freight costs. The Contractor shall provide a copy of the commercial bill of lading promptly to each consignee. Quantities shall not be divided into mailable lots for the purpose of voiding movement by other modes of transportation.

(d) Transportation charges will be billed as a separate item on the invoice for each shipment made. A copy of the pertinent bill of lading, shipment receipt, or freight bill shall accompany the invoice unless otherwise specified in the contact.

(e) Loss and damage claims will be processed by the Government.

(End of clause)

[FR Doc. 88-22427 Filed 9-29-88; 8:45 am]
BILLING CODE 6820-61-M

federal register

Friday
September 30, 1988

Part VII

Department of Education

34 CFR Part 654

Robert C. Byrd Honors Scholarship Program; Notice of Proposed Rulemaking

DEPARTMENT OF EDUCATION

34 CFR Part 654

Robert C. Byrd Honors Scholarship Program

AGENCY: Department of Education.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Secretary proposes regulations to govern the actions of State educational agencies (SEAs) in their administration of the Robert C. Byrd Honors Scholarship Program (the Byrd Scholarship Program), authorized by Title IV of the Higher Education Act of 1965, as amended. These proposed regulations specify the role of the Secretary and the responsibilities of the SEAs in the administration of the program and also describe the responsibilities of the scholarship recipients.

DATE: Comments must be received on or before November 14, 1988.

ADDRESSES: All comments concerning these proposed regulations should be addressed to Stephen D. Wingard, Office of Postsecondary Education, U.S. Department of Education, (Room 4018, ROB-3), 400 Maryland Avenue SW., Washington, DC 20202-5447. Telephone (202) 732-4507.

A copy of any comments that concern information collection requirements should also be sent to the Office of Management and Budget at the address listed in the Paperwork Reduction Act section of this preamble.

FOR FURTHER INFORMATION CONTACT: Stephen D. Wingard, (202) 732-4507.

SUPPLEMENTARY INFORMATION: The Byrd Scholarship Program is a Federally-funded program authorized under Title IV, Part A, Subpart 6 of the Higher Education Act of 1965, as amended (HEA). The purpose of the program is to promote student excellence and achievement and to recognize exceptionally able students who show promise of continued academic achievement. Non-renewable scholarships of $1,500 are awarded to students on the basis of merit for the first year of study at an institution of higher education.

All fifty States, the District of Columbia, and Puerto Rico are eligible to participate in the Byrd Scholarship Program. The SEA responsible for supervising public elementary and secondary schools in each State administers the program. On the basis of the statutory formula, the Secretary awards each SEA an allotment of funds for scholarship payments and an allotment for administrative costs. In addition to other program responsibilities, the SEA establishes scholar selection criteria and procedures to ensure that scholarship assistance is provided only to students who meet all eligibility criteria.

Byrd Scholarships were awarded for the first time in the spring of 1987, for study in academic year 1987-88. Because the Secretary has not previously issued specific regulations for this program, administration of the program to date has been governed by the General Education Provisions Act, EDGAR, applicable provisions of the program statute, and notices of final procedures published in the **Federal Register** on April 6, 1987 (52 FR 10920) and February 12, 1988 (53 FR 4353). The procedures in the notices for fiscal year 1987 and for fiscal year 1988, which differ from those in the proposed regulations, reflect appropriations language for those respective years that superseded certain provisions in the program statute. The issuance of these proposed regulations is intended to provide additional guidance to SEAs in their administration of the program. Some areas in which these proposed regulations clarify the statutory requirements are described below.

Selection Criteria

These proposed regulations require the SEA to establish critera and procedures for the selection of scholars under which applicants will be evaluated solely on the basis of academic merit, consistent with the statutory distribution of awards among Congressional districts (10 scholars per each district). All residents of a State who meet the basic eligibility requirements in § 654.41(a)(1) and (2) of these proposed regulations must be given the opportunity to compete for a Byrd Scholarship, regardless of whether the secondary schools they are attending are public or private or are located within or outside their State of residency, and regardless of whether the institutions of higher education they plan to attend are public or private or are located within or outside their State of residency. The SEA may not consider the sex, race, handicapped condition, creed, or economic background of applicants in evaluating applications or in distributing awards. Furthermore, since the Byrd Scholarship is a non-need-based merit scholarship, the SEA may not consider an applicant's financial need or educational expenses in selecting scholars or in distributing awards.

Scholarship Amount

The SEA is required to award a scholarship of $1,500 to each Byrd Scholar. Neither the SEA nor the financial aid administrator at the institution the scholar attends may adjust the scholarship amount on the basis of the student's educational expenses or financial need. The financial aid administrator, on the other hand, must consider the Byrd Scholarship when packaging other Title IV aid for the scholar. If the scholarship, when combined with other Title IV aid, resources, and the student's expected family contribution (EFC) exceeds the student's cost of attendance, the Byrd Scholarship must be used as a substitute for the student's EFC. If any overaward results after substitution of the EFC with the Byrd Scholarship, the financial aid administrator must follow the overaward provisions in the campus-based program regulations (34 CFR 674.14, 675.14, and 676.14).

Executive Order 12291

These proposed regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established in the order.

Regulatory Flexibility Act Certification

The Secretary certifies that these proposed regulations would not have a significant economic impact on a number of small entities. State educational agencies administer the program. States and State agencies are not defined as "small entities" in the Regulatory Flexibility Act.

Paperwork Reduction Act of 1980

Section 654.10 contains information collection requirements. As required by the Paperwork Reduction Act of 1980, the Department of Education will submit a copy of this section to the Office of Management and Budget (OMB) for its review. (44 U.S.C. 3504(h))

Organizations and individuals desiring to submit comments on the information collection requirements should direct them to the Office of Information and Regulatory Affairs, Room 3002, New Executive Office Building, Washington, DC, 20503; Attention: James D. Houser.

Invitation To Comment

Interested parties are invited to submit comments and recommendations regarding these proposed regulations.

