who acts without knowledge) who knowingly violates the rules of this subpart shall be liable to the United States for civil penalty of no more than \$10,000 for each violation, and if any such violation is a

continuing one, each day of violation will constitute a separate offense. The amount of any such penalty shall be assessed by the Associate Administrator for Motor Carriers or his designee, by written notice. In determining the amount of such penalty, the Associate Administrator or his designee shall take into account the nature, circumstances, extent, the gravity of the violation committed and, with respect to the person found to have committed such violation, the degree of culpability, any history of prior offenses, ability to pay, effect on ability to continue to do business, and such other matters as justice may require.

PART 390—[AMENDED]

3. The authority citation for Part 390 continues to read as follows:

Authority: 49 U.S.C. App. 2503 and 2505; 49 U.S.C. 3102 and 3104; 49 CFR 1.48.

4. Section 390.27 is revised to read as follows:

§ 390.27 Locations of regional motor carrier safety offices.

Region No.	Territory included	Location of regional office
1.....	Connecticut, Maine, Massachusetts, New Jersey, New Hampshire, New York, Rhode Island, Vermont, Puerto Rico, and the Virgin Islands. That part of Canada east of Highways 19 and 8 from Port Burwell to Goderich, thence a straight line running north through Tobermory and Sudbury, and thence due north to the Canadian border.	Leo W. O'Brien Federal Office Building, Room 719, Albany, NY 12207-2334.
3.....	Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, and West Virginia	31 Hopkins Plaza, Federal Building, Room 1615, Baltimore, MD 21201-2819.
4.....	Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee.....	1720 Peachtree Road, NW., Suite 219, Atlanta, GA 30367-2349.
5.....	Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin. That part of Canada west of Highways 19 and 8 from Port Burwell to Goderich, thence a straight line running north through Tobermory and Sudbury, and thence due north to the Canadian border, and east of the boundary between the Provinces of Ontario and Manitoba to Hudson Bay and thence a straight line north to the Canadian border.	18209 Dixie Highway, Homewood, IL 60430-2294.
6.....	Arkansas, Louisiana, New Mexico, Oklahoma, and Texas. All of Mexico, except the States of Baja California and Sonora and the Territory of Baja California Sur., Mexico. All nations south of Mexico.	Room 8A00, Federal Building, 819 Taylor Street, Fort Worth, TX 76102-6115.
7.....	Iowa, Kansas, Missouri, and Nebraska	6301 Rockhill Road, P.O. Box 419715, Kansas City, MO 64141-6715.
8.....	Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming. That part of Canada west of the boundary between the Provinces of Ontario and Manitoba to Hudson Bay and thence a straight line due north to the Canadian border, and east of Highway 95 from Kingsgate to Blaeberry and thence a straight line due north to the Canadian border.	555 Zang Street, Room 400, Lakewood, CO 80228-1014.
9.....	Arizona, California, Hawaii, Nevada, Guam, American Samoa, and Mariana Islands. The States of Baja California and Sonora, Mexico, and the Territory of Baja California Sur., Mexico.	211 Main Street, Room 1108, San Francisco, CA 94105-1926.
10.....	Alaska, Idaho, Oregon, and Washington. That part of Canada west of Highway 95 Kingsgate to Blaeberry and thence a straight line due north to the Canadian border, and all the Province of British Columbia.	Mohawk Building, Room 312, 708 SW. Third Avenue, Portland, OR 97204-2491.

5. In § 390.5, the definition of "taxicab" is removed and the definition of "Exempt intracity zone" is revised to read as follows:

§ 390.5 Definitions.

"Exempt intracity zone" means the geographic area of a municipality or the commercial zone of that municipality described by the ICC in 49 CFR Part 1048, revised as of October 1, 1975. The

descriptions are printed in Appendix F to Subchapter B of this chapter. The term "exempt intracity zone" does not include any municipality or commercial zone in the State of Hawaii. For purposes of § 390.3(g), a driver may be considered to operate a vehicle wholly within an exempt intracity zone notwithstanding any common control, management, or arrangement for a

continuous carriage or shipment to or from a point without such zone.

6. In § 390.21, paragraph (b)(4) is revised to read as follows:

§ 390.21 Marking of motor vehicles.

(b) * * *

(4) If the name of any person other than the operating carrier appears on

the motor vehicle operated under its own power, either alone or in combination, the name of the operating carrier shall be followed by the information required by paragraphs (b)(1), (2), and (3) of this section, and be preceded by the words "operated by."

PART 391—[AMENDED]

7. The authority citation for Part 391 continues to read as follows:

Authority: 49 U.S.C. App. 2505; 49 U.S.C. 504 and 3102; 49 CFR 1.48.

