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RULE PROPOSALS

**LAW AND PUBLIC SAFETY
DIVISION OF STATE POLICE**

39 N.J.R. 2210(a)

Proposed Readoption with Amendments: N.J.A.C. 13:60

[Click here to view Interested Persons Statement](#)

Motor Carrier Safety Regulations

Authorized By: Colonel Joseph R. Fuentes, Superintendent, Division of State Police.

Authority: N.J.S.A. 39:5B-32.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2007-181.

Submit comments in writing by August 3, 2007 to:

Colonel Joseph R. Fuentes, Superintendent
Division of State Police
Attn: Transportation Safety Bureau
3925 US Route # 1
Princeton, NJ 08540

The agency proposal follows:

Summary

Pursuant to Executive Order No. 66 (1978) and N.J.S.A. 52:14B-5.1a, rules adopted by the Superintendent of the Division of State Police (hereinafter Superintendent) under the authority of N.J.S.A. 39:5B-32 are being proposed for readoption with amendments. The present rules at N.J.A.C. 13:60 were scheduled to expire on May 2, 2007. The expiration date is extended to October 29, 2007 by the filing of this proposal pursuant to N.J.S.A. 52:14B-5.1c.

At the direction of the Superintendent, these rules have been reviewed to determine their continuing usefulness and necessity. In accordance with N.J.S.A. 39:5B-32, appropriate representatives of the Motor Vehicle Commission and

Department of Transportation have been consulted. The rules were found to be necessary, reasonable, and proper for the purposes for which they were originally promulgated. The Superintendent has determined, however, to readopt the rules with amendments.

Subchapter 1 contains general requirements. N.J.A.C. 13:60-1.1 states the purpose of the rules, which is to incorporate by reference Federal regulations adopted pursuant to the Surface Transportation Assistance Act of 1982 (49 U.S.C. §§31101 through 31104), as amended and supplemented. The Federal rules are collectively known as the Federal Motor Carrier Safety Regulations. The rules in the chapter apply to all motor carrier operators and vehicles engaged in interstate and intrastate commerce or used operated wholly within a municipality. N.J.A.C. 13:60-1.2 explains the application of the chapter in further detail. N.J.A.C. 13:60-1.3 contains definitions and rules concerning the applicability of specific rules. N.J.A.C. 13:60-1.4 lists penalties for violations. N.J.A.C. 13:60-1.5 lists where the incorporated documents may be obtained. A proposed amendment to N.J.A.C. 13:60-1.5(c) updates the address and phone number for the New Jersey State Police. N.J.A.C. 13:60-1.6 lists sources of assistance for compliance. Additionally, the Superintendent proposes to amend N.J.A.C. 13:60-1.3 and 1.5 to provide cross references to the additional parts of the Code of Federal Regulations being incorporated by reference at N.J.A.C. 13:60-2.1. See the explanation of the parts being incorporated below.

Subchapter 2 adopts the Federal regulations by reference and includes an Appendix listing Federal rules by section and any modifications to those rules for intrastate operators and vehicles. N.J.A.C. 13:60-2.1 incorporates by reference the Federal Motor Carrier Safety Regulations. The Superintendent proposes to amend this section to incorporate additional parts of the Federal regulations, including 49 CFR Part 40 (Drug and Alcohol Regulations), Part 325 (Noise Emission Standards), Part 350 (Commercial Motor Carrier Safety Assistance Program), Part 355 (Compatibility of State Laws and Regulations), Part 380 (Special Training Requirements), Part 382 (Controlled Substances and Alcohol Use and Testing), Part 383 (Commercial Driver's License Standards), Part 384 (State Compliance with Commercial Driver's License Program), Part 385 (Safety Fitness Procedures), Part 387 (Minimum Levels of Financial Responsibility), Part 388 (Cooperative Agreements with States), Part 398 (Transportation of Migrant Workers). The Superintendent proposes to amend the Appendix reference to Part 395 on maximum driving time to incorporate the amendments to N.J.S.A. 39:5B-32 enacted by P.L. 2004, c. 97 and P.L. 2005, c. 109. 49 CFR 350.341 authorizes states limit the applicability of the section for intrastate commerce for vehicles with a gross vehicle weight of 26, 000 pounds or less that are not designed to carry more than 16 passengers and do not transport hazardous materials. The Legislature enacted that variation in P.L. 2005, c. 109. The Federal rule also allows a variation by states for maximum driving time for vehicles 26, 000 pounds or less, which was enacted by the Legislature in P.L. 2004, c. 97. The proposed amendments reflect the authorized variations.

Since the readoption of these rules in 2002, the Legislature has amended the enabling legislation twice. P.L. 2004, c. 97 and P.L. 2005, c. 109. The proposed amendments incorporate those legislative changes in the rules to comply with the provisions of N.J.S.A. 39:5B-32 as amended, and will permit the State of New Jersey to continue to enforce the Federal Motor Carrier Safety Regulations. For approximately a decade, the State of New Jersey, through rules promulgated by the Motor Vehicle Commission, has been enforcing Federal regulations governing both motor-carrier safety and the transportation of hazardous materials. These amendments will permit New Jersey to continue these public-safety programs, whose continuation has been directed by the Legislature in N.J.S.A. 39:5B-26 and 39:5B-32.

The Superintendent proposes to amend Appendix A, which lists the Federal regulations that are incorporated by reference in N.J.A.C. 13:60-2.1 and the modifications and revisions of the Federal rules (in those instances where there are modifications or revisions), to incorporate by reference 49 CFR Part 40, and 325, 350, 355, 380, 382, 383, 384, 385, 387, 388, and 390 through 398. The Appendix currently includes 49 CFR Part 390-397.

