

represents a corrected restatement of a principle already incorporated into the final rule, and long enforced by FMCSA and State officials, the agency has determined that notice and comment are unnecessary.

Drivers of Oil Well Servicing Vehicles

The current sleeper-berth rule allows drivers "who are off duty at a natural gas or oil well location" to rest "in a sleeper berth in two separate periods totaling 8 hours, neither period to be less than 2 hours, or resting while off duty in *other sleeping accommodations* at a natural gas or oil well location." [§ 395.1(g) (emphasis added)]. The final rule was intended to retain the "other sleeping accommodations" option; as contained in § 395.1(g)(2). The agency is correcting an inadvertent omission by adding a reference to "other sleeping accommodations" to § 395.1(g)(2)(iv). Because this change merely applies a principle allowed for decades by the previous rule and explicitly endorsed by the new rule, to drivers leaving—in addition to those engaged in—sleeper berth operations, the agency has determined that notice and comment are unnecessary.

16-Hour Exception for Short-Haul Drivers

FMCSA decided short-haul operations should be granted a weekly exception to the prohibition on driving after the 14th hour after coming on duty. Page 9–9 of the Regulatory Impact Analysis clearly states that the analysis concerned "the flexibility to work up to 16 hours up to one day per work week." The final rule, however, erroneously provided that the 16-hour exemption could not be taken "within the previous 7 consecutive days" [§ 395.1(o)(3)], which created an 8-day cycle. FMCSA has therefore determined that notice and comment are unnecessary to correct the drafting error and amend § 395.1(o) to allow the exception if not taken "within the previous 6 consecutive days."

Regulatory Flexibility Act of 1980 (RFA)

The RFA generally requires a description and analysis of final rules that will have a significant economic impact on a substantial number of small entities. Since this rule is not subject to the notice and public comment requirements of 5 U.S.C. 553, it is not subject to the provisions of the RFA.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 requires Federal agencies to assess the regulatory actions that may result in the expenditure by a State, local, or tribal government, in the

aggregate, or by the private sector of \$100 million or more in any one year. There are no costs associated with this rule.

Federalism

This rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13132 (Federalism). This rule does not impose any new requirement that: (1) has substantial direct effects on the States, the relationship between the Federal government and the States, or the distribution of power among the various levels of government; (2) imposes substantial direct compliance costs on State and local governments; or (3) preempts State law. This rule does not have any federalism implications.

Taking of Private Property

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

Civil Justice Reform

This rule meets applicable standards in section 3 of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Intergovernmental Review

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

Collection of Information

This rule contains no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Environmental Impact

We have analyzed this action for purposes of the National Environmental Policy Act and have determined that this action does not have any effect on the quality of the environment.

Submission to Congress and the Comptroller General

This final rule is also exempt from congressional review under 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, since it only makes minor technical corrections to existing regulations.

List of Subjects in 49 CFR part 395

Highway safety, Motor carriers, Reporting and recordkeeping requirements.

■ For the reasons set forth in the preamble, FMCSA amends title 49 of the Code of Federal Regulations, chapter III, subchapter B, as set forth below.

PART 395—HOURS OF SERVICE OF DRIVERS

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

Authority: 49 U.S.C. 504, 14122, 31133, 31136, and 31502; sec. 113, Pub. L. 103–311, 108 Stat. 1673, 1676; and 49 CFR 1.73.

■ 2. Section 395.1 is amended by revising paragraphs (g)(1), (g)(2), and (o)(3), and revising the introductory paragraph (g)(3) to read as follows:

§ 395.1 Scope of rules in this part.

* * * * *

(g) * * *

(1) *General property-carrying commercial motor vehicle.* A driver who is driving a property-carrying commercial motor vehicle that is equipped with a sleeper berth, as defined in §§ 395.2 and 393.76 of this subchapter, may accumulate the equivalent of 10 consecutive hours of off-duty time by taking a combination of at least 10 consecutive hours off-duty and sleeper berth time; or by taking two periods of rest in the sleeper berth, providing:

(i) Neither rest period is shorter than two hours;

(ii) The driving time in the period immediately before and after each rest period, when added together, does not exceed 11 hours;

(iii) The driver does not drive after the 14th hour after coming on duty following 10 hours off duty, where the 14th hour is calculated:

(A) by excluding any sleeper berth period of at least 2 hours which, when added to a subsequent sleeper berth period, totals at least 10 hours, and

(B) by including all on-duty time, all off-duty time not spent in the sleeper berth, all sleeper berth periods of less than 2 hours, and any sleeper berth period not described in paragraph (g)(1)(iii)(A); and