8. In § 391.2, paragraph (c) is reinstated and reads as follows:

§ 391.2 General exemptions.

(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) motor vehicle that has a gross weight, including its load, of more than 10,000 pounds. (For limited exemptions for farm vehicle drivers of heavier articulated vehicles see § 391.67.)

PART 395—[AMENDED]

9. The authority citation for Part 395 continues to read as follows:

Authority: 49 U.S.C. 3102; 49 U.S.C. App. 2505; and 49 CFR 1.48.

§ 395.2 [Amended]

10. In § 395.2, paragraph (k) is redesignated as paragraph (i).

11. In § 395.13, paragraph (b)(2) is revised to read as follows:

§ 395.13 Drivers declared out of service.

(b) * * *

(2) No driver required to maintain a record of duty status under § 395.8 or § 395.15 of this part shall fail to have a record of duty status current on the day of examination and for the prior seven consecutive days.

A regulatory information 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 number contained in the heading of this document can be used to cross reference this section with the Unified Agenda.

(Catalog of Federal Domestic Assistance Program No. 20.217, Motor Carrier Safety.)

Issued on November 16, 1988.

Anthony J. McMahon,
Chief Counsel, Federal Highway
Administration.

[FR Doc. 88-27032 Filed 11-22-88; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 675

[Docket No. 71147-8002]

Groundfish of the Bering Sea and Aleutian Islands Area

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of closure.

SUMMARY: NOAA announces closure of the Bering Sea subarea to further retention of other rockfish and sablefish by U.S. vessels. This action, taken under provisions of the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP), limits retention of other rockfish and sablefish to the amount specified for total allowable catch (TAC).

DATES: Effective November 19, 1988, 12 noon AST (2100 GMT). Comments will be accepted through December 5, 1988.

ADDRESS: Comments should be mailed to James W. Brooks, Acting Director, Alaska Region, National Marine Fisheries Service, P.O. Box 21668, Juneau, AK 99802-1668, or be delivered to Room 453, Federal Building, 709 West Ninth Street, Juneau, Alaska.

FOR FURTHER INFORMATION CONTACT: Mike Sigler, Fishery Research Biologist, NMFS, 907-586-7230.

SUPPLEMENTARY INFORMATION: The FMP, which governs the groundfish fishery in the exclusive economic zone (EEZ) under the Magnuson Fishery Conservation and Management Act, is implemented by rules appearing at 50 CFR Parts 611 and 675.

Under § 675.20(a)(8), the Director, Alaska Region, NMFS has determined that the total allowable catches (TACs) of other rockfish and sablefish in the Bering Sea subarea will be reached by 1200 AST (2100 GMT) November 19, 1988. After this time, U.S. fishermen must treat other rockfish and sablefish in the same manner as prohibited species, as described in § 675.20(c), for the remainder of the fishing year.

Other notices concerning other rockfish were effective January 1, 1988 (53 FR 894, January 14, 1988) and September 30, 1988 (53 FR 3907, October

5, 1988). Other notices concerning sablefish were effective January 1, 1988 (53 FR 894, January 14, 1988), June 11, 1988 (53 FR 22328, June 5, 1988), and September 28, 1988 (53 FR 38725, October 3, 1988).

Classification

This action is taken under the authority of 50 CFR 675.20(a)(8) and complies with Executive Order 12291.

The Assistant Administrator for Fisheries finds for good cause that it is impractical and contrary to the public interest to provide prior notice and comment. Immediate effectiveness of this notice is necessary to prevent the TACs for other rockfish and sablefish in the Bering Sea subarea from being exceeded.

Interested persons are invited to submit comments in writing to the above address for 15 days after the effective date of this notice.

List of Subjects in 50 CFR Part 675

Fish, Fisheries, Reporting and recordkeeping requirements.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: November 18, 1988.

Alan Dean Parsons,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 88-27128 Filed 11-18-88; 4:09 am]

BILLING CODE 3510-22-M

50 CFR Part 675

[Docket No. 71147-8002]

Groundfish of the Bering Sea and Aleutian Islands Area

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of inseason adjustment and reopening.

SUMMARY: NOAA announces (1) the apportionment of amounts of pollock to domestic fishermen delivering fish to foreign processors (JVP) from amounts originally apportioned to domestic fishermen processing fish or delivering fish to domestic processors (DAP) and (2) the reopening of the Bering Sea subarea to directed JVP fishing for pollock. These actions, taken under provisions of the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP), are necessary to assure optimum use of pollock by allowing JVP fishing in the Bering Sea subarea to resume. They are intended as a conservation measure to comply with the objectives of the FMP.