Because a 60 day comment period has been provided on this notice of proposal, this notice is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

The rules proposed for readoption with amendments impact motor carriers, motor carrier operators, and persons operating commercial motor vehicles in intrastate commerce, in that they will be required to comply with, and be knowledgeable of, current Federal Motor Carrier Safety Regulations as found at 49 CFR 350.341(e) and the Appendices to those Federal regulations as found in the Code of Federal Regulations (currently revised as of October 1, 2006). Adoption of these Federal regulations does not impose any new burden on those operating in intrastate commerce since they are required to comply with most Federal Motor Carrier Regulations. Compliance with the Federal Motor Carrier Safety Regulations will benefit the motor carrier industry and the general public in that all commercial motor vehicles covered by these regulations will be subject to the substantially same uniform rules and regulations concerning safety of equipment, operator requirements, and traffic rules and regulations. It is anticipated that the regulated industry and the public will react favorably to this proposed readoption with amendments.

Economic Impact

It is anticipated that the rules proposed for readoption with amendments will have no additional economic impact on motor carriers, motor carrier operators or persons operating commercial motor vehicles in intrastate commerce. Pursuant to P.L. 1991, c.491, §1, amending N.J.S.A. 39:5B-32, this group was required substantially to comply with the Federal Motor Carrier Safety Regulations. Although Federal law does not absolutely mandate that this group comply with the Federal Motor Carrier Safety Regulations, it does condition New Jersey's participation in the Federal safety-enforcement programs and receipt of Federal aid upon the State's requiring substantial compliance.

Federal Standards Statement

A Federal standards analysis is not required because the rules proposed for readoption with amendments contain standards which are the same as those imposed by Federal law and do not exceed Federal standards. The rules proposed for readoption with amendments incorporate by reference the Federal Motor Carrier Safety Regulations contained in 49 CFR Chapter III as required by N.J.S.A. 39:5B-32. The proposed amendments to the incorporated 49 CFR Part 395 reflect the requirements of N.J.S.A. 39:5B-2, which adopt the variations permitted to states by 49 CFR 350.341 concerning maximum driving hours for vehicles weighing 26, 000 pounds or more not designed to carry 16 or more passengers or hazardous materials and maximum hours for vehicles weighing 26, 000 pounds or less. Federal law requires motor carriers and operators in interstate commerce to comply with Federal Hazardous Material Regulations and Federal Motor Carrier Safety Regulations. Federal law encourages States to require the intrastate industry substantially to comply with these regulations by conditioning States' receipt of Federal aid for participation in the Federal safety-enforcement programs upon the States intrastate industry substantial compliance to Federal regulations.

Jobs Impact

The rules proposed for readoption with amendments should not result in the loss of jobs. The amendment continues safety rules with which the industry is familiar and to which the industry has already adapted.

Agriculture Industry Impact

The rules proposed for readoption with amendments will have no impact on agriculture in the State of New Jersey.

Regulatory Flexibility Analysis

The rules proposed for readoption with amendments will continue to impose reporting, recordkeeping and compliance requirements on motor carriers and their personnel by the Federal Motor Carrier Safety Regulations if they are involved in interstate or intrastate commerce and are operating a vehicle or commercial motor vehicle within the applicable definitions. Motor carriers, motor carrier operators and their personnel and operators of vehicles which transport, in interstate or intrastate commerce, hazardous material(s) in quantities requiring hazardous material(s) placarding or displaying a hazardous material(s) placard will also be subject to reporting, recordkeeping, and

compliance requirements. An undetermined number of the entities affected by the rules proposed for re adoption with amendments may be small businesses, as that term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The rules implement State statutory directives mandating compliance or compatibility with Federal regulations. No differentiation in requirements or exemptions can be afforded such businesses due to the Federally mandated nature of the regulations and the legislative objective to protect the health and safety of the public.

Smart Growth Impact

The rules proposed for re adoption with amendments will not have any impact on the achievement of smart growth or implementation of the State Development and Redevelopment Plan.

Full text of the rules proposed for re adoption may be found in the New Jersey Administrative Code at N.J.A.C. 13:60.

Full text of the proposed amendments follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

SUBCHAPTER 1. GENERAL REQUIREMENTS

13:60-1.3 Definitions and general requirements

(a) (No change)

(b) Throughout this chapter and appendix there are references to Federal rules and regulations pertaining to motor carrier safety, adopted by, or on behalf of, the Secretary or adopted or incorporated, by reference, herein by the Superintendent, pursuant to this chapter and appendix, or the Commissioner, at N.J.A.C. 16:49. For convenience, those Federal rules and regulations and any supplements and amendments thereto may be cited in this chapter and appendix in one or all of the following forms:

1. "Federal Motor Carrier Safety Regulations" as:

i. Code of Federal Regulations (**49 C.F.R. Parts 40, 325, 350, 355, 380, 382, 383, 384, 385, 387, 388, and 390 through 398**), Subchapter B-Federal Motor Carrier Safety Regulations, Chapter III-Federal Highway Administration, Department of Transportation, Title 49;

ii. 49 C.F.R. Parts [390 through 397 (inclusive)] (**49 C.F.R. Parts 40, 325, 350, 355, 380, 382, 383, 384, 385, 387, 388, and 390 through 398.**);

iii. -iv. (No change.)

2. -3. (No change.)

(c)-(g) (No change.)

