

Approved 2-13-90  
Date

MINUTES OF THE House COMMITTEE ON Transportation

The meeting was called to order by Rex Crowell at  
Chairperson

1:30 ~~am~~/p.m. on February 12, 1990 in room 519-S of the Capitol.

All members were present except:

Representatives Shore and Lucas, excused.

Committee staff present:

Bruce Kinzie, Revisor of Statutes  
Hank Avila, Legislative Research  
Donna Mulligan, Committee Secretary

Conferees appearing before the committee:

Rep. George Dean  
Ms. Pam Sommerville, Kansas Department of Transportation  
Mr. Ernie Mosher, Kansas League of Municipalities  
Rep. Marvin Smith  
Rep. Delbert Gross

The meeting was called to order by Chairman Crowell and the first order of business was a hearing on HB-2864 concerning withholding special city and county highway funds from certain cities and counties.

Representative George Dean, sponsor of the bill, briefed the Committee on its contents.

Ms. Pam Sommerville, Kansas Department of Transportation, testified in opposition to HB-2864. (See Attachment 1)

Mr. Ernie Mosher, League of Kansas Municipalities, testified on HB-2864 and said the League has no position on the bill.

The hearing on HB-2864 ended.

The next order of business was a hearing on HB-2865 providing certain waivers concerning the qualifications of school bus drivers.

Representative Smith, sponsor of the bill, briefed the Committee on HB-2865. (See Attachment 2)

Ms. Pam Sommerville, Kansas Department of Transportation, testified in support of HB-2865. (See Attachment 3 and 4)

Discussion and questioning by Committee members followed Ms. Sommerville's remarks.

The hearing on HB-2865 ended.

The next order of business was a hearing on HB-2735 concerning trip permits.

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Transportation,  
room 519S Statehouse, at 1:30 ~~am~~ p.m. on February 12, 1990


Representative Delbert Gross, sponsor of HB-2735 briefed the Committee on its contents.

In response to a question by Chairman Crowell, Mr. Mark Wettig, Kansas Department of Revenue, said they have no objection to HB-2735.

The hearing on HB-2735 ended.

The minutes of the House Transportation Committee meeting held on February 8, 1990, were approved as written.

The meeting was adjourned at 2:00 p.m.

  
Rex Crowell, Chairman



STATE OF KANSAS

KANSAS DEPARTMENT OF TRANSPORTATION  
*Docking State Office Building*  
Topeka 66612-1568  
(913) 296-3566

Horace B. Edwards  
*Secretary of Transportation*

Mike Hayden  
*Governor of Kansas*

February 12, 1990

MEMORANDUM TO: House Transportation Committee  
REGARDING: House Bill 2864  
FROM: Kansas Department of Transportation

Mr. Chairman and members of the committee. House Bill 2864, as drafted, would require the Secretary of Transportation to certify to the state treasurer those cities and counties which are not in compliance with 23 U.S.C. 154 and mandates the state treasurer to withhold ten percent of the funds payable to local units under the provisions of K.S.A. 79-3425(c).

Language contained in the bill implies that cities and counties have full control and responsibility for the speed of motorists on all Federal-Aid highways within their boundaries. However there are locations that are

Att. 1

within the enforcement jurisdiction of the city, county, and the state highway patrol. The provisions contained in the bill would be applicable only to those highways with a posted speed limit of 55 mph or greater.

Currently, the agency monitors 38 locations to report a statistical sample to the Federal Highway Administration. Twenty-two of these locations are monitored quarterly, and the remaining sixteen are monitored annually. The sample locations are on paved roads both on the state highway system, and on county roads where the speed limit is 55 mph. The Federal Highway Administration approved the number and location of the sample sections. It should be noted also that the intent of the language in HB 2864 goes far beyond the current federal requirements.

The approximate cost to monitor the existing 38 sample sites is \$25,000 per year. A complete analysis of an appropriate statistical sample number would be necessary to ascertain the increased fiscal impact to the agency. Enactment of House Bill 2864 would increase the Department's operating costs and require additional staff to develop, accumulate and analyze information which may never be needed.

To date, the Department has never lost federal funds due to non-compliance with 23 U.S.C. 154. Therefore, the Kansas Department of Transportation does not support the legislation as drafted.

Marvin S.

STATE OF KANSAS

MARVIN E. SMITH  
REPRESENTATIVE, FIFTIETH DISTRICT  
SHAWNEE AND JACKSON COUNTIES  
123 N.E. 82ND STREET  
TOPEKA, KANSAS 66617-2209



TOPEKA

HOUSE OF  
REPRESENTATIVES

February 12, 1990

COMMITTEE ASSIGNMENTS  
MEMBER: EDUCATION  
TAXATION  
TRANSPORTATION

HOUSE TRANSPORTATION COMMITTEE

HOUSE BILL 2865

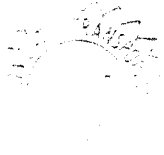
Mr. Chairman and Members:

Last fall a teacher in one of the secondary schools in the 50th District contacted me concerning the response his doctor gave him after his physical examination, "You will not be able to have your license apply after January 1991." I contacted Hank Avila to research this concern.

The teacher-bus driver for his Vo Ag-FFA field trips lost one eye in an accident in 1969. He has passed his biennial exams successfully, his vision okay 140°, but I.C.C. has affected his future renewal. By not being able to drive a bus with over 16 passengers, it will be an inconvenience to the teacher and will result in an increase in cost to the school district to provide a driver for field trips, judging contests and conventions. This teacher has never had any trouble in driving.

Att. 2

STATE OF KANSAS



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KANSAS DEPARTMENT OF TRANSPORTATION

*Docking State Office Building  
Topeka 66612-1568  
(913) 296-3566*

Horace B. Edwards  
*Secretary of Transportation*

Mike Hayden  
*Governor of Kansas*

February 12, 1990

MEMORANDUM TO: House Transportation Committee  
FROM: Kansas Department of Transportation  
RE: H.B. 2865 as Introduced - Qualifications  
of School Bus Drivers

House Bill 2865 would clarify legislative intent concerning whether the Secretary of Transportation should issue a waiver for the physical requirements of a school bus driver. The agency concurs that, where possible, efforts should be made to accommodate the handicapped.

K.S.A. 8-2009 authorizes the Secretary of Transportation to adopt rules and regulations related to the design and operation of school buses. The Secretary has done this. For example, K.A.R. 36-13-32 establishes school bus driver qualifications and duties. One section of the regulation relates to requirements concerning driving and police records. Part of the section provides a method for the Secretary to issue a wavier. Latter sections relate to physical requirements and the use of illegal drugs and



liquor; however, the Secretary has elected not to provide a method for issuance of a waiver for these requirements. H.B. 2865 would establish a procedure for waiving the physical requirements in the regulation.

The physical requirements for school bus drivers are very similar to the requirements established by the Kansas Corporation Commission for Motor Carriers and the Federal Motor Carrier Safety Regulations. Both the Kansas Corporation Commission and the federal government provide a process for waivers. K.A.R. 82-4-6d prevents the Corporation Commission from issuing a waiver for a driver of a vehicle transporting passengers. The Federal Highway Administration is limited by its regulations to considering a waiver only in certain cases, such as the loss or impairment of a limb.

If the Kansas Legislature directs the Secretary of Transportation to establish a procedure to allow a physical requirement to be waived, the Secretary will establish a process that meets the need of accommodating the handicapped. It will also be necessary that the process assures the safety of both the students on the bus and the traveling public and the procedure is consistent with the new commercial driver license program and the Motor Carrier Safety Assistance Program.

It is cautioned that even with the passage of H.B. 2865, the issuance of a waiver will be done only in those cases where it is clear that the safety of the children is protected.

#### Attachments (2)

1. Kansas School Transportation Regulations
2. Federal Highway Administration: Sec. 391 - Qualification of Drivers

added to the printed matter common to all such forms, but an identified specimen of such form shall be on the film for reference.

(4) Film used for photographing copies shall be of permanent record type meeting in all respects the minimum specifications of the National Bureau of Standards, and all processes recommended by the manufacturer shall be observed to protect it from deterioration or accidental destruction.

(5) Each roll of film include a microfilm of a certificate or certificates stating that the photographs are direct and facsimile reproductions of the original records. Such certificate or certificates shall be executed by a person or persons having personal knowledge of the material covered thereby.

[41 FR 34869, Aug. 18, 1976]

## PART 391—QUALIFICATIONS OF DRIVERS

### Subpart A—General

#### Sec.

- 391.1 Scope of the rules in this part; additional qualifications; duties of carrier-drivers.
- 391.2 General exemptions.
- 391.3 Definitions.
- 391.5 Familiarity with rules.
- 391.7 Aiding or abetting violations.

### Subpart B—Qualification and Disqualification of Drivers

- 391.11 Qualifications of drivers.
- 391.15 Disqualification of drivers.

### Subpart C—Background and Character

- 391.21 Application for employment.
- 391.23 Investigation and inquiries.
- 391.25 Annual review of driving record.
- 391.27 Record of violations.

### Subpart D—Examinations and Tests

- 391.31 Road test.
- 391.33 Equivalent of road test.
- 391.35 Written examination.
- 391.37 Equivalent of written examination.

### Subpart E—Physical Qualifications and Examinations

- 391.41 Physical qualifications for drivers.
- 391.43 Medical examination; certificate of physical examination.

#### Sec.

- 391.45 Persons who must be medically examined and certified.
- 391.47 Resolution of conflicts of medical evaluation.
- 391.49 Waiver of certain physical defects.

### Subpart F—Files and Records

- 391.51 Driver qualification files.

