

§ 54.400 Terms and Definitions.

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Note to paragraph (e): This paragraph (e) is stayed to the extent that it applies to qualifying low-income consumers living "near reservations" as that phrase is defined in 25 CFR 20.1(r).

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DEPARTMENT OF TRANSPORTATION**Federal Motor Carrier Safety Administration****49 CFR Parts 375 and 386**

RIN 2126-AA56

Transportation of Household Goods in Interstate or Foreign Commerce; Rules of Practice for Motor Carrier Safety and Hazardous Materials Proceedings

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Final rule; technical amendments.

SUMMARY: This document implements sections 208 and 209 of the Motor Carrier Safety Improvement Act (MCSIA) of 1999 by amending 49 CFR parts 386 and 375, respectively. Section 208 revised the definition of an imminent hazard in 49 U.S.C. 521(b)(5)(B), and section 209 amended the definition of household goods in 49 U.S.C. 13102(10). Other technical changes are also being made to part 386, as explained below.

EFFECTIVE DATE: November 1, 2000.

FOR FURTHER INFORMATION CONTACT: Mr. William C. Hill, Regulatory Development Division, Office of Policy and Program Development, FMCSA, (202) 366-4009, or Mr. Charles E. Medalen, Office of the Chief Counsel, (202) 366-1354, Federal Highway Administration (FHWA), 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:**Electronic Access**

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Office's database at: <http://www.access.gpo.gov/nara>.

Background

The MCSIA of 1999 [Pub. L. 106-159, 113 Stat. 1748, December 9, 1999] made a number of changes to title 49, United States Code. This document implements the amendments made by sections 208 and 209, and makes minor technical changes to 49 CFR 386.72(a).

Section 208 revised the definition of an imminent hazard in 49 U.S.C. 521(b)(5)(B) to cover "any condition of vehicle, employee, or commercial motor vehicle operations which substantially increases the likelihood of serious injury or death if not discontinued immediately." The previous definition was "any condition of vehicle, employee, or commercial motor vehicle operations which is likely to result in serious injury or death if not discontinued immediately." In order to implement the new standard, 49 CFR 386.72(b)(1) is being amended. In addition, references to Federal Highway Administration (FHWA) personnel in that paragraph are being changed to list the appropriate officials of the FMCSA.

Section 209 amended the definition of household goods by revising paragraph (A) of 49 U.S.C. 13102(10). The new version provides that "(10) Household goods.—The term 'household goods,' as used in connection with transportation, means personal effects and property used or to be used in a dwelling, when a part of the equipment or supply of such dwelling, and similar property if the transportation of such effects or property is—(A) arranged and paid for by the householder, except such term does not include property moving from a factory or store, other than property that the householder has purchased with the intent to use in his or her dwelling and is transported at the request of, and the transportation charges are paid to the carrier by, the householder." The previous text of paragraph (A) read: "(A) arranged and paid for by the householder, including transportation of property from a factory or store when the property is purchased by the householder with intent to use in his or her dwelling." To make the new definition applicable, 49 CFR 375.1(b)(1) is being amended.

Finally, 49 CFR 386.72(a) is being amended to substitute references to the appropriate FMCSA officials for the FHWA officials previously listed there, and to conform the language of the paragraph more closely to the applicable definition of imminent hazard [49 U.S.C. 5102(5)]. This definition is not identical to the imminent hazard

definition applicable to § 386.72(b) [*i.e.*, 49 U.S.C. 521(b)(5)(B)].

Rulemaking Analyses and Notices

These amendments make regulatory changes to implement two amendments enacted by Congress; to update references to FHWA functions now exercised by the FMCSA; and to conform the language of § 386.72(a) more closely to the underlying statute. Public comments are unnecessary and could not change the substance of these amendments, since all of the changes being made today are required by statute. The FMCSA therefore finds good cause pursuant to 5 U.S.C. 553(b) to promulgate these amendments without prior notice and opportunity for comment.

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

The FMCSA has determined that this action is not a significant regulatory action within the meaning of Executive Order 12866. The agency has also determined that this action is not a significant regulatory action under the DOT's regulatory policies and procedures. These technical amendments are ministerial in nature.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (5 U.S.C. 601-612), the FMCSA has evaluated the effects of this rule on small entities and has determined that it will not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act of 1995

This rule does not impose a Federal mandate resulting in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year (2 U.S.C. 1531 *et seq.*).

Executive Order 12988 (Civil Justice Reform)

This action meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Executive Order 13045 (Protection of Children)

We have analyzed this action under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk

to health or safety that may disproportionately affect children.