13:60-1.5 Document availability

(a) Copies of the "Federal Motor Carrier Safety Regulations" and "Appendices to the Federal Motor Carrier Safety Regulations, " as found in the Code of Federal Regulations (**49 C.F.R. Parts 40, 325, 350, 355, 380, 382, 383, 384, 385, 387, 388, and 390 through 398** and 49 C.F.R. Ch. III, Subch. B, App. F and G) and the Federal Register and all supplements and amendments thereto, as adopted and incorporated, by reference, herein, may be purchased from the following sources:

1.-2. (No change.)

(b) Copies of the "Federal Motor Carrier Safety Regulations" and "Appendices to the Federal Motor Carrier Safety Regulations," as found in the Code of Federal Regulations (**49 C.F.R. Parts 40, 325, 350, 355, 380, 382, 383, 384, 385, 387, 388, and 390 through 398**) and 49 C.F.R. Ch. III, Subch. B, App. F and G) and the Federal Register and all supplements and amendments thereto, as adopted and incorporated, by reference, herein, are available for review at the following public libraries:

New Jersey State Library
185 West State Street
Trenton, NJ 08625
(609) 292-6220

Newark Public Library
5 Washington Street
Newark, NJ 07101
(201) 733-7782

Jersey City Public Library
U.S. Government Documents Section
472 Jersey Avenue
Jersey City, NJ 07304
(201) 547-4517

New Brunswick Public Library
60 Livingston Avenue
New Brunswick, NJ 08901
(908) 745-5108

Trenton Public Library
120 Academy Street
Trenton, NJ 08608
(609) 392-7188

Camden County Public Library
Laurel Road
Voorhees, NJ 08043
[(609)] **(856)** 772-1636

Cherry Hill Public Library
1100 Kings Highway, North
Cherry Hill, NJ 08034
[(609)] **(856)** 667-0300

(c) Copies of the "Federal Motor Carrier Safety Regulations" and "Appendices to the Federal Motor Carrier Safety Regulations," as found in the Code of Federal Regulations (49 C.F.R. Parts [390-397] **40, 325, 350, 355, 380, 382, 383, 384, 385, 387, 388, and 390 through 398** and 49 C.F.R. Ch. III, Subch. B, App. F and G) and the Federal Register and all supplements and amendments thereto, as adopted and incorporated, by reference, herein, are available for review, during regular business hours, at:

[Office of Hazardous Materials Transportation,
Compliance and Enforcement
New Jersey Division of State Police
Division Headquarters
River Road, P.O. Box 7068
West Trenton, NJ 08628-0068]

**Transportation Safety Bureau
New Jersey Division of State Police
3925 US Route # 1
Princeton, N.J. 08540**

Regular business hours at this office are 8:30 A.M. to 5:00 P.M. Eastern Time, Monday through Friday. The telephone number is (609) [882-2000, extension 2582 or 2586] **452-2601, extension 5937 or 5938.**

SUBCHAPTER 2. ADOPTION AND INCORPORATION, BY REFERENCE, OF FEDERAL MOTOR CARRIER SAFETY REGULATIONS AND APPENDICES TO FEDERAL MOTOR CARRIER SAFETY REGULATIONS

13:60-2.1 Adoption and incorporation, by reference, Federal Motor Carrier Safety Regulations and Appendices to Federal Motor Carrier Safety Regulations

(a) Except as may be indicated in this chapter and appendix, the Superintendent, pursuant to N.J.S.A. 39:5B-32, hereby adopts and incorporates, by reference:

1. The Federal Motor Carrier Safety Regulations, and all supplements and amendments thereto, adopted as final rule action by the Federal Highway Administration, U.S. Department of Transportation (49 C.F.R., Parts [350 through 397] **40, 325, 350, 355, 380, 382, 383, 384, 385, 387, 388, and 390 through 398**, inclusive); and

2. (No change.)

(b) The Parts and Appendices of the Federal Motor Carrier Safety Regulations and all supplements and amendments thereto, adopted as final rule action by the Federal Administration, United States Department of Transportation, and adopted and incorporated, by reference, herein, by the Superintendent, are summarized below. A more detailed list of the sections in the Parts and Appendices is found in the appendix to this chapter ("Appendix to the Regulations Regarding Motor Carrier Safety Regulations"). Within that list some sections, subparts, or parts may have been modified, revised, amended, made subject to a different effective date, and/or intentionally omitted by the Superintendent. Those sections, subparts, or parts are clearly identified in the text of the appendix to this chapter.

1. Part 40, Procedures for Transportation Workplace Drug and Alcohol Testing Programs.

2. Part 325, Compliance with Interstate Motor Carrier Noise Emission Standards.

3. Part 350, Commercial Motor Carrier Safety Assistance Program.

4. Part 355, Compatibility of State Laws and Regulations Affecting Interstate Motor Carrier Operations.

5. Part 380, Special Training Requirements.

6. Part 382, Controlled Substances and Alcohol Use and Testing.

7. Part 383, Commercial Driver's License Standards; Requirements and Penalties.**8. Part 384, State Compliance with Commercial Driver's License Program.****9. Part 385, Safety Fitness Procedures.****10. Part 387, Minimum Levels of Financial Responsibility for Motor Carriers.****11. Part 388, Cooperative Agreements with States.**

Recodify existing 1.-8. as **12.-19.** (No change in text.)

20. Part 398, Transportation of Migrant Workers.

Recodify existing 9. and 10. as **21. and 22.** (No change in text.)

(c) (No change.)