### Subpart G—Limited Exemptions

- 391.61 Drivers who were regularly employed before January 1, 1971.
- 391.62 Drivers of lightweight vehicles.
- 391.63 Intermittent, casual, or occasional drivers.
- 391.65 Drivers furnished by other motor carriers.
- 391.67 Drivers of articulated (combination) farm vehicles.
- 391.69 Drivers operating in Hawaii.
- 391.71 Intrastate drivers of vehicles transporting combustible liquids.

AUTHORITY: 49 U.S.C. 3102; 49 CFR 1.48 and 301.60.

SOURCE: 35 FR 6460, Apr. 22, 1970, unless otherwise noted.

EDITORIAL NOTE: For nomenclature changes to Part 391, see 39 FR 32581, Sept. 9, 1974.

### Subpart A—General

- § 391.1 Scope of the rules in this part; additional qualifications; duties of carrier-drivers.

(a) The rules in this part establish minimum qualifications for persons who drive motor vehicles as, for, or on behalf of motor carriers. The rules in this part also establish minimum duties of motor carriers with respect to the qualifications of their drivers.

(b) The rules in this part, and in other parts of this subchapter, do not prevent a motor carrier from imposing more stringent or additional qualifications, requirements, examinations, or certificates than are imposed by those rules.

(c) A motor carrier who employs himself as a driver must comply with both the rules in this part that apply to motor carriers and the rules in this part that apply to drivers.

- § 391.2 General exemptions.

(a) *Intracity operations.* The rules in this part do not apply to a driver

who is engaged in exempt intracity operations as defined in § 390.16 of this chapter.

(b) *Passenger car operations.* The rules in this part do not apply to a driver who drives only a motor vehicle that—

(1) Is a passenger-carrying vehicle built on a passenger car chassis with a seating capacity of 10 or less persons, including the driver; and

(2) Is not transporting passengers for hire; and

(3) Is not transporting hazardous materials of a type or quantity that requires the vehicle to be marked or placarded in accordance with § 177.823 of this title.

(c) *Certain farm vehicle drivers.* The rules in this part do not apply to a farm vehicle driver except a farm vehicle driver who drives an articulated (combination) motor vehicle that has a gross weight, including its load of more than 10,000 pounds. (For limited exemptions for farm vehicle drivers of heavier articulated vehicles see § 391.67.)

(d) *Farm custom operations.* The rules in this part do not apply to a driver who drives a motor vehicle controlled and operated by a person engaged in custom-harvesting operations, if the vehicle is used to—

(1) Transport farm machinery, supplies, or both, to or from a farm for custom-harvesting operations on a farm; or

(2) Transport custom-harvested crops to storage or market.

(e) *Apiarian industries.* The rules in this part do not apply to a driver who is operating a motor vehicle controlled and operated by a beekeeper engaged in the seasonal transportation of bees.

(f) *Lightweight mail truck drivers.* The rules in this part do not apply to a driver who drives only a motor vehicle that—

(1) Is used exclusively to transport mail under contract with the U.S. Postal Service; and

(2) Has a manufacturer's gross vehicle weight rating of 10,000 pounds or less.

[36 FR 19, Dec. 22, 1971, as amended at 37 FR 1, Dec. 8, 1972]

### § 391.3 Definitions.

(a) The term "motor carrier" includes a motor carrier and the agents, officers, representatives, and employees of a motor carrier who are responsible for the hiring, supervision, training, assignment, or dispatching of drivers.

(b) The term "Director" means the Director of the Bureau of Motor Carrier Safety.

(c) A motor carrier "employs" a person as a driver within the meaning of this part whenever it requires or permits that person to drive a motor vehicle (whether or not the vehicle is owned by the motor carrier) in furtherance of the business of the motor carrier.

(d) The term "farm vehicle driver" means a person who drives only a motor vehicle that is—

(1) Controlled and operated by a farmer; and

(2) Being used to transport either—;

(i) Agricultural products; or

(ii) Farm machinery, farm supplies, or both, to or from a farm; and

(3) Not being used in the operations of a common or contract carrier; and

(4) Not carrying hazardous materials of a type or quantity that requires the vehicle to be marked or placarded in accordance with § 177.823 of this title; and

(5) Either—

(i) A vehicle having a gross weight, including its load, of 10,000 pounds or less; or

(ii) A vehicle being used within 150 miles of the farmer's farm.

[35 FR 6460, Apr. 22, 1970, as amended at 36 FR 24219, Dec. 22, 1971]

### § 391.5 Familiarity with rules.

Each motor carrier and each driver shall know, and be familiar with, the rules in this part.

### § 391.7 Aiding or abetting violations.

No person shall aid, abet, encourage, or require a motor carrier or a driver to violate the rules in this part.

## Subpart B—Qualification and Disqualification of Drivers

### § 391.11 Qualifications of drivers.

(a) A person shall not drive a motor vehicle unless he is qualified to drive a motor vehicle. Except as provided in § 391.63, a motor carrier shall not require or permit a person to drive a motor vehicle unless that person is qualified to drive a motor vehicle.

(b) Except as provided in Subpart G of this part, a person is qualified to drive a motor vehicle if he—

(1) Is at least 21 years old;

(2) Can read and speak the English language sufficiently to converse with the general public, to understand highway traffic signs and signals in the English language, to respond to official inquiries, and to make entries on reports and records;

(3) Can, by reason of experience, training, or both, safely operate the type of motor vehicle he drives;

(4) Can, by reason of experience, training, or both, determine whether the cargo he transports (including baggage in a passenger-carrying motor vehicle) has been properly located, distributed, and secured in or on the motor vehicle he drives;

(5) Is familiar with methods and procedures for securing cargo in or on the motor vehicle he drives.

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

(7) Has a currently valid commercial motor vehicle operator's license issued only from one State or jurisdiction, except whenever a State law enacted on or before June 1, 1986, requires such person to have more than one driver's license. This exception shall not be effective after December 31, 1989.

(8) Has prepared and furnished the motor carrier that employs him with the list of violations or the certificate as required by § 391.27;

(9) Is not disqualified to drive a motor vehicle under the rules in § 391.15;

(10) Has successfully completed a driver's road test and has been issued a certificate of driver's road test in accordance with § 391.31, or has present-

ed an operator's license or a certificate of road test which the motor carrier that employs him has accepted as equivalent to a road test in accordance with § 391.33;

(11) Has taken a written examination and has been issued a certificate of written examination in accordance with § 391.35, or has presented a certificate of written examination which the motor carrier that employs him has accepted as equivalent to a written examination in accordance with § 391.37; and

(12) Has completed and furnished the motor carrier that employs him with an application for employment in accordance with § 391.21.

[35 FR 6460, Apr. 22, 1970, amended at 35 FR 17420, Nov. 13, 1970; 35 FR 19181, Dec. 18, 1970; 36 FR 222, Jan. 7, 1971, 36 FR 24220, Dec. 22, 1971; 45 FR 46424, July 10, 1980; 52 FR 20589, June 1, 1987]

### § 391.15 Disqualification of drivers.

(a) *General.* A driver who is disqualified shall not drive a commercial motor vehicle. A motor carrier shall not require or permit a driver who is disqualified to drive a commercial motor vehicle.

(b) *Disqualification for loss of driving privileges.* A driver is disqualified for the duration of his loss of his privilege to operate a commercial motor vehicle on public highways, either temporarily or permanently, by reason of the revocation, suspension, withdrawal, or denial of an operator's license, permit, or privilege, until that operator's license, permit, or privilege is restored by the authority that revoked, suspended, withdrew, or denied it.

(c) *Disqualification for criminal offenses.*—(1) *General Rule.* A driver who is convicted of (or forfeits bond or collateral upon a charge of) a disqualifying offense specified in paragraph (c)(2) of this section is disqualified for the period of time specified in paragraph (c)(3) of this section, if—

(i) The offense was committed during on-duty time as defined in § 395.2(a) of this subchapter or as otherwise specified; and

(ii) The driver is employed by a motor carrier or is engaged in activities that are in furtherance of a com-

enterprise in interstate, intra-  
state or foreign commerce;

(c) *Disqualifying offenses.* The following offenses are disqualifying offenses:

(1) Operating a motor vehicle under the influence of alcohol, a Schedule I drug or other substance identified in Appendix D to this subchapter,<sup>1</sup> an amphetamine, a narcotic drug, a formulation of an amphetamine or a derivative of a narcotic drug;

(2) Transportation, possession, or unlawful use of a Schedule I drug or other substance identified in Appendix D of this subchapter,<sup>1</sup> amphetamines, narcotic drugs, formulations of an amphetamine, or derivatives of narcotic drugs while on on-duty time;

(3) Leaving the scene of an accident which resulted in injury or death; or

(4) A felony involving the use of a motor vehicle.

(3) *Duration of disqualification for criminal misconduct*—(1) *First offenders.* A driver is disqualified for 1 year after the date of conviction or forfeiture of bond or collateral if, during the 3 years preceding that date, the driver was not convicted of, or did not forfeit bond or collateral upon a charge of an offense that would disqualify the driver under the rules of this section. *Exception.* The period of disqualification is 6 months if the conviction or forfeiture of bond or collateral solely concerned the transportation or possession of substances named in paragraph (c)(2)(ii) of this section.

(2) *Subsequent offenders.* A driver is disqualified for 3 years after the date of his conviction or forfeiture of bond or collateral if, during the 3 years preceding that date, he was convicted of, or forfeited bond or collateral upon a charge of, an offense that would disqualify him under the rules in this section.

<sup>1</sup> A copy of the Schedule I drugs and other substances may be obtained by writing to the Director, Bureau of Motor Carrier Safety, Washington, D.C. 20590, or to any Regional Office of Motor Carrier and Highway Safety of the Federal Highway Administration at the address given in § 390.40 of this chapter.