All comments submitted in response to these proposed regulations will be available for public inspection, during

and after the comment period, in Room 4018, ROB-3, 7th and D Streets, SW., Washington, DC, between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

To assist the Department in complying with the specific requirements of Executive Order 12291 and the Paperwork Reduction Act of 1980 and their overall requirement of reducing regulatory burden, public comment is invited on whether there may be further opportunities to reduce any regulatory burdens found in these proposed regulations.

Assessment of Educational Impact

The Secretary particularly requests comments on whether the proposed regulations in this document would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects in 34 CFR 654

Education, grant programs, Education, state-administered, Education, student aid.

Dated: September 26, 1988.

Linus Wright,

Acting Secretary of Education.

(Catalog of Federal Domestic Assistance Number 84.185; Robert C. Byrd Honors Scholarship Program)

The Secretary proposes to amend Title 34 of the Code of Federal Regulations by adding a new Part 654, as follows:

PART 654—ROBERT C. BYRD HONORS SCHOLARSHIP PROGRAM

Authority: 20 U.S.C. 1070d-31 to 1070d-41, unless otherwise noted.

Subpart A—General

§ 654.1 What is the Robert C. Byrd Honors Scholarship Program?

(a) Under the Robert C. Byrd Honors Scholarship Program, the Secretary makes available, through grants to the States, scholarships to exceptionally able students for study at institutions of higher education in order to recognize and promote student excellence and achievement.

(b) This program is kown as the "Byrd Scholarship Program" and scholarship recipients are known as "Byrd Scholars."

(Authority: 20 U.S.C. 1070d-31, 1070d-33)

§ 654.2 Who is eligible for an award?

(a) States are eligible to apply for grants under this program.

(b) Outstanding high school graduates who have been accepted for enrollment at institutions of higher education are eligible to apply to their respective States of residence for scholarships under this program.

(Authority: 20 U.S.C. 1070d-33)

§ 654.3 What kinds of activities may be assisted?

(a) A State may use its allotment under § 654.20(a) only for making payments to scholars.

(b) (1) A State may use its allotment under § 654.20(b) for covering costs incurred in administering the program, as determined in accordance with Appendix C of 34 CFR Part 74, or for making payments to scholars.

(2) Under the authority provided in § 74.176(c), the Secretary waives the requirement that a State obtain the Secretary's written approval of the State's costs prior to the State's use of its allotment under § 654.20(b) for administrative costs.

(Authority: 20 U.S.C. 1221e-3; 20 U.S.C. 1070d-35, 1070d-38)

§ 654.4 What regulations apply?

The following regulations apply to the Robert C. Byrd Honors Scholarship Program:

(a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Part 76 (State-Administered Programs), Part 77 (Definitions that Apply to Department Regulations), Part 78 (Education Appeal Board), and Part 80 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments).

(b) The regulations in this Part 654.

(Authority: 20 U.S.C. 1070d-31 *et seq.*)

§ 654.5 What definitions apply to the Robert C. Byrd Honors Scholarship Program?

(a) *Definitions in the Act.* The following terms used in this part are defined in section 419B of the Act:

Secondary school

State

(b) *Definitions in EDGAR.* The following terms used in this part are defined in 34 CFR Part 77:

EDGAR

Secretary

State educational agency (SEA)

(c) *Other definitions.* The following definitions also apply to this part:

"Act" means the Higher Education Act of 1965, as amended.

"Award period" means the period of time from April 1 of one year through March 31 of the following year.

"Institution of higher education" means any public or private nonprofit institution of higher education as defined in 34 CFR 600.4 of the Institutional Eligibility regulations.

"Scholar" means a Byrd Scholarship recipient.

"Scholarship" means an award made to an individual under this part.

(Authority: 20 U.S.C. 1070d-31 to 1070d-41)

Subpart B—How Does a State Apply for a Grant?

§ 654.10 What must a State do to receive grants under this program?

(a) To receive grants under the Byrd Scholarship Program, a State shall submit a participation agreement to the Secretary for review and approval.

(b) The Secretary approves a participation agreement in which the SEA agrees to administer the Byrd Scholarship Program in accordance with the requirements in this part and that—

(1) Describes the criteria and procedures to be used by the State in the selection of scholars in sufficient detail for the Secretary to determine the degree to which they satisfy the provisions of this part; and

(2) Provides assurances that—

(i) No changes will be made in the criteria and procedures to be used in the selection of scholars without the prior written approval of the Secretary;

(ii) Each student receiving a Byrd scholarship shall meet the eligibility requirements described in § 654.41;

(iii) Scholars will be selected solely on the basis of criteria and procedures established in accordance with the provisions of § 654.40;

(iv) The SEA will conduct outreach activities to publicize the availability of Byrd Scholarships to all seniors attending high schools in the State, with particular emphasis on activities designed to assure that students from low-income and moderate-income families know about their opportunity for full participation in the program;

(v) The SEA will issue an award for $1,500 to each Byrd Scholar during an awards ceremony to be held before the last date on which any high school in the State completes its school year; and

(vi) The SEA will expend the amount of Federal funds allotted to it for this program only as described in § 654.3.

(c) Upon the Secretary's approval of its agreement, a State need not submit additional agreements in order to be considered for funding under this program in subsequent years.

(Authority: 20 U.S.C. 1070d-33, 1070d-35 to 1070d-39)

Subpart C—How Does the Secretary Make a Grant to a States?

§ 654.20 How does the Secretary allot funds to the State?

From the funds appropriated for the Byrd Scholarship Program, the Secretary allots to each State having an approved participation agreement under § 654.10—

(a) $1,500 multiplied by the number of scholars the State may select under § 654.41(b)(1); and

(b) $10,000 plus 5 percent of the amount for which the State is eligible under paragraph (a) of this section.

(Authority: 20 U.S.C. 1070d-34)

Subpart D—How Does an Individual Apply to a State for a Scholarship?

§ 654.30 How does an individual apply for a scholarship?

To apply for a scholarship, an individual must follow the application procedures established by the SEA in the State in which the individual resides.

(Authority: 20 U.S.C. 1070d-33, 1070d-35)

Subpart E—How Does a State Award a Scholarship to an Applicant?

§ 654.40 What are the selection criteria and procedures?