APPENDIX TO THE REGULATIONS REGARDING
MOTOR CARRIER SAFETY REGULATIONS

Subject to the provisions of N.J.A.C. 13:60-2.1(c), this Appendix to the Regulations Regarded Motor Carrier Safety Regulations lists the adopted and incorporated, by reference, portions of the Federal Motor Carrier Safety Regulations, by Part, Subpart, Section, or Appendix. Parts, Subparts, Sections, or Appendices are listed by letter or number and by title to identify content for the reader. Modifications, revisions, amendments, and/or delays in implementation are stated within the appropriate Part(s), Subpart(s), Section(s), or Appendices. Omitted sections are identified with the notation "(This Section intentionally omitted.)".

CHAPTER III - FEDERAL HIGHWAY ADMINISTRATION DEPARTMENT OF TRANSPORTATION

SUBCHAPTER B - FEDERAL MOTOR CARRIER SAFETY REGULATIONS

PART 40 - PROCEDURES FOR TRANSPORTATION WORKPLACE DRUG AND ALCOHOL TESTING PROGRAMS

Subpart A - Subpart A - Administrative Provisions

§ 40.1 Who does this regulation cover?

§ 40.3 What do the terms used in this regulation mean?

§ 40.5 Who issues authoritative interpretations of this regulation?

§ 40.7 How can you get an exemption from a requirement in this regulation?

Subpart B - Employer Responsibilities

§ 40.11 What are the general responsibilities of employers under this regulation?

§ 40.13 How do DOT drug and alcohol tests relate to non-DOT tests?

§ 40.15 May an employer use a service agent to meet DOT drug and alcohol testing requirements?

§ 40.17 Is an employer responsible for obtaining information from its service agents?

§ 40.19 (Reserved)

§ 40.21 May an employer stand down an employee before the MRO has completed the verification process?

§ 40.23 What actions do employers take after receiving verified test results?

§ 40.25 Must an employer check on the drug and alcohol testing record of employees it is intending to use to perform safety-sensitive duties?

§ 40.26 What form must an employer use to report Management Information System (MIS) data to a DOT agency?

§ 40.27 May an employer require an employee to sign a consent or release in connection with the DOT drug and alcohol testing program?

§ 40.29 Where is other information on employer responsibilities found in this regulation?

Subpart C - Urine Collection Personnel

§ 40.31 Who may collect urine specimens for DOT drug testing?

§ 40.33 What training requirements must a collector meet?

§ 40.35 What information about the DER must employers provide to collectors?

§ 40.37 Where is other information on the role of collectors found in this regulation?

Subpart D - Collection Sites, Forms, Equipment and Supplies Used in DOT Urine Collections

§ 40.41 Where does a urine collection for a DOT drug test take place?

§ 40.43 What steps must operators of collection sites take to protect the security and integrity of urine collections?

§ 40.45 What form is used to document a DOT urine collection?

§ 40.47 May employers use the CCF for non-Federal collections or non-Federal forms for DOT collections?

§ 40.49 What materials are used to collect urine specimens?

§ 40.51 What materials are used to send urine specimens to the laboratory?

Subpart E - Urine Specimen Collections

§ 40.61 What are the preliminary steps in the collection process?

§ 40.63 What steps does the collector take in the collection process before the employee provides a urine specimen?

§ 40.65 What does the collector check for when the employee presents a specimen?

§ 40.67 When and how is a directly observed collection conducted?

§ 40.69 How is a monitored collection conducted?

§ 40.71 How does the collector prepare the specimens?

§ 40.73 How is the collection process completed?

Subpart F - Drug Testing Laboratories

§ 40.81 What laboratories may be used for DOT drug testing?

§ 40.83 How do laboratories process incoming specimens?

§ 40.85 What drugs do laboratories test for?

§ 40.87 What are the cutoff concentrations for initial and confirmation tests?

§ 40.89 What is validity testing, and are laboratories required to conduct it?

§ 40.91 What validity tests must laboratories conduct on primary specimens?

§ 40.93 What criteria do laboratories use to establish that a specimen is dilute or substituted?

§ 40.95 What criteria do laboratories use to establish that a specimen is adulterated?

§ 40.97 What do laboratories report and how do they report it?

§ 40.99 How long does the laboratory retain specimens after testing?

§ 40.101 What relationship may a laboratory have with an MRO?

§ 40.103 What are the requirements for submitting blind specimens to a laboratory?

§ 40.105 What happens if the laboratory reports a result different from that expected for a blind specimen?

§ 40.107 Who may inspect laboratories?

§ 40.109 What documentation must the laboratory keep, and for how long?

§ 40.111 When and how must a laboratory disclose statistical summaries and other information it maintains?

§ 40.113 Where is other information concerning laboratories found in this regulation?

Subpart G - Medical Review Officers and the Verification Process

§ 40.121 Who is qualified to act as an MRO?

§ 40.123 What are the MRO's responsibilities in the DOT drug testing program?

§ 40.125 What relationship may an MRO have with a laboratory?

§ 40.127 What are the MRO's functions in reviewing negative test results?

§ 40.129 What are the MRO's functions in reviewing laboratory confirmed positive, adulterated, substituted, or invalid drug test results?

§ 40.131 How does the MRO or DER notify an employee of the verification process after a confirmed positive, adulterated, substituted, or invalid test result?

§ 40.133 Under what circumstances may the MRO verify a test as positive, or as a refusal to test because of adulteration or substitution, without interviewing the employee?

§ 40.135 What does the MRO tell the employee at the beginning of the verification interview?

§ 40.137 On what basis does the MRO verify test results involving marijuana, cocaine, amphetamines, or PCP?

§ 40.139 On what basis does the MRO verify test results involving opiates?

§ 40.141 How does the MRO obtain information for the verification decision?

§ 40.143 (Reserved)

§ 40.145 On what basis does the MRO verify test results involving adulteration or substitution?