Executive Order 12630 (Taking of Private Property)

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Executive Order 13132 (Federalism)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 13132 dated August 4, 1999, and it has been determined this action does not have a substantial direct effect or sufficient federalism implications on States that would limit the policymaking discretion of the States. Nothing in this document directly preempts any State law or regulation.

Executive Order 12372 (Intergovernmental Review)

Catalog of Federal Domestic Assistance Program Number 20.217, Motor Carrier Safety. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this regulation.

Paperwork Reduction Act

This action does not contain a collection of information requirement for the purposes of the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3520.

National Environmental Policy Act

The agency has analyzed this rulemaking for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4347), and has determined that this action would not have any effect on the quality of the environment.

Regulation Identification Number

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

List of Subjects

49 CFR Part 375

Advertising, Arbitration, Consumer protection, Freight, Insurance, Motor carriers, Moving of household goods,

Reporting and recordkeeping requirements.

49 CFR Part 386

Administrative procedures, Commercial motor vehicle safety, Highway safety, Motor carriers.

Issued on: September 27, 2000.

Clyde J. Hart, Jr.,

Acting Deputy Administrator.

In consideration of the foregoing, the FMCSA amends Title 49, Code of Federal Regulations, Chapter III, parts 375 and 386 as set forth below:

PART 375—TRANSPORTATION OF HOUSEHOLD GOODS IN INTERSTATE OR FOREIGN COMMERCE

1. Revise the authority citation for part 375 to read as follows:

Authority: 5 U.S.C. 553; 49 U.S.C. 13301 and 14104; and 49 CFR 1.73.

2. Revise § 375.1(b) to read as follows:

§ 375.1 Applicability and definitions.

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(b) * * *

(1) *Household goods.* The term “household goods” means personal effects and property used or to be used in a dwelling when a part of the equipment or supply of such dwelling and such other similar property as the FMCSA may provide by regulation; except that this definition shall not include property moving from a factory or store, other than property that the householder has purchased with the intent to use in his or her dwelling and is transported at the request of, and the transportation charges are paid to the carrier by the householder.

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PART 386—RULES OF PRACTICE FOR MOTOR CARRIER SAFETY AND HAZARDOUS MATERIALS PROCEEDINGS

3. The authority citation for part 386 is revised to read as follows:

Authority: 49 U.S.C. 113, Chapters 5, 51, 131–141, 145–149, 311 (Subchapter III), 313, and 315, Pub. L. 104–134, title III, chapter 10, Sec. 31001, par. (s), 110 Stat. 1321–373, and 49 CFR 1.45 and 1.73.

4. In § 386.72 revise paragraphs (a) and (b)(1) to read as follows:

§ 386.72 Imminent hazard.

(a) Whenever it is determined that an imminent hazard exists as a result of the transportation by motor vehicle of a particular hazardous material, the Chief Counsel or Deputy Chief Counsel of the FMCSA may bring, or request the United States Attorney General to bring,

an action in the appropriate United States District Court for an order suspending or restricting the transportation by motor vehicle of the hazardous material or for such other order as is necessary to eliminate or ameliorate the imminent hazard, as provided by 49 U.S.C. 5122. In this paragraph, “imminent hazard” means the existence of a condition that presents a substantial likelihood that death, serious illness, severe personal injury, or a substantial endangerment to health, property, or the environment may occur before a notice of investigation proceeding, or other administrative hearing or formal proceeding, to abate the risk of harm can be completed.

(b)(1) Whenever it is determined that a violation of 49 U.S.C. 31502 or the Motor Carrier Safety Act of 1984, as amended, or the Commercial Motor Vehicle Safety Act of 1986, as amended, or a regulation issued under such section or Acts, or a combination of such violations, poses an imminent hazard to safety, the Director of the Office of Enforcement and Compliance or a State Director, or his or her delegate, shall order a vehicle or employee operating such vehicle out of service, or order an employer to cease all or part of the employer’s commercial motor vehicle operations, as provided by 49 U.S.C. 521(b)(5). In making any such order, no restrictions shall be imposed on any employee or employer beyond that required to abate the hazard. In this paragraph, “imminent hazard” means any condition of vehicle, employee, or commercial motor vehicle operations which substantially increases the likelihood of serious injury or death if not discontinued immediately.

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

RIN 1018–AG08

Migratory Bird Hunting; Migratory Bird Hunting Regulations on Certain Federal Indian Reservations and Ceded Lands for the 2000–01 Late Season

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.