(a) The SEA shall establish criteria and procedures for the selection of scholars after consultation with school administrators, school boards, teachers, counselors, and parents.

(b) The selection criteria and procedures shall be designed to ensure that—

(1) Ten scholars will be selected from among the residents of each Congressional district of the State for each year for which funds are received, with the exception of the District of Columbia and the Commonwealth of Puerto Rico, which will each establish procedures to select 10 scholars from among their respective residents each year for which funds are received;

(2) Scholars will be selected solely on the basis of demonstrated outstanding academic achievement, promise of continued achievement, and the geographic consideration described in paragraph (b)(1) of this section. They will be selected—

(i) Without regard to whether the institutions of higher education they plan to attend are public or private or are within or outside their Congressional district or State of residency.

(ii) Without regard to whether the secondary schools they attend are within or outside their Congressional district or State of residency.

(iii) Without regard to sex, race, handicapping condition, creed, or economic background.

(iv) Without regard to the student's educational expenses or financial need.

(Authority: 20 U.S.C. 1070d-33, 1070d-35 to 1070d-37)

§ 654.41 What are the requirements for a student to receive assistance under this program?

(a) To receive scholarship assistance, a student must—

(1) During the same calendar year in which the scholarship is to be awarded—

(i) Graduate from a secondary school, or receive a certificate of high school equivalency recognized by the State in which he or she resides; and

(ii) Be accepted for enrollment at an institution of higher education;

(2) Be a resident of the State in which he or she is applying for a scholarship;

(3)(i) Be a U.S. citizen or resident, or

(ii) Provide evidence from the U.S. Immigration and Naturalization Service that he or she—

(A) Is a permanent resident of the United States; or

(B) Is in the United States for other than a temporary purpose with the intention of becoming a citizen or permanent resident;

(4) File with the institution he or she plans to attend or is attending, a Statement of Registration Status if required by the institution under the provisions of 34 CFR 668.33 of the Student Assistance General Provisions regulations; and

(5) Pursue a course of study at an institution of higher education, as described in paragraph (b) of this section.

(b) For purposes of paragraph (a)(5) of this section, a scholar is deemed to be pursuing a course of study if he or she is enrolled at an institution of higher education as at least a half-time student, as determined by the institution he or she is attending under standards applicable to all students enrolled in that scholar's program.

(Authority: 20 U.S.C. 1070d-36 to 1070d-38, 20 U.S.C. 1221e-3; 50 U.S.C. App. 462)

Subpart F—What Post-Award Conditions Must Be Met by a State?

§ 654.50 What requirements must be met by States in the administration of this program?

(a) To continue to receive payments under this part, a State shall—

(1) Provide scholarship assistance only to students who meet the requirements in § 654.41;

(2) Select scholars in accordance with the provisions in § 654.40;

(3) Award to each scholar only one scholarship in the amount of $1,500 to be used for the first year of study at an institution of higher education;

(4) Make arrangements, to the extent possible, to have scholarship awards presented to the scholars during a ceremony at a convenient location by Members of the Senate and Members of the House of Representatives who represent the State (or by the Delegate in the case of the District of Columbia or the Resident Commissioner in the case of the Commonwealth of Puerto Rico);

(5) Disburse the scholarship proceeds, in the form of a warrant, voucher, or check payable to the student or copayable to the student and an official of the institution of higher education in which the student enrolls, during the awards ceremony or after confirming that the scholar has met the requirements described in § 654.41;

(6) Make no adjustments to the student's award because of the student's educational expenses or financial need;

(7) Collect any scholarship funds disbursed to a student who fails to meet the requirements of § 654.41;

(8) Make reports to the Secretary that are necessary to carry out the Secretary's functions under this part; and

(9) Except as provided in paragraph (b) of this section, expend all funds received from the Secretary for scholarships during the award period specified by the Secretary with regard to those funds.

(b) (1) After awarding all scholarships during an award period, as required by paragraph (a)(9) of this section, a State may reserve for scholarship expenditures in the following award period any funds that have been awarded but are subsequently returned or recovered.

(2) A State may reserve for administrative costs or scholarship expenditures in the following award period any funds from its administrative cost allotment which remain unexpended at the end of the award period for which the funds were granted.

(Authority: 20 U.S.C. 1070d–33, 1070d–36, 1070d–38 to 1070d–40)

[FR Doc. 88–22457 Filed 9–29–88; 8:45 am]

BILLING CODE 4000–01–M

federal register

Friday
September 30, 1988

Part VIII

Department of Transportation

Federal Highway Administration

49 CFR Part 395

Driver's Record of Duty Status; Automatic On-Board Recording Devices; Final Rule and Notice of Termination of Exemptions

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Part 395

[FHWA Docket No. MC-130]
RIN 2125-AB95

Driver's Record of Duty Status; Automatic On-Board Recording Devices

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule and notice of termination of exemptions.

SUMMARY: The FHWA is amending Part 395, Hours of Service of Drivers, of the Federal Motor Carrier Safety Regulations (FMCSRs) to allow motor carriers, at their option, to use certain automatic on-board recording devices to record their drivers' records of duty status in lieu of the required handwritten record. This action also rescinds the waivers granted certain motor carriers regarding the use of these devices. This amendment will provide motor carriers and enforcement personnel with enhanced information for control and safer operation of commercial motor vehicles operating in interstate commerce.

DATES: Effective date: October 31, 1988 Devices are authorized as of October 31, 1988. Devices must be in compliance with all requirements no later than October 2, 1989.

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: The FHWA published an Advance Notice of Proposed Rulemaking (ANPRM) in the **Federal Register** on July 13, 1987, (52 FR 26289) requesting information and comments to questions concerning the use of automatic on-board recorders. Based on the information obtained from public responses to the ANPRM, and the FHWA's on-board computer testing program, a Notice of Proposed Rulemaking (NPRM) was published in the **Federal Register** (53 FR 8228), March 14, 1988. The NPRM proposed amending the driver's record of duty status recordkeeping requirement to permit motor carriers to use an automatic on-board recorder in lieu of the required handwritten record of duty status. The comment period for this rulemaking closed April 13, 1988.