§ 40.147 (Reserved)

§ 40.149 May the MRO change a verified positive drug test result or refusal to test?

§ 40.151 What are MROs prohibited from doing as part of the verification process?

§ 40.153 How does the MRO notify employees of their right to a test of the split specimen?

§ 40.155 What does the MRO do when a negative or positive test result is also dilute?

§ 40.157 (Reserved)

§ 40.159 What does the MRO do when a drug test result is invalid?

§ 40.161 What does the MRO do when a drug test specimen is rejected for testing?

§ 40.163 How does the MRO report drug test results?

§ 40.165 To whom does the MRO transmit reports of drug test results?

§ 40.167 How are MRO reports of drug results transmitted to the employer?

§ 40.169 Where is other information concerning the role of MROs and the verification process found in this regulation?

Subpart H - Split Specimen Tests

§ 40.171 How does an employee request a test of a split specimen?

§ 40.173 Who is responsible for paying for the test of a split specimen?

§ 40.175 What steps does the first laboratory take with a split specimen?

§ 40.177 What does the second laboratory do with the split specimen when it is tested to reconfirm the presence of a drug or drug metabolite?

§ 40.179 What does the second laboratory do with the split specimen when it is tested to reconfirm an adulterated test result?

§ 40.181 What does the second laboratory do with the split specimen when it is tested to reconfirm a substituted test result?

§ 40.183 What information do laboratories report to MROs regarding split specimen results?

§ 40.185 Through what methods and to whom must a laboratory report split specimen results?

§ 40.187 What does the MRO do with split specimen laboratory results?

§ 40.189 Where is other information concerning split specimens found in this regulation?

Subpart I - Problems in Drug Tests

§ 40.191 What is a refusal to take a DOT drug test, and what are the consequences?

§ 40.193 What happens when an employee does not provide a sufficient amount of urine for a drug test?

§ 40.195 What happens when an individual is unable to provide a sufficient amount of urine for a pre-employment follow-up or return-to-duty test because of a permanent or long-term medical condition?

§ 40.197 What happens when an employer receives a report of a dilute specimen?

§ 40.199 What problems always cause a drug test to be cancelled?

§ 40.201 What problems always cause a drug test to be cancelled and may result in a requirement for another collection?

§ 40.203 What problems cause a drug test to be cancelled unless they are corrected?

§ 40.205 How are drug test problems corrected?

§ 40.207 What is the effect of a cancelled drug test?

§ 40.208 What problem requires corrective action but does not result in the cancellation of a test?

§ 40.209 What procedural problems do not result in the cancellation of a test and do not require corrective action?

Subpart J - Alcohol Testing Personnel

§ 40.211 Who conducts DOT alcohol tests?

§ 40.213 What training requirements must STTs and BATs meet?

§ 40.215 What information about the DER do employers have to provide to BATs and STTs?

§ 40.217 Where is other information on the role of STTs and BATs found in this regulation?

Subpart K - Testing Sites, Forms, Equipment and Supplies Used in Alcohol Testing

§ 40.221 Where does an alcohol test take place?

§ 40.223 What steps must be taken to protect the security of alcohol testing sites?

§ 40.225 What form is used for an alcohol test?

§ 40.227 May employers use the ATF for non-DOT tests, or non-DOT forms for DOT tests?

§ 40.229 What devices are used to conduct alcohol screening tests?

§ 40.231 What devices are used to conduct alcohol confirmation tests?

§ 40.233 What are the requirements for proper use and care of EBTs?

§ 40.235 What are the requirements for proper use and care of ASDs?

Subpart L - Alcohol Screening Tests

§ 40.241 What are the first steps in any alcohol screening test?

§ 40.243 What is the procedure for an alcohol screening test using an EBT or non-evidential breath ASD?

§ 40.245 What is the procedure for an alcohol screening test using a saliva ASD or a breath tube ASD?

§ 40.247 What procedures does the BAT or STT follow after a screening test result?

Subpart M - Alcohol Confirmation Tests

§ 40.251 What are the first steps in an alcohol confirmation test?

§ 40.253 What are the procedures for conducting an alcohol confirmation test?

§ 40.255 What happens next after the alcohol confirmation test result?

Subpart N - Problems in Alcohol Testing

§ 40.261 What is a refusal to take an alcohol tests and what are the consequences?

§ 40.263 What happens when an employee is unable to provide a sufficient amount of saliva for an alcohol screening test?

§ 40.265 What happens when an employee is unable to provide a sufficient amount of breath for an alcohol test?

§ 40.267 What problems always cause an alcohol test to be cancelled?

§ 40.269 What problems cause an alcohol test to be cancelled unless they are corrected?

§ 40.271 How are alcohol testing problems corrected?

§ 40.273 What is the effect of a cancelled alcohol test?

§ 40.275 What is the effect of procedural problems that are not sufficient to cancel an alcohol test?

§ 40.277 Are alcohol tests other than saliva or breath permitted under these regulations?

Subpart O - Substance Abuse Professionals and the Return-to-Duty Process

§ 40.281 Who is qualified to act as a SAP?

§ 40.283 How does a certification organization obtain recognition for its members as SAPs?

§ 40.285 When is a SAP evaluation required?

§ 40.287 What information is an employer required to provide concerning SAP services to an employee who has a DOT drug and alcohol regulation violation?

§ 40.289 Are employers required to provide SAP and treatment services to employees?

§ 40.291 What is the role of the SAP in the evaluation, referral, and treatment process of an employee who has violated DOT agency drug and alcohol testing regulations?

§ 40.293 What is the SAP's function in conducting the initial evaluation of an employee?