(37 FR 24902, Nov. 23, 1972, as amended at 49 FR 44215, Nov. 5, 1984; 51 FR 8200, Mar. 10, 1986)

### Subpart C—Background and Character

#### § 391.21 Application for employment.

(a) Except as provided in Subpart G of this part, a person shall not drive a motor vehicle unless he has completed and furnished the motor carrier that employs him with an application for employment that meets the requirements of paragraph (b) of this section.

(b) The application for employment shall be made on a form furnished by the motor carrier. Each application form must be completed by the applicant, must be signed by him, and must contain the following information:

(1) The name and address of the employing motor carrier;

(2) The applicant's name, address, date of birth, and social security number;

(3) The addresses at which the applicant has resided during the 3 years preceding the date on which the application is submitted;

(4) The date on which the application is submitted;

(5) The issuing State, number, and expiration date of each unexpired motor vehicle operator's license or permit that has been issued to the applicant;

(6) The nature and extent of the applicant's experience in the operation of motor vehicles, including the type of equipment (such as buses, trucks, truck tractors, semitrailers, full trailers, and pole trailers) which he has operated;

(7) A list of all motor vehicle accidents in which the applicant was involved during the 3 years preceding the date the application is submitted, specifying the date and nature of each accident and any fatalities or personal injuries it caused;

(8) A list of all violations of motor vehicle laws or ordinances (other than violations involving only parking) of which the applicant was convicted or forfeited bond or collateral during the 3 years preceding the date the application is submitted;

(9) A statement setting forth in detail the facts and circumstances of any denial, revocation, or suspension of any license, permit, or privilege to operate a motor vehicle that has been issued to the applicant, or a statement that no such denial, revocation, or suspension has occurred;

(10) A list of the names and addresses of the applicant's employers during the 3 years preceding the date the application is submitted, together with the dates he was employed by, and his reason for leaving the employ of, each employer;

(11) For those drivers applying to operate a commercial motor vehicle as defined by Part 383 of this subchapter, a list of the names and addresses of the applicant's employers during the 7-year period preceding the 3 years contained in paragraph (b)(10) of this section for which the applicant was an operator of a commercial motor vehicle, together with the dates of employment and the reasons for leaving such employment; and

(12) The following certification and signature line, which must appear at the end of the application form and be signed by the applicant:

This certifies that this application was completed by me, and that all entries on it and information in it are true and complete to the best of my knowledge.

(Date)

(Applicant's signature)

(c) A motor carrier may require an applicant to provide information in addition to the information required by paragraph (b) of this section on the application form.

(d) Before an application is submitted, the motor carrier shall inform the applicant that the information he provides in accordance with paragraph (b) (10) of this section may be used, and the applicant's prior employers may be contacted, for the purpose of investigating the applicant's background as required by § 391.23.

[35 FR 6460, Apr. 22, 1970, as amended at 35 FR 17420, Nov. 13, 1970; 52 FR 20589, June 1, 1987]

#### § 391.23 Investigation and inquiries.

(a) Except as provided in Subpart G of this part, each motor carrier shall make the following investigations and inquiries with respect to each driver it employs, other than a person who has been a regularly employed driver of the motor carrier for a continuous period which began before January 1, 1971:

(1) An inquiry into the driver's driving record during the preceding 3 years to the appropriate agency of every State in which the driver held a motor vehicle operator's license or permit during those 3 years; and

(2) An investigation of the driver's employment record during the preceding 3 years.

(b) The inquiry to State agencies required by paragraph (a)(1) of this section must be made within 30 days of the date the driver's employment begins and shall be made in the form and manner those agencies prescribe. A copy of the response by each State agency, showing the driver's driving record or certifying that no driving record exists for that driver, shall be retained in the carrier's files as part of the driver's qualification file.

(c) The investigation of the driver's employment record required by paragraph (a)(2) of this section must be made within 30 days of the date his employment begins. The investigation may consist of personal interviews, telephone interviews, letters, or any other method of obtaining information that the carrier deems appropriate. Each motor carrier must make a written record with respect to each past employer who was contacted. The record must include the past employer's name and address, the date he was contacted, and his comments with respect to the driver. The record shall be retained in the motor carrier's files as part of the driver's qualification file.

[35 FR 6460, Apr. 22, 1970, as amended at 35 FR 17420, Nov. 13, 1970]

#### § 391.25 Annual review of driving record.

Except as provided in Subpart G of this part, each motor carrier shall, at least once every 12 months, review the driving record of each driver it employs to determine whether that

4-4

driver meets minimum requirements for safe driving or is disqualified to drive a motor vehicle pursuant to § 391.15. In reviewing a driving record, the motor carrier must consider any evidence that the driver has violated applicable provisions of the Federal Motor Carrier Safety Regulations and the Hazardous Materials Regulations. The motor carrier must also consider the driver's accident record and any evidence that the driver has violated laws governing the operation of motor vehicles, and must give great weight to violations, such as speeding, reckless driving, and operating while under the influence of alcohol or drugs, that indicate that the driver has exhibited a disregard for the safety of the public. A note, setting forth the date upon which the review was performed and the name of the person who reviewed the driving record, shall be included in the driver's qualification file.

[35 FR 6460, Apr. 22, 1970, as amended at 35 FR 17420, Nov. 13, 1970]

§ 391.27 Record of violations.

(a) Except as provided in Subpart G of this part, each motor carrier shall, at least once every 12 months, require each driver it employs to prepare and furnish it with a list of all violations of motor vehicle traffic laws and ordinances (other than violations involving only parking) of which the driver has been convicted or on account of which he has forfeited bond or collateral during the preceding 12 months.

(b) Each driver shall furnish the list required in accordance with paragraph (a) of this section. If the driver has not been convicted of, or forfeited bond or collateral on account of, any violation which must be listed, he shall so certify.

(c) The form of the driver's list or certification shall be prescribed by the motor carrier. The following form may be used to comply with this section:

MOTOR VEHICLE DRIVER'S CERTIFICATION

[I certify that the following is a true and complete list of traffic violations (other than parking violations) for which I have been convicted or forfeited bond or collateral during the past 12 months.]

Date of conviction	Offense	Location	Type of vehicle operated
If no violations are listed above, I certify that I have not been convicted or forfeited bond or collateral on account of any violation required to be listed during the past 12 months.			
(Date of certification)	(Driver's signature)		
(Motor carrier's name)	(Motor carrier's address)		
(Reviewed by: Signature)	(Title)		

(d) The motor carrier shall retain the list or certificate required by this section, or a copy of it, in its files as part of the driver's qualification file.

(e) Drivers who have provided information required by § 383.31 of this subchapter need not repeat that information in the annual list of violations required by this section.

[35 FR 6460, Apr. 22, 1970, as amended at 35 FR 20589, Nov. 13, 1970; 52 FR 20589, June 1, 1987]

Subpart D—Examinations and Tests

§ 391.31 Road test.

(a) Except as provided in §§ 391.33, 391.61, and 391.67, a person shall not drive a motor vehicle unless he has first successfully completed a road test and has been issued a certificate of driver's road test in accordance with this section.

(b) The road test shall be given by the motor carrier or a person designated by it. However, a driver who is a

motor carrier must be given the test by a person other than himself. The test shall be given by a person who is competent to evaluate and determine whether the person who takes the test has demonstrated that he is capable of operating the vehicle, and associated equipment, that the motor carrier intends to assign him.

(c) The road test must be of sufficient duration to enable the person who gives it to evaluate the skill of the person who takes it at handling the motor vehicle, and associated equipment, that the motor carriers intends to assign to him. As a minimum, the person who takes the test must be tested, while operating the type of motor vehicle the motor carrier intends to assign him, on his skill at performing each of the following operations:

- (1) The pretrip inspection required by § 392.7 of this subchapter;
- (2) Coupling and uncoupling of combination units, if the equipment he may drive includes combination units;
- (3) Placing the vehicle in operation;
- (4) Use of the vehicle's controls and emergency equipment;
- (5) Operating the vehicle in traffic and while passing other vehicles;
- (6) Turning the vehicle;
- (7) Braking, and slowing the vehicle by means other than braking; and
- (8) Backing and parking the vehicle.

(d) The motor carrier shall provide a road test form on which the person who gives the test shall rate the performance of the person who takes it at each operation or activity which is a part of the test. After he completes the form, the person who gave the test shall sign it.

(e) If the road test is successfully completed, the person who gave it shall complete a certificate of driver's road test in substantially the form prescribed in paragraph (f) of this section.

(f) The form for the certificate of driver's road test is substantially as follows:

CERTIFICATION OF ROAD TEST

Driver's name \_\_\_\_\_  
 Social Security No. \_\_\_\_\_  
 Operator's or Chauffeur's License No. \_\_\_\_\_  
 State \_\_\_\_\_

Type of power unit \_\_\_\_\_ Type of trailer(s) \_\_\_\_\_  
 If passenger carrier, type of bus \_\_\_\_\_  
 This is to certify that the above-named driver was given a road test under my supervision on \_\_\_\_\_, 19\_\_\_\_, consisting of approximately \_\_\_\_\_ miles of driving.

It is my considered opinion that this driver possesses sufficient driving skill to operate safely the type of commercial motor vehicle listed above.

\_\_\_\_\_  
 (Signature of examiner)

\_\_\_\_\_  
 (Title)

\_\_\_\_\_  
 (Organization and address of examiner)

(g) A copy of the certificate required by paragraph (e) of this section shall be given to the person who was examined. The motor carrier shall retain in the driver qualification file of the person who was examined—

- (1) The original of the signed road test form required by paragraph (d) of this section; and
- (2) The original, or a copy of, the certificate required by paragraph (e) of this section.

[35 FR 6460, Apr. 22, 1970, as amended at 36 FR 223, Jan. 7, 1971]

§ 391.33 Equivalent of road test.