Background

Beginning in 1937, interstate motor carrier drivers were required to record their hours of service, or duty status, in a prescribed format, in duplicate, and in their own handwriting. Since 1982, the FHWA has required drivers to use a graph grid to record duty status and other vital information (49 CFR 395.8(g)). An exception is provided for drivers operating within a 100 air-mile radius of the driver's normal work reporting location (49 CFR 395.8(l)(1)). The graph-grid may be incorporated into any motor carrier form, provided all information required by Section 395.8(d) is contained on that form.

On October 1, 1986, the FHWA received a petition from the Insurance Institute for Highway Safety (IIHS) requesting regulations ". . . to require the installation and use of automatic on-board recordkeeping systems to record vehicle operations." The petition was denied. The IIHS petitioned for reconsideration on February 25, 1987, to which the FHWA responded by publishing an ANPRM in the **Federal Register** on July 13, 1987 (52 FR 26289). Comments to the ANPRM favored a rule allowing on-board recorders as opposed to mandating their use. An NPRM was published in the **Federal Register** on March 14, 1988 (53 FR 8228). The NPRM proposed to allow the use, at the motor carrier's option, of on-board recorders in lieu of the handwritten record of duty status required by 49 CFR 395.8. The NPRM also denied the IIHS's petition to mandate the use of automatic on-board recorders.

The FHWA initiated a waiver program for the use of automatic on-board recorders in 1985. The program was initiated to develop information and to test the on-board recorders under actual operating conditions. The first waiver was granted to Frito-Lay Inc., on April 17, 1985 (50 FR 15269), to use on-board computer in lieu of the required handwritten record of duty status. A total of ten motor carriers received waivers.

The FHWA conducted evaluations of the records of seven of these motor carriers. Three motor carriers were not evaluated because of insufficient experience with the devices at the time the evaluations were conducted. These evaluations have produced no information to indicate that the on-board recorders degrade safety or produce inaccurate driver's records of duty status. Evaluation of the computerized records indicated the drivers were, with one exception, in compliance with the hours-of-service rules. Furthermore, motor carriers reported that accurate hours of service information facilitated increased productivity. Driver acceptance of the new devices, initially a concern of the FHWA, appears to be good. The FHWA has found that all of the motor carriers evaluated have instituted company required speed limits for their drivers/vehicles.

It is the FHWA's belief that the hours of service of drivers rules are crucial to its overall safety mission. It further believes that all enforcement agencies, Federal, State, or local must give priority to the enforcement of these rules.

Docket Comments

The FHWA received a total of 26 comments in response to the NPRM. The commenters included:

7 motor carrier industry associations;
6 manufacturers of on-board computers;
3 State regulatory agencies;
2 commercial companies that operate private motor carrier fleets;
2 private citizens;
1 insurance industry member; and
1 labor union, a State highway patrol, the National Transportation Safety Board, a vehicle manufacturer, and a safety advocacy group.

A total of 17 commenters favored allowing motor carriers to choose between using the automatic on-board recorder and the current paper record of duty status. Two opposed mandatory use of these devices, and one opposed their use entirely. Two commenters, both from the IIHS, recommended mandatory use of automatic on-board recording devices. Two commenters took no position on the mandatory versus permissive use issue.

With the exception of the one comment from the International Brotherhood of Teamsters, Chauffeurs, Warehousemen & Helpers of America (IBT) which opposes their use, the commenters generally supported the proposed rule to allow the use of on-board recorders. The Private Truck Council of America, Inc. (PTCA), stated, "The PTCA endorses without any reservation this notice of proposed rulemaking." The American Trucking Associations, Inc. (ATA), reported, "The trucking industry views the present NPRM as a step forward in bringing hours of service recordkeeping requirements in line with modern technology." One private trucking company, Wolverine World Wide, Inc., stated, ". . . the new technology being made available to fleets should be given every opportunity to prove itself with the least amount of regulation possible

. . ." Finally, the Department of California Highway Patrol supported the proposed rulemaking, but noted that the devices should not be required nor should the gathering and retention of accurate drivers' hours of service information be compromised.

The National Private Trucking Association (NPTA) repeated its comments submitted in response to the ANPRM stating, ". . . NPTA endorses the use of on-board recorders by its members to monitor drivers' compliance with federal requirements governing hours of service. . . ." The NPTA also observed that the on-board recorder will not, in and of itself, result in a greater level of safety. The FHWA has learned, through information gathered from ten motor carriers permitted to use the devices under waivers, that the management of most of these companies instituted speed limits for their drivers, as well as stringent programs for dealing with driver abuse of the speed limit, the on-board equipment, or falsification of information. These steps are seen by the FHWA as positive safety impacts and supportive of the introduction of this technology into the motor carrier industry.

The IBT opposed the use of automatic on-board recorders. The IBT reiterated its position that there is a likelihood of a link between electronic monitoring and physical and psychological stress. The IBT pointed out that psychological stress is one of the ten leading causes of occupational injuries and illness. The union stated, "The Federal Highway Administration has an as-yet-unmet responsibility to take this seriously, and to address it in terms of both employee health and public safety." The FHWA believes that, based on its information gathering program, the motor carriers using on-board recorders, either under the FHWA waiver program or as an adjunct to their fleet control efforts, have taken considerable care in introducing the devices into their fleet. As a result of this training, driver abuse and/or falsification of data has been found to be minimal or nonexistence while driver acceptance of the devices has been good.

Comments submitted by the American Bus Association (ABA) asserted strong opposition to any requirement for on-board recording devices on buses. The ABA suggested that it was premature to allow these devices on other than a case-by-case basis since there had been no testing on buses authorized by the FHWA. The ABA further stated that it did not oppose on-board recording devices, but that it believed that there should be actual testing conducted on buses before giving a "blanket approval" for their use. On-board recorders now in use could, in most instances, be used interchangeably on any commercial motor vehicle whether it be a truck, truck tractor, or a passenger carrying vehicle. No passenger carrier saw fit to request a waiver to test these devices under the FHWA test program. A provision is being offered whereby a motor carrier may improve its safety posture, reduce its paperwork burden, and increase its profit margin. The fact that these devices have not been specifically tested on buses does not persuade the FHWA to limit thier permissive use to property carrying motor vehicles.