§ 40.295 May employees or employers seek a second SAP evaluation if they disagree with the first SAP's recommendations?

§ 40.297 Does anyone have the authority to change a SAP's initial evaluation?

§ 40.299 What is the SAP's role and what are the limits on a SAP's discretion in referring employees for

education and treatment?

§ 40.301 What is the SAP's function in the follow-up evaluation of an employee?

§ 40.303 What happens if the SAP believes the employee needs additional treatment, aftercare, or support group services even after the employee returns to safety-sensitive duties?

§ 40.305 How does the return-to-duty process conclude?

§ 40.307 What is the SAP's function in prescribing the employee's follow-up tests?

§ 40.309 What are the employer's responsibilities with respect to the SAP's directions for follow-up tests?

§ 40.311 What are the requirements concerning SAP reports?

§ 40.313 Where is other information on SAP functions and the return-to-duty process found in this regulation?

Subpart P - Confidentiality and Release of Information

§ 40.321 What is the general confidentiality rule for drug and alcohol test information?

§ 40.323 May program participants release drug or alcohol test information in connection with legal proceedings?

§ 40.325 (Reserved)

§ 40.327 When must the MRO report medical information gathered in the verification process?

§ 40.329 What information must laboratories, MROs, and other service agents release to employees?

§ 40.331 To what additional parties must employers and service agents release information?

§ 40.333 What records must employers keep?

Subpart Q - Roles and Responsibilities of Service Agents

§ 40.341 Must service agents comply with DOT drug and alcohol testing requirements?

§ 40.343 What tasks may a service agent perform for an employer?

§ 40.345 In what circumstances may a C/TPA act as an intermediary in the transmission of drug and alcohol testing information to employers?

§ 40.347 What functions may C/TPAs perform with respect to administering testing?

§ 40.349 What records may a service agent receive and maintain?

§ 40.351 What confidentiality requirements apply to service agents?

§ 40.353 What principles govern the interaction between MROs and other service agents?

§ 40.355 What limitations apply to the activities of service agents?

Subpart R - Public Interest Exclusions

§ 40.361 What is the purpose of a public interest exclusion (PIE)?

§ 40.363 On what basis may the Department issue a PIE?

§ 40.365 What is the Department's policy concerning starting a PIE proceeding?

§ 40.367 Who initiates a PIE proceeding?

§ 40.369 What is the discretion of an initiating official in starting a PIE proceeding?

§ 40.371 On what information does an initiating official rely in deciding whether to start a PIE proceeding?

§ 40.373 Before starting a PIE proceeding, does the initiating official give the service agent an opportunity to correct problems?

§ 40.375 How does the initiating official start a PIE proceeding?

§ 40.377 Who decides whether to issue a PIE?

§ 40.379 How do you contest the issuance of a PIE?

§ 40.381 What information do you present to contest the proposed issuance of a PIE?

§ 40.383 What procedures apply if you contest the issuance of a PIE?

§ 40.385 Who bears the burden of proof in a PIE proceeding?

§ 40.387 What matters does the Director decide concerning a proposed PIE?

§ 40.389 What factors may the Director consider?

§ 40.391 What is the scope of a PIE?

§ 40.393 How long does a PIE stay in effect?

§ 40.395 Can you settle a PIE proceeding?

§ 40.397 When does the Director make a PIE decision?

§ 40.399 How does the Department notify service agents of its decision?

§ 40.401 How does the Department notify employers and the public about a PIE?

§ 40.403 Must a service agent notify its clients when the Department issues a PIE?

§ 40.405 May the Federal courts review PIE decisions?

§ 40.407 May a service agent ask to have a PIE reduced or terminated?

§ 40.409 What does the issuance of a PIE mean to transportation employers?

§ 40.411 What is the role of the DOT Inspector General's office?

§ 40.413 How are notices sent to service agents?

Appendix A to Part 40--DOT Standards for Urine Collection Kits

Appendix B to Part 40--DOT Drug Testing Semi-Annual Laboratory Report

Appendix C to Part 40 (Reserved)

Appendix D to Part 40--Report Format: Split Specimen Failure to Reconfirm

Appendix E to Part 40--SAP Equivalency Requirements for Certification Organizations

Appendix F to Part 40--Drug and Alcohol Testing Information that C/TPAs May Transmit to Employers

Appendix G to Part 40--Alcohol Testing Form

Appendix H to Part 40--DOT Drug and Alcohol Testing Management Information System (MIS) Data Collection Form

PART 325 - COMPLIANCE WITH INTERSTATE MOTOR CARRIER NOISE EMISSION STANDARDS

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325.3 - Effective date.

325.5 - Definitions.

325.7 - Allowable noise levels.

325.9 - Measurement tolerances.

Subpart B - Administrative Provisions

325.11 - Issuance, amendment, and revocation of the rules in this part.

325.13 - Inspection and examination of motor vehicles.

Subpart C - Instrumentation

325.21 - Scope of the rules in this subpart.

325.23 - Type of measurement systems which may be used.

325.25 - Calibration of measurement systems.

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Subpart D - Measurement of Noise Emissions: Highway Operations

325.31 - Scope of the rules in this subpart.

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325.51 Scope of the rules in this subpart.

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325.71 - Scope of the rules in this subpart.

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PART 350 - COMMERCIAL MOTOR CARRIER SAFETY ASSISTANCE PROGRAM

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350.103 - What is the purpose of this part?

350.105 - What definitions are used in this part? P funding?

350.109 - What are the national program elements?

350.111 - What constitutes "traffic enforcement" for the purpose of the MCSAP?

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350.205 - How and when does a State apply for MCSAP funding?