(a) In place of, and as equivalent to, the road test required by § 391.31, a person who seeks to drive a motor vehicle may present, and a motor carrier may accept—

- (1) A valid operator's license which has been issued to him by a State that licenses drivers to operate specific categories of motor vehicles and which, under the laws of that State, licenses him after successful completion of a road test in a motor vehicle of the type the motor carrier intends to assign to him; or
- (2) A copy of a valid certificate of driver's road test issued to him pursuant to § 391.31 within the preceding 3 years.

(b) If a driver presents, and a motor carrier accepts, a license or certificate as equivalent to the road test, the motor carrier shall retain a legible copy of the license or certificate in its

part of the driver's qualification file.

(c) A motor carrier may require any person who presents a license or certificate as equivalent to the road test to take a road test or any other test of his driving skill as a condition to his employment as a driver.

**§ 391.35 Written examination.**

(a) Except as provided in §§ 391.37, 391.61, and 391.67, a person shall not drive a motor vehicle unless he has first taken a written examination and has been issued a certificate of written examination in accordance with this section.

(b) The objective of the written examination is to instruct prospective drivers in the rules and regulations established by the Federal Highway Administration pertaining to commercial vehicle safety. It is an instructional tool only, and a person's qualifications to drive a motor vehicle under the rules in this part are not affected by his performance on the examination. Motor carriers subject to title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e-1-2000e-15), Executive Order 11246, or both, are cautioned that neither the written examination requirements in this section nor any other rule in this part authorizes a motor carrier to violate the provisions of the Act, the Executive Order, or regulations issued under them with respect to equal opportunity in employment.

(c) The written examination shall be given by the motor carrier or a person designated by it, on a form prescribed by the motor carrier.

(d) Prior to, and during, the examination, the person who takes it shall be permitted to examine and consult a copy of the Federal Motor Carrier Safety Regulations (Subchapter B of this title) in addition to any other material explaining the provisions of those regulations that the motor carrier may provide. There is no time limit for completing the examination, and persons taking it shall be so advised in advance.

(e) The examination shall consist of 66 questions, covering the examinee's knowledge of the Federal Motor Carrier Safety Regulations and the Hazardous Materials Regulations. However, a

person who is being examined with a view to employment as the driver of a motor vehicle which will not transport hazardous materials of a type or quantity that requires the vehicle to be marked or placarded in accordance with § 177.823 of this title need not answer questions 58-66, inclusive. The questions given during the examination must be the questions published in Appendix C to this subchapter.<sup>1</sup>

(f) After the examinee completes the examination, the person who administered it shall advise him of the correct answers to any questions he failed to answer correctly. The motor carrier may also provide the examinee with such additional instruction in the pertinent regulations as appears to be warranted on the basis of his performance on the examination.

(g) The motor carrier, or the person who administered the examination on the motor carrier's behalf, shall provide every person who completes the examination with a certificate in substantially the following form:

**CERTIFICATE OF WRITTEN EXAMINATION**

This is to certify that the person whose signature appears below has completed the written examination under my supervision in accordance with the provisions of § 391.35 of the Federal Motor Carrier Safety Regulations.

\_\_\_\_\_  
(Signature of person taking examination)

\_\_\_\_\_  
(Date of examination)

\_\_\_\_\_  
(Location of examination)

\_\_\_\_\_  
(Signature of examiner)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Organization and address of examiner)

<sup>1</sup>Copies of the list of questions (and answers to the questions) may be obtained by writing to the Director, Bureau of Motor Carrier Safety, Washington, D.C. 20590, or to any Regional Federal Highway Administrator at the address given in § 390.40 of this subchapter.

(h) A copy of the certificate required by paragraph (g) of this section shall be given to the person who was examined. The motor carrier shall retain, in the driver qualification file of the person who was examined—

(1) The original, or a copy of, the certificate required by paragraph (g) of this section;

(2) The questions asked on the examination; and

(3) The person's answers to those questions.

[35 FR 19182, Dec. 18, 1970, as amended at 36 FR 223, Jan. 7, 1971; 39 FR 20795, June 14, 1974]

**§ 391.37 Equivalent of written examination.**

(a) In place of, and as equivalent to, the written examination required by § 391.35, a person who seeks to drive a motor vehicle may present, and a motor carrier may accept, a valid certificate of written examination issued pursuant to paragraph (g) of that section within the preceding 3 years.

(b) If a motor carrier accepts a certificate as equivalent to the written examination, it shall retain a legible copy of the certificate in its files as part of the driver's qualification file.

(c) A motor carrier may require any person who presents a certificate as equivalent to the written examination to take the written examination prescribed in § 391.35 or participate in any other instructional process designed to acquaint him with the provisions of Parts 390 through 397 of this subchapter.

[35 FR 6460, Apr. 22, 1970, as amended at 35 FR 17420, Nov. 13, 1970]

**Subpart E—Physical Qualifications and Examinations**

**§ 391.41 Physical qualifications for drivers.**

(a) A person shall not drive a motor vehicle unless he is physically qualified to do so and, except as provided in § 391.67, has on his person the original, or a photographic copy, of a medical examiner's certificate that he is physically qualified to drive a motor vehicle.

(b) A person is physically qualified to drive a motor vehicle if that person—

(1) Has no loss of a foot, a leg, a hand, or an arm, or has been granted a waiver pursuant to § 391.49;

(2) Has no impairment of:

(i) A hand or finger which interferes with prehension or power grasping; or

(ii) An arm, foot, or leg which interferes with the ability to perform normal tasks associated with operating a motor vehicle; or any other significant limb defect or limitation which interferes with the ability to perform normal tasks associated with operating a motor vehicle; or has been granted a waiver pursuant to § 391.49.

(3) Has no established medical history or clinical diagnosis of diabetes mellitus currently requiring insulin for control;

(4) Has no current clinical diagnosis of myocardial infarction, angina pectoris, coronary insufficiency, thrombosis, or any other cardiovascular disease of a variety known to be accompanied by syncope, dyspnea, collapse, or congestive cardiac failure.

(5) Has no established medical history or clinical diagnosis of a respiratory dysfunction likely to interfere with his ability to control and drive a motor vehicle safely;

(6) Has no current clinical diagnosis of high blood pressure likely to interfere with his ability to operate a motor vehicle safely;

(7) Has no established medical history or clinical diagnosis of rheumatic, arthritic, orthopedic, muscular, neuromuscular, or vascular disease which interferes with his ability to control and operate a motor vehicle safely;

(8) Has no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause loss of consciousness or any loss of ability to control a motor vehicle;

(9) Has no mental, nervous, organic, or functional disease or psychiatric disorder likely to interfere with his ability to drive a motor vehicle safely;

(10) Has distant visual acuity of at least 20/40 (Snellen) in each eye without corrective lenses or visual acuity separately corrected to 20/40 (Snellen) or better with corrective lenses, distant binocular acuity of at least 20/40

(10) (n) in both eyes with or without corrective lenses, field of vision of at least 70° in the horizontal Meridian in each eye, and the ability to recognize the colors of traffic signals and devices showing standard red, green, and amber;

(11) First perceives a forced whispered voice in the better ear at not less than 5 feet with or without the use of a hearing aid or, if tested by use of an audiometric device, does not have an average hearing loss in the better ear greater than 40 decibels at 500 Hz, 1,000 Hz, and 2,000 Hz with or without a hearing aid when the audiometric device is calibrated to American National Standard (formerly ASA Standard) Z24.5-1951.

(12) Does not use a Schedule I drug or other substance identified in Appendix D to this subchapter,<sup>1</sup> an amphetamine, a narcotic, or any other habit-forming drug; and

(13) Has no current clinical diagnosis of alcoholism.

[35 FR 6460, Apr. 22, 1970, as amended at 35 FR 17420, Nov. 13, 1970; 36 FR 223, Jan. 7, 1971; 36 FR 12857, July 8, 1971; 43 FR 56900, Dec. 5, 1978; 51 FR 17571, May 13, 1986]

§ 391.43 Medical examination; certificate of physical examination.

(a) Except as provided in paragraph (b) of this section, the medical examination shall be performed by a licensed doctor of medicine or osteopathy.

(b) A licensed optometrist may perform so much of the medical examination as pertains to visual acuity, field of vision, and the ability to recognize colors as specified in paragraph (10) of § 391.41(b).

(c) The medical examination shall be performed, and its results shall be recorded, substantially in accordance with the following instructions and examination form:

<sup>1</sup> A copy of the Schedule I drugs and other substances may be obtained by writing to the Director, Bureau of Motor Carrier Safety, Washington, DC 20590, or to any Regional Office of Motor Carrier and Highway Safety of the Federal Highway Administration at the address given in Part 390 of this chapter.

#### INSTRUCTIONS FOR PERFORMING AND RECORDING PHYSICAL EXAMINATIONS

The examining physician should review these instructions before performing the physical examination. Answer each question yes or no where appropriate.

The examining physician should be aware of the rigorous physical demands and mental and emotional responsibilities placed on the driver of a commercial motor vehicle. In the interest of public safety the examining physician is required to certify that the driver does not have any physical, mental, or organic defect of such a nature as to affect the driver's ability to operate safely a commercial motor vehicle.

**General information.** The purpose of this history and physical examination is to detect the presence of physical, mental, or organic defects of such a character and extent as to affect the applicant's ability to operate a motor vehicle safely. The examination should be made carefully and at least as complete as indicated by the attached form. History of certain defects may be cause for rejection or indicate the need for making certain laboratory tests or a further, and more stringent, examination. Defects may be recorded which do not, because of their character or degree, indicate that certification of physical fitness should be denied. However, these defects should be discussed with the applicant and he should be advised to take the necessary steps to insure correction, particularly of those which, if neglected, might lead to a condition likely to affect his ability to drive safely.