DATES: Effective November 20, 1988, noon A.s.t. (2100 G.m.t.). Comments will be accepted through December 5, 1988.

ADDRESS: Comments should be mailed to James W. Brooks, Acting Director, Alaska Region, National Marine Fisheries Service, P.O. Box 201668, Juneau, AK 99802, or be delivered to Room 453, Federal Building, 709 West Ninth Street, Juneau, Alaska.

FOR FURTHER INFORMATION CONTACT: Patricia Peacock, Resource Management Specialist, NMFS, 907-586-7230.

SUPPLEMENTARY INFORMATION: The FMP, which governs the groundfish fishery in the U.S. exclusive economic zone under the Magnuson Fishery Conservation and Management Act, is implemented by rules appearing at 50 CFR 611.93 and Part 675.

In 1988, 15 percent of the Total Allowable Catch (TAC) for groundfish in the Bering Sea and Aleutian Islands Management Area was placed in the non-specific reserve, the initial specifications for DAP were determined, and the remaining amounts were provided to domestic fishermen delivering fish to foreign processors (53 FR 894, January 14, 1988). No initial specification was provided for TALFF because U.S. fishermen are able to harvest and/or process the TAC.

The following prior in-season actions during 1988 have apportioned amounts of groundfish from the reserve to DAP and/or JVP, or amounts from DAP to JVP: April 14 (53 FR 12772, April 19, 1988), May 5 (53 FR 16552, May 10, 1988),

May 20 (53 FR 19303, May 25, 1988), June 17 (53 FR 23402, June 22, 1988), July 11 (53 FR 26599, July 14, 1988), July 22 (53 FR 28229, July 27, 1988), August 25 (53 FR 33140, August 30, 1988), September 6 (53 FR 35081, September 9, 1988), September 28 (53 FR 38725, October 3, 1988), September 30 (53 FR 39097, October 5, 1988), and October 14 (53 FR 40894, October 19, 1988).

Reapportionment to JVP

The Director, Alaska Region, NMFS (Regional Director) has determined from DAP catch-to-date and the NMFS DAP survey completed in November, 1988, that DAP will harvest and process 526,000 metric tons (mt) of pollock in the Bering Sea subarea by the end of 1988. The current (early-November) DAP catch of Bering Sea subarea pollock (380,715 mt) is 71 percent of the 536,162 mt quota. For this reason, the Regional Director has determined that the current DAP amount of Bering Sea subarea pollock is excess to DAP needs in 1988. Therefore, 10,000 mt of the DAP amount for Bering Sea subarea pollock is transferred to the JVP amount for Bering Sea subarea pollock (Table 1).

Reopening

U.S. fishermen delivering to foreign processors were required by NMFS to cease directed fishing for pollock in the Bering Sea subarea on October 6 (53 FR 39479, October 7, 1988) to leave sufficient quota to provide bycatch of this species in other JVP fisheries. This

notice increases the JVP amount for pollock to an amount that may be taken in directed fisheries. Therefore, foreign processors may resume the receipt of pollock harvested from the Bering Sea subarea or may resume the receipt of pollock within the Bering Sea subarea as of noon, A.s.t. November 20, 1988. This notice reverses the closure to the directed JVP fishery for pollock in the Bering Sea subarea (see 53 FR 39479, October 7, 1988).

Classification

This action is taken under the authority of 50 CFR 675.20(b) and complies with Executive Order 12291.

The Assistant Administrator for Fisheries finds for good cause that it is impractical and contrary to the public interest to provide prior notice and comment. Immediate effectiveness of this notice will allow JVP fishermen to begin directed fishing for Bering Sea pollock. Interested persons are invited to submit comments in writing to the address above for 15 days after the effective date of this notice, in accordance with § 675.20(b)(2)(i).

List of Subjects in 50 CFR Part 675

Fish, Fisheries, Reporting and recordkeeping requirements.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: November 18, 1988.

Alan Dean Parsons,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

TABLE 1.—BERING SEA/ALEUTIANS REAPPORTIONMENTS OF INITIAL TAC

[All values are in metric tons]

		Current	This action	Revised
Pollock (Bering Sea subarea).....	DAP	536,162	- 10,000	526,162
TAC=1,312,000; ABC=1,500,000.....	JVP	775,838	+ 10,000	785,838
Total (TAC=2,000,000)	DAP	700,173	- 10,000	690,173
	JVP	1,291,634	+ 10,000	1,301,634
	Reserve	8,193	(1)	8,193

(1) No change.

[FR Doc. 88-27129 Filed 11-18-88; 4:15 pm]

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