350.207 - What response does a State receive to its CVSP submission?

350.209 - How does a State demonstrate that it satisfies the conditions for Basic Program funding?

350.211 - What is the format of the certification required by Sec. 350.209?

350.213 - What must a State CVSP include?

350.215 - What are the consequences for a State that fails to perform according to an approved CVSP or otherwise fails to meet the conditions of this part?

350.217 - What are the consequences for a State with a CDL program not in substantial compliance with 49 CFR part 384, subpart B?

Subpart C - Funding

350.301 - What level of effort must a State maintain to qualify for MCSAP funding?

350.303 - What are the State and Federal shares of expenses incurred under an approved CVSP?

350.305 - Are U.S. Territories subject to the matching funds requirement?

350.307 - How long are MCSAP funds available to a State?

350.309 - What activities are eligible for reimbursement under the MCSAP?

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350.313 - How are MCSAP funds allocated?

350.315 - How may Basic Program Funds be used?

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350.319 - What are permissible uses of High Priority Activity Funds?

350.321 - What are permissible uses of Border Activity Funds?

350.323 - What criteria are used in the Basic Program Funds allocation?

350.327 - How may States qualify for Incentive Funds?

350.329 - How may a State or a local agency qualify for High Priority or Border Activity Funds?

350.331 - How does a State ensure its laws and regulations are compatible with the FMCSRs and HMRs?

350.333 - What are the guidelines for the compatibility review? or regulations incompatible with the Federal regulations?

350.337 - How may State laws and regulations governing motor carriers, CMV drivers, and CMVs in interstate commerce differ from the FMCSRs and still be considered compatible?

350.339 - What are tolerance guidelines?

350.341 - What specific variances from the FMCSRs are allowed for State laws and regulations governing motor carriers, CMV drivers, and CMVs engaged in?

350.343 - How may a State obtain a new exemption for State laws and regulations for a specific industry involved in intrastate commerce?

350.345 - How does a State apply for additional variances from the FMCSRs?

PART 355 - COMPATIBILITY OF STATE LAWS AND REGULATIONS AFFECTING INTERSTATE MOTOR CARRIER OPERATIONS

355.1 - Purpose.

355.3 - Applicability.

355.5 - Definitions.

355.21 - Regulatory review.

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Subpart A - Longer Combination Vehicle (LCV) Driver-Training and Driver-Instructor Requirements-General

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380.103 - Applicability.

380.105 - Definitions.

380.107 - General requirements.

380.109 - Driver testing.

380.111 - Substitute for driver training.

380.113 - Employer responsibilities.

Subpart B - LCV Driver-Training Program

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380.203 - LCV Doubles.

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Subpart C - LCV Driver-Instructor Requirements

380.301 - General requirements.

380.303 - Substitute for instructor requirements.

380.305 - Employer responsibilities.

Subpart D - Driver-Training Certification

380.401 - Certification document.

Subpart E - Entry-Level Driver Training Requirements

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385.103 - Safety monitoring system.

385.105 - Expedited action.

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385.109 - The compliance review.

385.111 - Suspension and revocation of Mexico-domiciled carrier registration.

385.113 - Administrative review.

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385.303 - How does a motor carrier register with the FMCSA?

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385.311 - What will the safety audit consist of?

385.313 - Who will conduct the safety audit?

385.315 - Where will the safety audit be conducted?

385.317 - Will a safety audit result in a safety fitness determination by the FMCSA?

385.319 - What happens after the completion of the safety audit?

385.321 - What failures of safety management practices disclosed by the safety audit will result in a notice to a new entrant that its DOT new entrant registration will be revoked?

385.323 - May the FMCSA extend the period under 385.319(c) for a new entrant to take corrective action to remedy its safety management practices?

385.325 - What happens after a new entrant has been notified under 385.319(c) to take corrective action to remedy its safety management practices?

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385.329 - May a new entrant that has had its U.S. DOT registration revoked and its operations placed out of service (OOS) reapply?

385.331 - What happens if a new entrant operates a CMV after having been issued an order placing its interstate operations out of service (OOS)?

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385.401 - What is the purpose and scope of this subpart?

385.402 - What definitions are used in this subpart?

385.403 - Who must hold a safety permit?

385.405 - How does a motor carrier apply for a safety permit?

385.407 - What conditions must a motor carrier satisfy for FMCSA to issue a safety permit?

385.409 - When may a temporary safety permit be issued to a motor carrier?

385.411 - Must a motor carrier obtain a safety permit if it has a State permit?

385.413 - What happens if a motor carrier receives a proposed safety rating that is less than Satisfactory?

385.415 - What operational requirements apply to the transportation of a hazardous material for which a permit is required?

385.417 - Is a motor carrier's safety permit number available to others?

385.419 - How long is a safety permit effective?

385.421 - Under what circumstances will a safety permit be subject to revocation or suspension by FMCSA?

385.423 - Does a motor carrier have a right to an administrative review of a denial, suspension, or revocation of a safety permit?

Appendix A - Explanation of Safety Audit Evaluation Criteria

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PART 387 - MINIMUM LEVELS OF FINANCIAL RESPONSIBILITY FOR MOTOR CARRIERS

Subpart A - Motor Carriers of Property

387.1 - Purpose and scope.

387.3 - Applicability.

387.5 - Definitions.

387.7 - Financial responsibility required.

387.9 - Financial responsibility, minimum levels.

387.11 - State authority and designation of agent.

387.13 - Fiduciaries.

387.15 - Forms.

387.17 - Violation and penalty.

Subpart B - Motor Carriers of Passengers

387.25 - Purpose and scope.