**General appearance and development.** Note marked overweight. Note any posture defect, perceptible limp, tremor, or other defects that might be caused by alcoholism, thyroid intoxication, or other illnesses. The Federal Motor Carrier Safety Regulations provide that no driver shall use a narcotic or other habit-forming drugs.

**Head-eyes.** When other than the Snellen chart is used, the results of such test must be expressed in values comparable to the standard Snellen test. If the applicant wears corrective lenses, these should be worn while applicant's visual acuity is being tested. If appropriate, indicate on the Medical Examiner's Certificate by checking the box, "Qualified only when wearing corrective lenses." In recording distance vision use 20 feet as normal. Report all vision as a fraction with 20 as numerator and the smallest type read at 20 feet as denominator. Note ptosis, discharge, visual fields, ocular muscle imbalance, color blindness, corneal scar, exophthalmos, or strabismus, uncorrected by corrective lenses. Monocular drivers are not qualified to operate commercial motor vehicles under existing Federal

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Motor Carrier Safety Regulations. If the driver habitually wears contact lenses, or intends to do so while driving, there should be sufficient evidence to indicate that he has good tolerance is well adapted to their use. The use of contact lenses should be noted on the record.

**Ears.** Note evidence of mastoid or middle ear disease, discharge, symptoms of aural vertigo, or Meniere's Syndrome. When recording hearing, record distance from patient at which a forced whispered voice can first be heard. If audiometer is used to test hearing, record decibel loss at 500 Hz, 1,000 Hz, and 2,000 Hz.

**Throat.** Note evidence of disease, irreparable deformities of the throat likely to interfere with eating or breathing, or any laryngeal condition which could interfere with the safe operation of a motor vehicle.

**Thorax-heart.** Stethoscopic examination is required. Note murmurs and arrhythmias, and any past or present history of cardiovascular disease, of a variety known to be accompanied by syncope, dyspnea, collapse, enlarged heart, or congestive heart failures. Electrocardiogram is required when findings so indicate.

**Blood pressure.** Record with either spring or mercury column type of sphygmomanometer. If the blood pressure is consistently above 160/90 mm. Hg., further tests may be necessary to determine whether the driver is qualified to operate a motor vehicle.

**Lungs.** If any lung disease is detected, state whether active or arrested; if arrested, your opinion as to how long it has been quiescent.

**Gastrointestinal system.** Note any diseases of the gastrointestinal system.

**Abdomen.** Note wounds, injuries, scars, or weakness of muscles of abdominal walls sufficient to interfere with normal function. Any hernia should be noted if present. State how long and if adequately contained by truss.

**Abnormal masses.** If present, note location, if tender, and whether or not applicant knows how long they have been present. If the diagnosis suggests that the condition might interfere with the control and safe operation of a motor vehicle, more stringent tests must be made before the applicant can be certified.

**Tenderness.** When noted, state where most pronounced, and suspected cause. If the diagnosis suggests that the condition might interfere with the control and safe operation of a motor vehicle, more stringent tests must be made before the applicant can be certified.

**Genito-urinary.** Urinalysis is required. Acute infections of the genito-urinary tract, as defined by local and State public health laws, indications from urinalysis of uncontrolled diabetes, symptomatic albumin-urea in the urine, or other findings indicative of

health conditions likely to interfere with the control and safe operation of a motor vehicle, will disqualify an applicant from operating a motor vehicle.

**Neurological.** If positive Romberg is reported, indicate degrees of impairment. Pupillary reflexes should be reported for both light and accommodation. Knee jerks are to be reported absent only when not obtainable upon reinforcement and as increased when foot is actually lifted from the floor following a light blow on the patella, sensory vibratory and positional abnormalities should be noted.

**Extremities.** Carefully examine upper and lower extremities. Record the loss of impairment of a leg, foot, toe, arm, hand, or fingers. Note any and all deformities, the presence of atrophy, semiparalysis or paralysis, or varicose veins. If a hand or finger deformity exists, determine whether sufficient grasp is present to enable the driver to secure and maintain a grip on the steering wheel. If a leg deformity exists, determine whether sufficient mobility and strength exist to enable the driver to operate pedals properly. Particular attention should be given to and a record should be made of, any impairment or structural defect which may interfere with the driver's ability to operate a motor vehicle safely.

**Spine.** Note deformities, limitation of motion, or any history of pain, injuries, or disease, past or presently experienced in the cervical or lumbar spine region. If findings so dictate, radiologic and other examinations should be used to diagnose congenital or acquired defects; or spondylolisthesis and scoliosis.

**Recto-genital studies.** Diseases or conditions causing discomfort should be evaluated carefully to determine the extent to which the condition might be handicapping while lifting, pulling, or during periods of prolonged driving that might be necessary as part of the driver's duties.

**Laboratory and other special findings.** Urinalysis is required, as well as such other tests as the medical history or findings upon physical examination may indicate are necessary. A serological test is required if the applicant has a history of luetic infection or present physical findings indicate the possibility of latent syphilis. Other studies deemed advisable may be ordered by the examining physician.

**Diabetes.** If insulin is necessary to control a diabetic condition, the driver is not qualified to operate a motor vehicle. If mild diabetes is noted at the time of examination and it is stabilized by use of a hypoglycemic drug and a diet that can be obtained while the driver is on duty, it should not be considered disqualifying. However, the driver must remain under adequate medical supervision.



physician must date and sign his findings upon completion of the examination.

**EXAMINATION TO DETERMINE PHYSICAL CONDITION OF DRIVERS**

Driver's name \_\_\_\_\_  New Certification  
 Address \_\_\_\_\_  Recertification  
 Social Security No. \_\_\_\_\_  
 Date of birth \_\_\_\_\_ Age \_\_\_\_\_

Yes	No	Health History
<input type="checkbox"/>	<input type="checkbox"/>	Head or spinal injuries.
<input type="checkbox"/>	<input type="checkbox"/>	Seizures, fits, convulsions, or fainting.
<input type="checkbox"/>	<input type="checkbox"/>	Extensive confinement by illness or injury.
<input type="checkbox"/>	<input type="checkbox"/>	Cardiovascular disease.
<input type="checkbox"/>	<input type="checkbox"/>	Tuberculosis.
<input type="checkbox"/>	<input type="checkbox"/>	Syphilis.
<input type="checkbox"/>	<input type="checkbox"/>	Gonorrhea.
<input type="checkbox"/>	<input type="checkbox"/>	Diabetes.
<input type="checkbox"/>	<input type="checkbox"/>	Gastrointestinal ulcer.
<input type="checkbox"/>	<input type="checkbox"/>	Nervous stomach.
<input type="checkbox"/>	<input type="checkbox"/>	Rheumatic fever.
<input type="checkbox"/>	<input type="checkbox"/>	Asthma.
<input type="checkbox"/>	<input type="checkbox"/>	Kidney disease.
<input type="checkbox"/>	<input type="checkbox"/>	Muscular disease.
<input type="checkbox"/>	<input type="checkbox"/>	Suffering from any other disease.
<input type="checkbox"/>	<input type="checkbox"/>	Permanent defect from illness, disease or injury.
<input type="checkbox"/>	<input type="checkbox"/>	Psychiatric disorder.
<input type="checkbox"/>	<input type="checkbox"/>	Any other nervous disorder.

If answer to any of the above is yes, explain:  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**PHYSICAL EXAMINATION**

General appearance and development:  
 Good \_\_\_\_\_ Fair \_\_\_\_\_ Poor \_\_\_\_\_  
 Vision: For distance:  
 Right 20/ \_\_\_\_\_ Left 20/ \_\_\_\_\_  
 Without corrective lenses.  
 With corrective lenses if worn.  
 Evidence of disease or injury:  
 Right \_\_\_\_\_ Left \_\_\_\_\_  
 Color Test \_\_\_\_\_  
 Horizontal field of vision:  
 Right \_\_\_\_\_ Left \_\_\_\_\_  
 Hearing:  
 Right ear \_\_\_\_\_ Left ear \_\_\_\_\_  
 Disease or injury \_\_\_\_\_  
 Audiometric Test (complete only if audiometer is used to test hearing) decibel loss as 500 Hz \_\_\_\_\_, at 1,000 Hz \_\_\_\_\_, at 2,000 Hz \_\_\_\_\_  
 Throat \_\_\_\_\_  
 Thorax:  
 Heart \_\_\_\_\_  
 If organic disease is present, is it fully compensated? \_\_\_\_\_  
 Blood pressure:  
 Systolic \_\_\_\_\_ Diastolic \_\_\_\_\_  
 Before exercise \_\_\_\_\_