The IIHS submitted two sets of comments; both recommending that the use of on-board recorders be mandated. The IIHS contended, based on a U.S. General Accounting Office report, "Truck Safety: Disposition of Allegations Concerning Three Safety Audits (RCED–88–17FS, November 1987) that "abuse of hours of service rules is typical of the industry. "Thus, information in this report supports the need to mandate on-board recording devices" [to eliminate falsification of driver logs]. The IIHS did not oppose the proposal to allow on-board recorders stating, ". . . this present rulemaking, as limited as it is, is an important first step toward the eventual widespread utilization of on-board recorders for all vehicles." The American Insurance Service Group, Inc., extended this though by stating, ". . . mandatory installation of these devices . . . should be considered in future rulemaking."

The FHWA has high expectations that these devices will produce identifiable advancements in safety over time and that the rate of assimilation of this technology will be rapid. However, the introduction and use of these devices by the motor carrier industry is in the earliest stage and data and information the FHWA would like to have on the long-term safety impact of these devices is only now being developed. For this reason, the FHWA plans to continue to follow closely the assimilation and use of this technology by motor carriers through the FHWA's motor carrier safety review program and accident data analysis.

The FHWA asked questions in the NPRM concerning certification of information, personal identifiers, software security, and other related technology. Few responses were submitted concerning these areas of interest. Respondents acknowledged that there is no absolute way to guarantee either the record authenticity or the driver identification (individual actually behind the wheel of the vehicle). Rockwell International and the National-American Wholesale Grocers' Association (NAWGA) pointed out that drivers tend to be very careful in using their assigned identification code numbers. A very strong incentive not to jeopardize their code numbers or enter a wrong number into the device is that it may result in the driver not being paid for a trip. This is because the motor carriers are starting to transmit the on-board recorder data directly to their payroll system for efficiency of operation and costs savings.

The FHWA believes that a reasonable level of security is present in the design of today's on-board recorder systems. The device construction, driver and system codes, incentives (e.g., driver pay), and carrier concern for maintaining expensive equipment are just some of the elements that lend themselves to the security of these systems.

The FHWA asked for comments on the amount and kind of training that should be provided for State enforcement agents. Three on-board recorder manufacturers, the IBT, and the ATA responded to this question. The five recommended that some training should be given. Four of the five suggested small information cards should be provided with sufficient directions to enable an enforcement official to operate the devices independently. The FHWA is in agreement with these comments. It has learned through the waiver program that manufacturers are, in fact, supplying this type of document to the motor carriers using their equipment. The FHWA is, therefore, requiring an instruction sheet be carried on board each vehicle equipped with an on-board recording device.

Ten respondents provided input on the question of whether motor carriers should notify the FHWA of their intention to use the on-board recorders. Six respondents favored such a system. The FHWA has determined that there is no need for a notification requirement. The motor carriers that adopt this technology will be required to comply with the requirements of this rule which normal enforcement actions and motor carrier safety reviews will verify.

Finally, the FHWA asked for comments on whether the design of the on-board recorders should be required to warn the driver of a malfunction. Eight commenters recommended that the driver should receive a warning of a malfunction. Two indicated that the devices now being sold had this feature.

In another comment, the ATA recommended that the on-board recorder not have an audible warning feature that would distract the driver.

CADEC Systems, Inc., an on-board recorder manufacturer whose devices are being used by motor carriers under FHWA waiver, pointed out that this type of requirement is within the scope of today's technology and adds no cost to the unit. CADEC further advised that its devices now being operated by motor carriers under FHWA waiver have the capability of automatically notifying the driver of the motor vehicle, visually and audibly, that a sensor failure or malfunction has occurred. Presently, its devices cannot notify the driver of a system failure. Since visual and/or audible warning of a malfunction or failure is a software related function, CADEC has advised that, given lead time of approximately nine months, it could furnish new on-board recording devices that are capable of visually and/or audibly notifying the driver immediately of a sensor or system failure or malfunction. The cost for the added capability would be approximately $15 per unit. Retrofitting existing devices now in use would be much more expensive. CADEC believes the design changes, device removal and reinstallation cost would be between $250 and $300. On top of that, the motor carrier would incur additional expenses generated by each motor vehicle being taken out of service during the retrofitting process.

Rockwell International, another on-board recorder manufacturer whose devices are presently being used by motor carriers under FHWA waiver, has advised that its devices cannot, at this time, automatically visually or audibly warn a driver of a sensor or system malfunction or failure. Presently, its devices have the capability of notifying the driver of a system failure once the driver queries the device for a bit of information. Rockwell also advises that, given lead time of approximately nine months, it could furnish new on-board recording devices that are capable of visually and/or audibly notifying the driver immediately of a sensor or system failure or malfunction. It too believes that the attendant software can be redesigned for automatic driver warning at a cost of about $15 per unit. Rockwell's estimates concerning retrofit expense were very similar to those made by CADEC. Both manufacturers believe a retrofit requirement would not be cost effective and is not warranted.

Automatically warning the driver that the on-board recording device in his/her vehicle has malfunctioned has merit. The FHWA believes that a malfunction or failure is certain to cause confusion and delays for both the driver and enforcement officials during any vehicle/driver inspection unless the driver is informed of the malfunction at the time it occurs. For these reasons, the FHWA believes an automatic driver warning system must be made a part of the device design. Since the driver warning would be immediate, we see no need for the date and time of the failure or malfunction to be displayed on the device in the cab of the motor vehicle. We do, however, see a need for the date and time of the failure to be recorded on the hard copy printout that will be reviewed by motor carrier personnel or enforcement personnel. It is believed that this requirement will enhance compliance and enforcement capabilities and serve as a deterrent against possible fraud with respect to hours of service recordkeeping.