387.27 - Applicability.

387.29 - Definitions.

387.31 - Financial responsibility required.

387.33 - Financial responsibility, minimum levels.

387.35 - State authority and designation of agent.

387.37 - Fiduciaries.

387.39 - Forms.

387.41 - Violation and penalty.

Subpart C - Surety Bonds and Policies of Insurance for Motor Carriers and Property Brokers

387.301 - Surety bond, certificate of insurance, or other securities.

387.303 - Security for the protection of the public: Minimum limits.

387.305 - Combination vehicles.

387.307 - Property broker surety bond or trust fund.

387.309 - Qualifications as a self-insurer and other securities or agreements.

387.311 - Bonds and certificates of insurance.

387.313 - Forms and procedures.

387.315 - Insurance and surety companies.

387.317 - Refusal to accept, or revocation by the FMCSA of surety bonds, etc.

387.319 - Fiduciaries.

387.321 - Operations in foreign commerce.

387.323 - Electronic filing of surety bonds, trust fund agreements, certificates of insurance and cancellations.

Subpart D - Surety Bonds and Policies of Insurance for Freight Forwarders

387.401 - Definitions.

387.403 - General requirements.

387.405 - Limits of liability.

387.407 - Surety bonds and certificates of insurance.

387.409 - Insurance and surety companies.

387.411 - Qualifications as a self-insurer and other securities or agreements.

387.413 - Forms and procedure.

387.415 - Acceptance and revocation by the FMCSA.

387.417 - Fiduciaries.

387.419 - Electronic filing of surety bonds, certificates of insurance and cancellations.

PART 388 - COOPERATIVE AGREEMENTS WITH STATES

388.1 - Eligibility.

388.2 - Extent of acceptance.

388.3 - Cancellation.

388.4 - Exchange of information.

388.5 - Requests for assistance.

388.6 - Joint investigation, inspection, or examination.

388.7 - Joint administrative activities related to enforcement of safety and hazardous materials laws and regulations.

388.8 - Supplemental agreements.

PART 390 - 391 (No change.)

Part 392 DRIVING OF COMMERCIAL MOTOR VEHICLES

Subpart A - General

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Section 392.9a - [(Removed and Reserved)] **Operating Authority**

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PART 393 PARTS AND ACCESSORIES NECESSARY FOR SAFE OPERATION

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Subpart B - Lighting Devices, Reflectors, and Electrical Equipment

...

Section 393.27 [Wiring specifications.] **(Removed and Reserved)**

Section 393.28 [Wiring to be protected.] **Wiring Systems.**

Section 393.29 [Grounds.] **(Removed and Reserved)**

Section 393.30 Battery installation.

Section 393.31 [Overload protective devices.] **(Removed and Reserved)**

Section 393.32 [Detachable electrical connections] **(Removed and Reserved)**

Section 393.33 [Wiring, installation.] **(Removed and Reserved)**

Subpart C - Brakes

...

Section 393.46 [Brake tubing and hose connections.] **(Removed and Reserved)**

Section 393.47 [Brake lining.] **Brake actuators, slack adjusters, linings/pads and drum rotors.**

...

Subpart E - Fuel Systems

...

Section 393.68 Compressed natural gas fuel containers.

...

Subpart G - Miscellaneous Part and Accessories

...

Section 393.94 Vehicle interior noise levels in power units.

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Subpart I - Protection Against Shifting or Falling Cargo

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Section 393.108 Working load limit of tie downs.

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PART 394 (No Change)

PART 395 HOURS OF SERVICE OF DRIVERS

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Section 395.3 - Maximum driving time.

(Section 395.3 is modified to state the following:)

The provision of Section 395.3 does not apply to intrastate drivers of commercial motor vehicles weighing 26, 001 pounds or more operating in intrastate commerce provided that these vehicles are not designed to transport 16 or more passengers, including the driver, or used in the transportation of hazardous materials and required to be placarded in accordance with 49 C.F.R. §§172.500 et seq., or display a hazardous materials placard Intrastate drivers hours of service limitations are found at 49 C.F.R. 350.341(e).

Section 395.5 - Maximum driving time for passenger-carrying vehicles.

(Section 395.5 is added to state the following)

Subject to the exceptions and exemptions in 395.1:

(a) No motor carrier shall permit or require any driver used by it to drive a passenger-carrying commercial motor vehicle, nor shall any such driver drive a passenger-carrying commercial motor vehicle:

- 1. More than 10 hours following eight consecutive hours off duty; or
- 2. For any period after having been on duty 15 hours following eight consecutive hours off duty.

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

- 1. Having been on duty 60 hours in any seven consecutive days if the employing motor carrier does not operate commercial motor vehicles every day of the week; or
- 2. Having been on duty 70 hours in any period of eight consecutive days if the employing motor carrier operates commercial motor vehicles every day of the week.

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PARTS 396 and 397 (No change.)

PART 398 - TRANSPORTATION OF MIGRANT WORKERS

Section 398.1 - Definitions.

Section 398.3 - Applicability.

Section 398.4 - Qualifications of drivers or operators.

Section 398.4 - Driving of motor vehicles.

Section 398.5 - Parts and accessories necessary for safe operation.

Section 398.6 - Hours of service of drivers; maximum driving time.

Section 398.7 - Inspection and maintenance of motor vehicles.

Section 398.8 - Administration inspection of motor vehicles in operation.

APPENDIX F TO SUBCHAPTER B - COMMERCIAL ZONES (No change.)

APPENDIX G TO SUBCHAPTER B - MINIMUM PERIODIC INSPECTION STANDARDS (No Change)