Immediately after exercise \_\_\_\_\_  
 Lungs \_\_\_\_\_  
 Abdomen:  
 Scars \_\_\_\_\_ Abnormal masses \_\_\_\_\_  
 Tenderness \_\_\_\_\_  
 Hernia: Yes \_\_\_\_\_ No \_\_\_\_\_  
 If so, where? \_\_\_\_\_  
 Is truss worn? \_\_\_\_\_  
 Gastrointestinal:  
 Ulceration or other disease:  
 Yes \_\_\_\_\_ No \_\_\_\_\_  
 Genito-Urinary:  
 Scars \_\_\_\_\_  
 Urethral discharge \_\_\_\_\_  
 Reflexes:  
 Romberg \_\_\_\_\_  
 Pupillary \_\_\_\_\_ Light R \_\_\_\_\_ L \_\_\_\_\_  
 Accommodation Right \_\_\_\_\_ Left \_\_\_\_\_  
 Knee Jerks:  
 Right:  
 Normal \_\_\_\_\_ Increased \_\_\_\_\_ Absent \_\_\_\_\_  
 Left:  
 Normal \_\_\_\_\_ Increased \_\_\_\_\_ Absent \_\_\_\_\_  
 Remarks \_\_\_\_\_  
 Extremities:  
 Upper \_\_\_\_\_  
 Lower \_\_\_\_\_  
 Spine \_\_\_\_\_  
 Laboratory and other Special Findings:  
 Urine: Spec. Gr. \_\_\_\_\_ Alb. \_\_\_\_\_  
 Sugar \_\_\_\_\_  
 Other laboratory data (Serology, etc.) \_\_\_\_\_  
 Radiological data \_\_\_\_\_  
 Electrocardiograph \_\_\_\_\_  
 General comments \_\_\_\_\_  
 \_\_\_\_\_ (Date of examination)  
 \_\_\_\_\_ (Address of examining doctor)  
 \_\_\_\_\_ (Name of examining doctor (Print))  
 \_\_\_\_\_ (Signature of examining doctor)  
 \_\_\_\_\_ (Signature of driver)  
 \_\_\_\_\_ (Address of driver)  
 NOTE: This section to be completed only when visual test is conducted by a licensed ophthalmologist or optometrist.  
 \_\_\_\_\_ (Date of examination)  
 \_\_\_\_\_ (Address of ophthalmologist or optometrist)  
 \_\_\_\_\_ (Name of ophthalmologist or optometrist (Print))

\_\_\_\_\_  
 (Signature of ophthalmologist or optometrist)

(d) If the medical examiner finds that the person he examined is physically qualified to drive a motor vehicle in accordance with § 391.41(b), he shall complete a certificate in the form prescribed in paragraph (e) of this section and furnish one copy to the person who was examined and one copy to the motor carrier that employs him.

(e) The medical examiner's certificate shall be in accordance with the following form:

**MEDICAL EXAMINER'S CERTIFICATE**

I certify that I have examined \_\_\_\_\_ (driver's name (print)) in accordance with the Federal Motor Carrier Safety Regulations (49 CFR 391.41 through 391.49) and with knowledge of his duties, I find him qualified under the regulations.

Qualified only when wearing corrective lenses.

A completed examination form for this person is on file in my office at \_\_\_\_\_ (Address)

\_\_\_\_\_  
 (Date of examination)

\_\_\_\_\_  
 (Name of examining doctor (Print))

\_\_\_\_\_  
 (Signature of examining doctor)

\_\_\_\_\_  
 (Signature of driver)

\_\_\_\_\_  
 (Address of driver)

If the driver is qualified only when wearing a hearing aid, the following statement must appear on the medical examiner's certificate: "Qualified only when wearing a hearing aid." If a medical examiner determines a waiver is necessary under § 391.49, the following statement shall appear on the medical examiner's certificate; "medically unqualified unless accompanied by a waiver.

[35 FR 6460, Apr. 22, 1970, as amended at 35 FR 17420, Nov. 13, 1970; 36 FR 8452, May 6, 1971; 36 FR 12857, July 8, 1971; 43 FR 56900, Dec. 5, 1978; 46 FR 53418, Oct. 29, 1981]

§ 391.45 Persons who must be medically examined and certified.

Except as provided in § 391.67, the following persons must be medically examined and certified in accordance with § 391.43 as physically qualified to drive a motor vehicle:

(a) Any person who has not been medically examined and certified as physically qualified to drive a motor vehicle;

(b) Any driver who has not been medically examined and certified as qualified to drive a motor vehicle during the preceding 24 months; and

(c) Any driver whose ability to perform his normal duties has been impaired by a physical or mental injury or disease.

[35 FR 6460, Apr. 22, 1970, as amended at 36 FR 223, Jan. 7, 1971]

§ 391.47 Resolution of conflicts of medical evaluation.

(a) *Applications.* Applications for determination of a driver's medical qualifications under standards in this part will only be accepted if they conform to the requirements of this section.

(b) *Content.* Applications will be accepted for consideration only if the following conditions are met.

(1) The application must contain the name and address of the driver, motor carrier, and all physicians involved in the proceeding.

(2) The applicant must submit proof that there is a disagreement between the physician for the driver and the physician for the motor carrier concerning the driver's qualifications.

(3) The applicant must submit a copy of an opinion and report including results of all tests of an impartial medical specialist in the field in which the medical conflict arose. The specialist should be one agreed to by the motor carrier and the driver.

(i) In cases where the driver refuses to agree on a specialist and the applicant is the motor carrier, the applicant must submit a statement of his agreement to submit the matter to an impartial medical specialist in the field, proof that he has requested the driver to submit to the medical specialist, and the response, if any, of the driver to his request.



In cases where the motor carrier must agree on a medical specialist, the driver must submit an opinion and test results of an impartial medical specialist, proof that he has requested the motor carrier to agree to submit the matter to the medical specialist and the response, if any, of the motor carrier to his request.

(4) The applicant must include a statement explaining in detail why the decision of the medical specialist identified in paragraph (b)(3) of this section, is unacceptable.

(5) The applicant must submit proof that the medical specialist mentioned in paragraph (b)(3) of this section was provided, prior to his determination, the medical history of the driver and an agreed-upon statement of the work the driver performs.

(6) The applicant must submit the medical history and statement of work provided to the medical specialist under paragraph (b)(5) of this section.

(7) The applicant must submit all medical records and statements of the physicians who have given opinions on the driver's qualifications.

(8) The applicant must submit a description and a copy of all written and documentary evidence upon which the party making application relies in the form set out in 49 CFR 386.37.

(9) The application must be accompanied by a statement of the driver that he intends to drive in interstate commerce not subject to the commercial zone exemption or a statement of the carrier that he has used or intends to use the driver for such work.

(10) The applicant must submit three copies of the application and all records.

(c) **Information.** The Director may request further information from the applicant if he determines that a decision cannot be made on the evidence submitted. If the applicant fails to submit the information requested, the Director may refuse to issue a determination.

(d)(1) **Action.** Upon receiving a satisfactory application the Director shall notify the parties (the driver, motor carrier, or any other interested party) that the application has been accepted and that a determination will be made.

A copy of all evidence received shall be attached to the notice.

(2) **Reply.** Any party may submit a reply to the notification within 15 days after service. Such reply must be accompanied by all evidence the party wants the Director to consider in making his determination. Evidence submitted should include all medical records and test results upon which the party relies.

(3) **Parties.** A party for the purposes of this section includes the motor carrier and the driver, or anyone else submitting an application.

(e) **Petitions to review, burden of proof.** The driver or motor carrier may petition to review the Director's determination. Such petition must be submitted in accordance with § 386.13(a) of this chapter. The burden of proof in such a proceeding is on the petitioner.

(f) **Status of driver.** Once an application is submitted to the Director, the driver shall be deemed disqualified until such time as the Director makes a determination, or until the Director orders otherwise.

(49 U.S.C. 304, 322; 18 U.S.C. 831-835; Pub. L. 93-633, 88 Stat. 8156 (49 U.S.C. 1801, *et seq.*); 49 CFR 1.48, 301.60)

[42 FR 18081, Apr. 5, 1977, as amended at 42 FR 53966, Oct. 4, 1977]

#### § 391.49 Waiver of certain physical defects.

(a) A person who is not physically qualified to drive under § 391.41(b) (1) or (2) and who is otherwise qualified to drive a motor vehicle, may drive a motor vehicle, if the Regional Director, Motor Carrier Safety has granted a waiver to that person.

(b) A letter of application for a waiver may be submitted jointly by the person who seeks a waiver of the physical disqualification (driver applicant) and by the motor carrier that will employ the driver applicant if the application is granted. The application must be addressed to the Regional Director, Motor Carrier Safety for the region in which the coapplicant motor carrier's principal place of business is located. The address for each regional office is listed in § 390.40 of this subchapter. **Exception.** A letter of applica-

tion for a waiver may be submitted unilaterally by a driver applicant. The application must be addressed to the Regional Director, Motor Carrier Safety for the region in which the driver has legal residence. The address of each regional office is listed in § 390.40 of this subchapter. The driver applicant must comply with all the requirements of paragraph (c) of this section except paragraphs (c)(1) (i) and (iii). The driver applicant shall respond to the requirements of paragraph (c)(2) (i) to (v) of this section, if the information is known.

(c) A letter of application for a waiver shall contain—

(1) Identification of the applicant(s);

(i) Name and complete address of the motor carrier coapplicant;

(ii) Name and complete address of the driver applicant;

(iii) The Federal Highway Administration Motor Carrier Identification Number, if known; and

(iv) A description of the driver applicant's limb impairment for which waiver is requested.

(2) Description of the type of operation the driver will be employed to perform:

(i) State(s) in which the driver will operate for the motor carrier coapplicant (if more than 10 States, designate general geographic area only);

(ii) Average period of time the driver will be driving and/or on duty, per day;

(iii) Type of commodities or cargo to be transported;

(iv) Type of driver operation (i.e. sleeper-team, relay, owner operator, etc.); and

(v) Number of years experience operating the type of vehicle(s) requested in the letter of application and total years of experience operating all types of motor vehicles.

(3) Description of the vehicle(s) the driver applicant intends to drive:

(i) Truck, truck-tractor, or bus make, model, and year (if known);

(ii) Drive train;

(A) Transmission type (automatic or manual—If manual, designate number of forward speeds);

(B) Auxiliary transmission (if any) and number of forward speeds; and

(C) Rear axle (designate single speed, 2 speed, or 3 speed).

(iii) Type of brake system;

(iv) Steering, manual or power assisted;

(v) Description of type of trailer(s) (i.e., van, flat bed, cargo tank, drop frame, lowboy, or pole);

(vi) Number of semitrailers or full trailers to be towed at one time;

(vii) For passenger-carrying vehicles, indicate seating capacity of vehicle; and

(viii) Description of any vehicle modification(s) made for the driver applicant; attach photograph(s) where applicable.