In view of the above discussion, the FHWA will require that each on-board recorder used for recording hours of service of drivers have the capability of immediately and automatically warning a driver, either visually and/or audibly, that there has been a sensor or system malfunction or failure. Further, the system utilized to analyze and reproduce the collected data in printed form must have the capability of denoting the date and time of any failure or malfunction that occurs. These requirements will apply to all on-board recording devices installed in a motor vehicle and attendant equipment used by a motor carrier to record driver's hours of service. All devices must meet these requirements by October 2, 1989.

These requirements will not apply to those devices installed and operational as of October 31, 1988 in the vehicles of those motor carriers who were granted waivers. This exception is being included to hold harmless those carriers since they installed and are using the devices in good faith and in accordance with the waiver provisions. Any devices installed and operational after October 31, 1988 must meet the provisions of paragraphs 395.15(i)(4) and (7). Motor carriers who were previously granted a waiver must ensure that any device installed after October 31, 1988 meets these requirements.

On-board recording devices normally monitor and record several other vehicle functions over and above those required for recording a driver's hours of service. The FHWA believes that a driver will monitor the on-board system several times during a particular trip or day. The FHWA, therefore, also believes that a driver would discover a sensor or system malfunction or failure shortly after it occurred by comparing the information displayed by the device with information generated by other motor vehicle components (e.g., tachometer, speedometer, or odometer). The driver could then take appropriate action concerning the preparation of handwritten records of duty status. These premises, coupled with the fact that retrofitting will be costly and not cost effective, persuades the FHWA to forego any type of retrofit requirement.

In reply to the FHWA's question on information format, five respondents recommended requiring a uniform information format and five recommended against such a requirement. CADEC Systems, Inc. contends that to specify a rigid format for the data presentation could be unfairly restrictive. However, it believes that uniformity is essential in (1) the data elements that must be recorded and are subject to review; (2) the provisions that enable a driver to inquire and know how many hours he has remaining before he is in violation; and (3) the provisions that imply ease of use and understanding. The comments of Wolverine World Wide, Inc., supported requirements that would be broad enough to permit innovation by manufacturers but still require some standardization to provide for efficient, error free roadside inspection. Sections 395.15(c) and 395.15(i)(4) provide that certain information required is to be recorded and displayed upon request. At this time, there is no evidence supporting a need for uniform formats for computer printed records of drivers' duty status changes. On-board recorder manufacturers have recognized the desirability of producing data acquisition formats compatible with the sequence of information familiar to the motor carrier industry and have reflected this understanding in the information presentation printouts and device displays.

Only one respondent recommended setting a maximum failure rate for the on-board recorders. The recommended rate was three percent. Three respondents opposed such a requirement. The FHWA has found, in its waiver program for on-board recorders, that the failure rate of these devices is very low, usually less than one percent. A device manufacturer, in its comments, pointed out the difficulty faced in any attempt to establish accurate failure rates. In addition, such a system would likely require additional paperwork. Based on the experience gained to date, the FHWA has

determined there is no need for setting a maximum failure rate at this time.

The FHWA believes that the rule will provide motor carriers with opportunities to streamline their recordkeeping operations. It is estimated, by the ATA, NAWGA, and Rockwell International, Inc., that savings of 80 percent in paperwork costs associated with the hours of service rules are possible.

Discussion of Specific Rule Changes

A definition of automatic on-board recording devices is being added to § 395.2, Definitions. This new definition is sufficiently broad to include computers and tachographs. The devices chosen by each motor carrier must meet the requirements specified in the rule. The rule requires the device to be integrally synchronized with specific operations of the vehicle in which it is installed. As a minimum, the device must record engine use, road speed, and miles driven as well as the date and time of day.

Section 395.8 is being amended to provide motor carriers with the option to use either automatic on-board recorders or the handwritten record of duty status.

As proposed, a new § 395.15 is being added to Part 395. This section contains the additional requirements that motor carriers must follow if they choose to use an automatic on-board recording device. Section 395.15(a) contains the authority for motor carriers to use on-board recording devices. The FHWA is not requiring that all vehicles in a motor carrier's fleet or at a particular terminal be equipped with the devices if the carrier chooses to use them. A measured phase-in of these devices may well best the best method of introduction for some fleets. The FHWA encourages carrier in the initial phase to use the automatic devices in conjunction with the handwritten drivers' records of duty status.

Section 395.15(b) specifies the information that must be recorded by on-board recording device. Proposed paragraphs (b) and (d) are consolidated into paragraph (b) of § 395.15. The paragraph addressing information requirements along with § 395.15(i). Performance of recorders, specify the required characteristics of a automatic recording devices. These requirements are not intended to preclude additional, more sophisticated features, but to establish the minimum level necessary to ensure that the devices perform their intended functions.

Section 395.15(b) requires each vehicle mounted device to produce, on demand, the hours of service summary information needed by the driver in order to avoid noncompliance, and by enforcement personnel for driver inspections. The on-board recording devices must also have the ability to display, chronologically, the driver's hours of service events for the current day and the previous seven days where applicable. This section clearly states that where a driver operates with an on-board computer, in lieu of the handwritten drivers record of duty status, the driver is not required to maintain hard copies of the driver's record of duty status or computer printed documents in the vehicle. The different types of records may be used in combination to satisfy the requirements of § 395.8(k)(3), Retention of driver's records of duty status. When copies are maintained, the FHWA requires that the driver sign each document. The driver's signature certifies that all entries on the documents, required by this section, are true and correct.

If the recording device fails, § 395.15(f) requires that the device warn the driver either audibly or visually. Thereafter, the driver must immediately reconstruct his/her record of duty status so as to be in compliance with § 395.8(k)(3). Section 395.15(g)(1) requires that instructions on how the recording device operates be carried on board the vehicle. Section 395.15(g)(2) requires the driver to carry sufficient blank duty status grid-graphs in case of device failure.

Section 395.15(h) requires that the driver, before submitting the record of duty status to the motor carrier, review and verify that the information is correct. The submission to the carrier is the driver certification that all entries made by the driver are true and correct. The FHWA believes that the driver's review and verification of the information, prior to submitting it, is critical to the integrity of the record since the record will in many cases be submitted electronically without a driver's signature.