(4) Otherwise qualified:

(i) The coapplicant motor carrier must certify that the driver applicant is otherwise qualified under the regulations of this part;

(ii) In the case of a unilateral application, the driver applicant must certify that (s)he is otherwise qualified under the regulations of this part.

(5) Signature of applicant(s):

(i) Driver applicant's signature and date signed;

(ii) Motor carrier official's signature (if application has a coapplicant), title, and date signed. Dependent upon the motor carrier's organizational structure (corporation, partnership, or proprietorship), this signer of the application shall be an officer, partner, or the proprietor.

(d) The letter of application for a waiver shall be accompanied by:

(1) A copy of the results of the medical examination performed pursuant to § 391.43;

(2) A copy of the medical certificate completed pursuant to § 391.43(e);

(3) A medical evaluation summary completed by either a board qualified or board certified physiatrist (doctor of physical medicine) or orthopedic surgeon;

**NOTE:** The coapplicant motor carrier or the driver applicant shall provide the physiatrist or orthopedic surgeon with a description of the job tasks the driver applicant will be required to perform.

(i) The medical evaluation summary for a driver applicant disqualified under § 391.41(b)(1) shall include:

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(A) An assessment of the functional capabilities of the driver as they relate to the ability of the driver to perform normal tasks associated with operating a motor vehicle, and

(B) A statement by the examiner that the applicant is capable of demonstrating precision prehension (e.g., manipulating knobs and switches) and power grasp prehension (e.g., holding and maneuvering the steering wheel) with each upper limb separately. This requirement does not apply to an individual who was granted a waiver, absent a prosthetic device, prior to the publication of this amendment.

(ii) The medical evaluation summary for a driver applicant disqualified under § 391.41(b)(2) shall include:

(A) An explanation as to how and why the impairment interferes with the ability of the applicant to perform normal tasks associated with operating a commercial motor vehicle;

(B) An assessment and medical opinion of whether the condition will likely remain medically stable over the lifetime of the driver applicant; and

(C) A statement by the examiner that the applicant is capable of demonstrating precision prehension (e.g., manipulating knobs and switches) and power grasp prehension (e.g., holding and maneuvering the steering wheel) with each upper limb separately. This requirement does not apply to an individual who was granted a waiver, absent an orthotic device, prior to the publication of this amendment.

(4) A description of the driver applicant's prosthetic or orthotic device worn, if any, by the driver applicant;

(5) Road test:

(i) A copy of the driver applicant's road test administered by the motor carrier coapplicant and the certificate issued pursuant to § 391.31 (b) through (g); or

(ii) A unilateral applicant shall be responsible for having a road test administered by a motor carrier or a person who is competent to administer the test and evaluate its results.

(6) Application for employment:

(i) A copy of the driver applicant's application for employment completed pursuant to § 391.21; or

(ii) A unilateral applicant shall be responsible for submitting a copy of

the last commercial driving position's employment application s/he held. If not previously employed as a commercial driver, so state.

(7) A copy of the driver applicant's waiver of certain physical defects issued by the individual State(s), where applicable; and

(8) A copy of the driver applicant's State Motor Vehicle Driving Record for the past 3 years from each State in which a motor vehicle driver's license or permit has been obtained.

(e) *Agreement.* A motor carrier that employs a driver with a waiver agrees to:

(1) File promptly (within 30 days) with the Regional Director, Motor Carrier Safety such documents and information as may be required about driving activities, accidents, arrests, license suspensions, revocations, or withdrawals, and convictions which involve the driver applicant. This applies whether the driver's waiver is a unilateral one or has a coapplicant motor carrier;

(i) A motor carrier who is a coapplicant must file the required documents with the Regional Director, Motor Carrier Safety for the region in which the carrier's principal place of business is located; or

(ii) A motor carrier who employs a driver who has been issued a unilateral waiver must file the required documents with the Regional Director, Motor Carrier Safety for the region in which the driver has legal residence.

(2) Evaluate the driver with a road test using the trailer the motor carrier intends the driver to transport or, in lieu of, accept a certificate of a trailer road test from another motor carrier if the trailer type(s) is similar or accept the trailer road test done during the Skill Performance Evaluation if it is a similar trailer type(s) to that of the prospective motor carrier;

*NOTE:* Job tasks, as stated in paragraph (e)(3) of this section, are not evaluated in the Skill Performance Evaluation.

(3) Evaluate the driver for those nondriving safety-related job tasks associated with whatever type of trailer(s) will be used and any other nondriving safety-related or job-related

tasks unique to the operations of the employing motor carrier; and

(4) Use the driver to operate the type of motor vehicle defined in the waiver only when the driver is in compliance with the conditions and limitations of the waiver.

(f) The driver shall supply each employing motor carrier with a copy of the waiver.

(g) The Regional Director, Motor Carrier Safety may require the driver applicant to demonstrate his or her ability to safely operate the motor vehicle(s) the driver intends to drive to an agent of the Regional Director, Motor Carrier Safety. The waiver form will identify the power unit (bus, truck, truck-tractor) for which the waiver has been granted. The waiver forms will also identify the trailer type used in the Skill Performance Evaluation; however, the waiver is not limited to that specific trailer type. A driver may use the waiver with other trailer types if a successful trailer road test is completed in accordance with paragraph (e)(2) of this section. Job tasks, as stated in paragraph (e)(3) of this section, are not evaluated during the Skill Performance Evaluation.

(h) The Regional Director, Motor Carrier Safety may deny the application for waiver or may grant it totally or in part and issue the waiver subject to such terms, conditions, and limitations as deemed consistent with the public interest. A waiver is valid for a period not to exceed 2 years from date of issue, and may be renewed 30 days prior to the expiration date.

(i) The waiver renewal application shall be submitted to the Regional Director, Motor Carrier Safety for the region in which the driver has legal residence, if the waiver was issued unilaterally. If the waiver has a coapplicant, then the renewal application is submitted to the Regional Director, Motor Carrier Safety for the region in which the coapplicant motor carrier's principal place of business is located. The waiver renewal application shall contain the following:

(1) Name and complete address of motor carrier currently employing the applicant;

(2) Name and complete address of the driver;

(3) Effective date of the current waiver;

(4) Expiration date of the current waiver;

(5) Total miles driven under the current waiver;

(6) Number of accidents incurred while driving under the current waiver, including date of the accident(s), number of fatalities, number of injuries, and the estimated dollar amount of property damage;

(7) A current medical examination report;

(8) A medical evaluation summary pursuant to paragraph (d)(3) of this section if an unstable medical condition exists. All handicapped conditions classified under § 391.41(b)(1) are considered unstable.

*NOTE:* Refer to paragraph (d)(3)(ii) of this section for the condition under § 391.41(b)(2) which may be considered medically stable.

(9) A copy of driver's current State motor vehicle driving record for the period of time the current waiver has been in effect;

(10) Notification of any change in the type of tractor the driver will operate;

(11) Driver's signature and date signed; and

(12) Motor carrier coapplicant's signature and date signed.

(j) Upon granting a waiver, the Regional Director, Motor Carrier Safety will notify the driver applicant and coapplicant motor carrier (if applicable) by letter. The terms, conditions, and limitations of the waiver will be set forth. A motor carrier shall maintain a copy of the waiver in its driver qualification file. A copy of the waiver shall be retained in the motor carrier's file for a period of 3 years after the driver's employment is terminated. The driver applicant shall have the waiver (or a legible copy) in his/her possession whenever on duty.

(k) The Regional Director, Motor Carrier Safety may revoke a waiver after the person to whom it was issued is given notice of the proposed revocation and has been allowed a reasonable opportunity to appeal.

(l) Falsifying information in the letter of application, the renewal ap-

on, or falsifying information required by this section by either the applicant or motor carrier is prohibited.

(Approved by the Office of Management and Budget under control number 2125-0080)

[48 FR 38487, Aug. 24, 1983, as amended at 49 FR 38293, Sept. 28, 1984; 50 FR 49851, Dec. 5, 1985; 51 FR 12621, Apr. 14, 1986]

### Subpart F—Files and Records

#### § 391.51 Driver qualification files.

(a) Each motor carrier shall maintain a driver qualification file for each driver it employs. A driver's qualification file may be combined with his personnel file.

(b) The qualification file for a driver who has been a regularly employed driver of the motor carrier for a continuous period which began before January 1, 1971, must include:

(1) The medical examiner's certificate of his physical qualification to drive a motor vehicle or a legible photographic copy of the certificate;

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

(3) The note relating to the annual review of his driving record required by § 391.25;

(4) The list or certificate relating to violations of motor vehicle laws and ordinances required by § 391.27; and

(5) Any other matter which relates to the driver's qualifications or ability to drive a motor vehicle safely.

(c) The qualification file for a regularly employed driver who has not been regularly employed by the motor carrier for a continuous period which began before January 1, 1971, must include:

(1) The documents specified in paragraph (b) of this section;

(2) The driver's application for employment completed in accordance with § 391.21;

(3) The responses of State agencies and past employers to the motor carrier's inquiries concerning the driver's driving record and employment pursuant to § 391.23;

(4) The certificate of driver's road test issued to the driver pursuant to

§ 391.31 (e), or a copy of the license or certificate which the motor carrier accepted as equivalent to the driver's road test pursuant to § 391.33; and

(5) The questions asked, the answers the driver gave, and the certificate of written examination issued to him pursuant to § 391.35, or a copy of a certificate which the motor carrier accepted as equivalent to a written examination pursuant to § 391.37.