Section 395.15(i) establishes minimum performance standards for the devices. These standards are considered important to ensure that the devices have low failure rates and drivers are not faced with major reconstruction of past travel. The standards are also needed to ensure that the devices provide information in a uniform and adequate manner for Federal, State, and local enforcement personnel. The rule requires that the motor carrier obtain a certification from the device manufacturer that the device meets certain standards. It also requires that the device permit update of duty status only when the vehicle is at rest, with one exception (i.e., crossing State boundaries). This requirement reflects the importance of the driver maintaining eye contact with the road and other vehicles in the traffic stream while driving.

To further support compliance with the hours of service rules, the FHWA has reserved the right in § 395.15(k) to order motor carriers to require drivers to prepare driver's records of duty status by hand, if (1) the motor carrier has a conditional or unsatisfactory safety rating, or (2) the FHWA determines that drivers are (a) exceeding the hours of service limitations of Part 395, (b) failing to accurately and completely record their hours, or (c) tampering with the devices. The alternative provided by Section 395.15 would no longer be available to such motor carrier.

Since the final rule encompasses all the operational aspects incorporated into those recording devices now being used under waiver issued by the FHWA and allows their use, there is no longer a need for motor carriers involved to operate under a waiver. Therefore, the waivers previously issued to certain motor carriers, regarding the use of these devices, are being rescinded as of October 31, 1988.

Due to the revision of § 395.8 of this part and the addition of a new § 395.15 to this part, a conforming technical amendment is being made to § 395.13, Drivers declared out of service. This action takes into account that automatic on-board recording devices may be used to record a driver's record of duty status.

It is anticipated that any economic impact upon the motor carrier industry will be outweighed by the economic benefits derived in the utilization of better operational data produced by the automatic on-board recorder. The motor carrier will have a choice of whether to use the recorder, so any increase in costs is at the carrier's discretion. The FHWA's determination that tachographs can also meet the safety requirements of the rule, permits small carriers to use the devices, in lieu of the handwritten record, but at greatly reduced costs relative to the costs of installing the current generation of on-board computer systems. Furthermore, there are safety benefits expected as a result of increasing numbers of companies using these devices. State enforcement officials will experience increasing productivity in roadside inspection programs as the total number of vehicles equipped with on-board recorders grows. For these reasons and under the criteria of the Regulatory Flexibility Act, it is hereby certified that this action will not have a significant economic impact

on a substantial number of small entities.

Information collection requirements contained in this regulation have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-511) and have been assigned OMB control number 2125-0016.

The FHWA has determined that this document does not contain a major rule under Executive Order 12291. However, because of the public interest in commercial motor vehicle safety, this rule is considered significant under the regulatory policies and procedures of the Department of Transportation. For this reason and pursuant to Executive Order 12498, this rulemaking action has been included on the Regulatory Program for significant rulemaking actions.

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 action with the Unified Agenda.

The economic impact anticipated as a result of this rulemaking action will be minimal, since this rule merely affords motor carriers an alternative method of complying with an existing safety requirement.

Federalism Assessment

This final regulation amends Part 395 of the FMCSRs to allow motor carriers operating commercial motor vehicles in interstate commerce to use, at their option, certain automatic on-board recording devices to record drivers' hours of service in lieu of the required handwritten record. Nothing in this document directly preempts any State law or regulation. The FMCSRs establish minimum safety regulations which, at the present time, may be supplemented by the States, except for the adoption of inconsistent regulations. The statutory basis for Federal regulation of interstate commerce has been outlined above. A single issue is addressed in this final rule and does not involve policies that have federalism implications. This final rule does not limit the policymaking discretion of the States. Accordingly, it is certified that the policies contained in this document have been assessed in light of the principles criteria, and requirements of the Federalism Executive Order.

List of Subjects in 49 CFR Part 395

Highway and roads, Highway safety, Motor Carriers, Driver's hours of service, Reporting and recordkeeping requirements.

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

Issued on: September 27, 1988.

Robert E. Farris,

Federal Highway Administrator.

In consideration of the foregoing, the FHWA is amending Title 49, Code of Federal Regulations, Subtitle B, Chapter III, Part 395 as follows:

PART 395—HOURS OF SERVICE OF DRIVERS [AMENDED]

1. The authority citation for 49 CFR Part 395 is revised to read as follows:

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

§ 395. [Amended]

2. Section 395.2 is amended by adding a definition of "automatic on-board recording device" as new paragraph (k) to read as follows:

§ 395.2 Definitions.

* * * * *

(k) *Automatic on-board recording device.* An electric, electronic, electromechanical, or mechanical device capable of recording driver's duty status information accurately and automatically as required by § 395.15 of this part. The device must be integrally synchronized with specific operations of the vehicle in which it is installed. As a minimum, the device must record engine use, road speed, miles driven, the date, and time of day.

§ 395.8 [Amended]

3. In § 395.8, paragraphs (a) and (e) are revised to read as follows:

§ 395.8 Driver's record of duty status.

(a) Every motor carrier shall require every driver used by the motor carrier to record his/her duty status for each 24-hour period using the methods prescribed in either paragraphs (a) (1) or (2) of this section.

(1) Every driver who operates a commercial motor vehicle shall record his/her duty status, in duplicate, for each 24-hour period. The duty status time shall be recorded on a specified grid, as shown in paragraph (g) of this section. The grid and the requirements of paragraph (d) of this section may be combined with any company forms. The previously approved format of the Daily Log, Form MCS-59 or the Multi-day Log, MCS-139 and 139A, which meets the requirements of this section, may continue to be used.

(2) Every driver who operates a commercial motor vehicle shall record his/her duty status by using an automatic on-board recording device that meets the requirements of § 395.15 of this part. The requirements of § 395.8 shall not apply, except paragraphs (e) and (k) (1) and (2) of this section.

* * * * *

(e) Failure to complete the record of duty activities of this section or § 395.15, failure to preserve a record of such duty activities, or making of false reports in connection with such duty activities shall make the driver and/or the carrier liable to prosecution.

* * * * *

§ 395.13 [Amended]

4. 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 § 395.13 of this part shall fail to have a record of duty status current on the day of examination and for the prior 7 consecutive days.