(d) The qualification file for an intermittent, casual, or occasional driver employed under the rules in § 391.63 must include—

(1) The medical examiner's certificate of his physical qualification to drive a motor vehicle or a legible photographic copy of the certificate;

(2) The certificate of driver's road test issued to the driver pursuant to § 391.31(e), or a copy of the license or certificate which the motor carrier accepted as equivalent to the driver's road test pursuant to § 391.31;

(3) The questions asked, the answers the driver gave, and the certificate of written examination issued to him pursuant to § 391.35, or a copy of a certificate which the motor carrier accepted as equivalent to a written examination pursuant to § 391.37; and

(4) The driver's name, his social security number, and the identification number, type, and issuing State of his motor vehicle operator's license.

(e) A using carrier's qualification file for a driver who is regularly employed by another motor carrier, and who is employed by the using carrier in accordance with § 391.65 of this part, shall include a copy of a certificate, as prescribed by § 391.65(a)(2) of this part, by the regularly employing carrier that the driver is fully qualified to drive a motor vehicle.

(f) Except as provided in paragraphs (g) and (h) of this section, each driver's qualification file shall be kept at the motor carrier's principal place of business for as long as a driver is employed by that motor carrier and for 3 years thereafter.

(g) Upon a written request to, and with the approval of, the Director, Regional Motor Carrier Safety Office, for the region in which a motor carrier has his principal place of business, the carrier may retain one or more of its

drivers' qualification files at a regional or terminal office. The addresses and jurisdictions of the Directors of Regional Motor Carrier Safety Offices are shown in § 390.40 of this subchapter.

(h) The following records may be removed from a driver's qualification file after 3 years from date of execution:

(1) The medical examiner's certificate of his physical qualification to drive a motor vehicle or the photographic copy of the certificate as required by § 391.43(d).

(2) The note relating to the annual review of his driving record as required by § 391.25.

(3) The list or certificate relating to violations of motor vehicle laws and ordinance as required by § 391.27.

(4) The letter issued under § 391.49 granting a waiver of a physical disqualification.

(Sec. 204, Interstate Commerce Act, as amended, (49 U.S.C. 304); sec. 6, Department of Transportation Act (49 U.S.C. 1655), and the delegations of authority by the Secretary of Transportation and the Federal Highway Administrator at 49 CFR 1.48 and 301.60, respectively)

[35 FR 6460, Apr. 22, 1970, as amended at 35 FR 17420, Nov. 13, 1970; 41 FR 36658, Aug. 31, 1976; 42 FR 37370, July 21, 1977; 45 FR 46424, July 10, 1980]

### Subpart G—Limited Exemptions

#### § 391.61 Drivers who were regularly employed before January 1, 1971.

The provisions of § 391.21 (relating to applications for employment), § 391.23 (relating to investigations and inquiries), § 391.31 (relating to road tests), and § 391.35 (relating to written examinations) do not apply to a driver who has been a regularly employed driver (as defined in § 395.2(f) of this subchapter) of a motor carrier for a continuous period which began before January 1, 1971, as long as he continues to be a regularly employed driver of that motor carrier. Such a driver is qualified to drive a motor vehicle if he fulfills the requirements of paragraphs (1) through (9) of § 391.11(b) (relating to qualifications of drivers).

#### § 391.62 Drivers of lightweight vehicles.

(a) The following rules in this part do not apply to a person who drives only a lightweight vehicle:

(1) Subpart C (relating to disclosure of, investigation into, and inquiries about, the background, character, and driving record of drivers).

(2) Subpart D (relating to road tests and written examinations).

(3) So much of §§ 391.41, 391.43, and 391.45 as require a driver to be medically examined, to obtain a certificate of medical examination, and to carry a medical examiner's certificate on his person.

(4) Subpart F (relating to maintenance of files and records).

(b) A person who is 18 years of age or older and who is otherwise qualified to drive a motor vehicle under the rules in this part (including the modifications of those rules specified in paragraph (a) of this section) may drive a lightweight vehicle, and § 391.11(b)(1) (relating to minimum age of drivers) does not apply to that person.

[40 FR 1068, Mar. 7, 1975]

#### § 391.63 Intermittent, casual, or occasional drivers.

(a) If a motor carrier employs a person who is not a regularly employed driver (as defined in § 395.2(f) of this subchapter) to drive a motor vehicle for a single trip or on an intermittent, casual, or occasional basis, the motor carrier shall comply with all requirements of this part, except that the motor carrier need not—

(1) Require the person to furnish an application for employment in accordance with § 391.21;

(2) Make the investigations and inquiries specified in § 391.23 with respect to that person,

(3) Perform the annual review of the person's driving record required by § 391.25; or

(4) Require the person to furnish a record of violations or a certificate in accordance with § 391.27.

(b) Before a motor carrier permits a person described in paragraph (a) of this section to drive a motor vehicle, the motor carrier must obtain his name, his social security number, and

the identification number, type and issuing State of his motor vehicle operator's license. The motor carrier must retain that information in its files for 3 years after the person's employment by the motor carrier ceases.

**§ 391.65 Drivers furnished by other motor carriers.**

(a) A motor carrier may employ a driver who is not a regularly employed driver of that motor carrier without complying with the generally applicable driver qualification file requirements in this part, if—

(1) The driver is regularly employed by another motor carrier; and

(2) The motor carrier which regularly employs the driver certifies that the driver is fully qualified to drive a motor vehicle in a written statement which—

(i) Is signed and dated by an officer or authorized employee of the regularly employing carrier;

(ii) Contains the driver's name and signature;

(iii) Certifies that the driver has been employed regularly to drive, as defined in § 391.3(c);

(iv) Certifies that the driver is fully qualified to drive a motor vehicle under the rules in Part 391 of the Federal Motor Carrier Safety Regulations;

(v) States the expiration date of the driver's medical examiner's certificate;

(vi) Specifies an expiration date for the certificate, which shall be not longer than 2 years or, if earlier, the expiration date of the driver's current medical examiner's certificate; and

(vii) After April 1, 1977, is substantially in accordance with the following form:

\_\_\_\_\_  
(Name of driver)

\_\_\_\_\_  
(SS No.)

\_\_\_\_\_  
(Signature of driver)

I certify that the above named driver, as defined in § 391.3(c) is regularly driving a vehicle operated by the below named carrier and is fully qualified under Part 391, Federal Motor Carrier Safety Regulations. His current medical examiner's certificate expires \_\_\_\_\_ (Date)

This certificate expires: \_\_\_\_\_

(Date not later than expiration date of medical certificate)

Issued on \_\_\_\_\_ (date)

Issued by \_\_\_\_\_  
(Name of carrier)

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Title)

(b) A motor carrier that obtains a certificate in accordance with paragraph (a) (2) of this section shall retain a copy of that certificate in its files for 3 years.

(c) A carrier which certifies a driver's qualifications under this section shall—

(1) Be responsible for the accuracy of the certificate; and

(2) Recall the unexpired certificate carried by a driver immediately upon learning that the driver is no longer qualified under the rules in this part.

[41 FR 36656, Aug. 31, 1976]

**§ 391.67 Drivers of articulated (combination) farm vehicles.**

The following rules in this part do not apply to a farm vehicle driver (as defined in § 391.3(d)) who is 18 years of age or older and who drives an articulated motor vehicle:

(a) Paragraphs (1), (8), (10), (11), and (12) of § 391.11(b) (relating to driver qualifications in general).

(b) Subpart C (relating to disclosure of, investigation into, and inquiries about the background, character, and driving record of, drivers).

(c) Subpart D (relating to road tests and written examinations).

(d) So much of §§ 391.41 and 391.45 as require a driver to be medically examined and to have a medical examiner's certificate on his person before January 1, 1973.

(e) Subpart F (relating to maintenance of files and records).

[36 FR 24220, Dec. 22, 1971]

**§ 391.69 Drivers operating in Hawaii.**

(a) Drivers who will reach the age of 21 no later than April 1, 1976, may continue to drive within the State of Hawaii.

(b) The provisions of § 391.21 (relating to application for employment), § 391.23 (relating to investigations and inquiries), § 391.31 (relating to road tests), and § 391.35 (relating to written examinations and the requirements of these sections) do not apply to a driver who has been a regularly employed driver (as defined in § 395.2(f) of this subchapter) of a motor carrier operating in the State of Hawaii for a continuous period which began before April 1, 1975, as long as he continues to be a regularly employed driver of that motor carrier. Such a driver is qualified to drive a motor vehicle if he fulfills the requirements of paragraphs (1) through (9) of § 391.11(b) (relating to qualifications of drivers).

[40 FR 32336, Aug. 1, 1975]

**§ 391.71 Intrastate drivers of vehicles transporting combustible liquids.**

(a) The provisions of § 391.11(b)(1) (relating to minimum age), § 391.21 (relating to application for employment), § 391.23 (relating to investigations and inquiries), § 391.31 (relating to written examination) do not apply to a driver who is otherwise qualified and was a regularly employed driver (as defined in § 395.2(f) of the subchapter) as of July 1, 1975, and continues to be a regularly employed driver of that motor carrier and who drives a motor vehicle that:

(1) Is transporting combustible liquids (as defined in § 173.115 of this title), and

(2) Is being operated in intrastate commerce.

(b) In addition to the exemptions provided in paragraph (a) of this section, the provisions of § 391.41(b) (10) (relating to minimum visual requirements), do not apply to a driver who was a regularly employed driver (as defined in § 395.2(f) of this subchapter) as of July 1, 1975, and continues to be a regularly employed driver of that motor carrier and who drives a vehicle that:

(1) Is a truck (as defined in § 390.4 of this subchapter), and

(2) Is operated in retail delivery service, and

(3) Is transporting combustible liquids (as defined in § 173.115 of this title), and

(4) Is operated in intrastate commerce.

[40 FR 54796, Nov. 26, 1975; 40 FR 58858, Dec. 19, 1975]

**PART 392—DRIVING OF MOTOR VEHICLES**

**Subpart A—General**

Sec.

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