* * * * *

§ 395.15 [Added]

5. Part 395 is amended by adding a new § 395.15 to read as follows:

§ 395.15 [Automatic on-board recording devices.

(a) Authority to use automatic on-board recording device.

(1) A motor carrier may require a driver to use an automatic on-board recording device to record the driver's hours of service in lieu of complying with the requirements of § 395.8 of this part.

(2) Every driver required by a motor carrier to use an automatic on-board recording device shall use such device to record the driver's hours of service.

(b) Information requirements.

(1) Automatic on-board recording devices shall produce, upon demand, a driver's hours of service chart, electronic display, or printout showing the time and sequence of duty status changes including the drivers' starting time at the beginning of each day.

(2) The device shall provide a means whereby authorized Federal, State, or local officials can immediately check the status of a driver's hours of service. This information may be used in conjunction with handwritten or printed records of duty status, for the previous 7 days.

(3) Support systems used in conjunction with on-board recorders at a driver's home terminal or the motor carrier's principal place of business must be capable of providing authorized Federal, State or local officials with summaries of an individual driver's hours of service records, including the information specified in § 395.8(d) of this part. The support systems must also provide information concerning on-board system sensor failures and identification of edited data. Such support systems should meet the information interchange requirements of the American National Standard Code for Information Interchange (ANSCII) (EIARS–232/CCITT V.24 port (National Bureau of Standards "Code for Information Interchange," FIPS PUB 1–1)).

(4) The driver shall have in his/her possession records of duty status for the previous 7 consecutive days available for inspection while on duty. These records shall consist of information stored in and retrievable from the automatic on-board recording device, handwitten records, computer generated records, or any combination thereof.

(5) All hard copies of the driver's record of duty status must be signed by the driver. The driver's signature certifies that the information contained thereon is true and correct.

(c) The duty status and additional information shall be recorded as follows:

(1) "Off duty" or "OFF", or by an identifiable code or character;

(2) "Sleeper berth" or "SB" or by an identifiable code or character (only if the sleeper berth is used);

(3) "Driving" or "D", or by an identifiable code or character; and

(4) "On-duty not driving" or "ON", or by an identifiable code or character.

(5) Date;

(6) Total miles driving today;

(7) Truck or tractor and trailer number;

(8) Name of carrier;

(9) Main office address;

(10) 24-hour period starting time (e.g., midnight, 9:00 a.m., noon, 3:00 p.m.)

(11) Name of co-driver;

(12) Total hours; and

(13) Shipping document number(s), or name of shipper and commodity.

(d) Location of duty status change.

(1) For each change of duty status (e.g., the place and time of reporting for work, starting to drive, on-duty not driving and where released from work), the name of the city, town, or village, with State abbreviation, shall be recorded.

(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 vehicle cab and available at the motor carrier's principal place of business. Such lists shall be made available to an enforcement official on request.

(e) Entries made by driver only. If a driver is required to make written entries relating to the driver's duty status, such entries must be legible and in the driver's own handwriting.

(f) Reconstruction of records of duty status. Drivers are required to note any failure of automatic on-board recording devices, and to reconstruct the driver's record of duty status for the current day, and the past 7 days, less any days for whch the drivers have records, and to continue to prepare a handwritten record of all subsequent duty status until the device is again operational.

(g) On-board information. Each vehicle must have on-board the vehicle an information packet containing the following items:

(1) An instruction sheet describing in detail how data may be stored and retrieved from an automatic on-board recording system; and

(2) A supply of blank driver's records of duty status graph-grids sufficient to record the driver's duty status and other related information for the duration of the current trip.

(h) Submission of driver's record of duty status.

(1) The driver shall submit, electronically or by mail, to the employing motor carrier, each record of the driver's duty status within 13 days following the completion of each record;

(2) The driver shall review and verify that all entries are accurate prior to submission to the employing motor carrier; and

(3) The submission of the record of duty status certifies that all entries made by the driver are true and correct.

(i) Performance of recorders. Motor carriers that use automatic on-board recording devices for recording their drivers' records of duty status in lieu of the handwritten record shall ensure that:

(1) A certificate is obtained from the manufacturer certifying that the design of the automatic on-board recorder has been sufficiently tested to meet the requirements of this section and under the conditions it will be used;

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

(3) The automatic on-board recording device and associated support systems are, to the maximum extent practicable, tamperproof and do not permit altering of the information collected concerning the driver's hours of service;

(4) No later than October 2, 1989 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.

(5) Automatic on-board recording devices with electronic displays shall have the capability of displaying the following:

(i) Driver's total hours of driving today;

(ii) The total hours on duty today;

(iii) Total miles driving today;

(iv) Total hours on duty for the 7 consecutive day period, including today;

(v) Total hours on duty for the prior 8 consecutive day period, including the present day; and

(vi) The sequential changes in duty status and the times the changes occurred for each driver using the device.

(6) The on-board recorder is capable of recording separately each driver's duty status when there is a multiple-driver operation;

(7) No later than October 2, 1989 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.

(8) The on-board recording device is maintained and recalibrated in accordance with the manufacturer's specifications;

(9) The motor carrier's drivers are adequately trained regarding the proper operation of the device; and

(10) The motor carrier must maintain a second copy (back-up copy) of the electronic hours-of-service files, by month, in a different physical location than where the original data is stored.

(j) Rescission of authority.

(1) The FHWA may, after notice and opportunity to reply, order any motor carrier or driver to comply with the requirements of § 395.8 of this part.

(2) The FHWA may issue such an order if the FHWA has determined that—

(i) The motor carrier has been issued a conditional or unsatisfactory safety rating by the FHWA;

(ii) The motor carrier has required or permitted a driver to establish, or the driver has established, a pattern of

exceeding the hours of service limitations of § 395.3 of this part;

(iii) The motor carrier has required or permitted a driver to fail, or the driver has failed, to accurately and completely record the driver's hours of service as required in this section; or

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

[FR Doc. 88-22563 Filed 9-28-88; 9:18 am]

BILLING CODE 4910-22-M