

CHAPTER 37. SAFETY CODE FOR TRANSPORTATION OF PROPERTY AND PASSENGERS

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Authority

The provisions of this Chapter 37 issued under sections 901 and 902 of the act of May 28, 1937 (P. L. 1053, No. 286) (66 P. S. §§ 1341 and 1342) (Repealed July 1, 1978 (P. L. 598, No. 116); reissued under 66 Pa.C.S. §§ 501, 1501, 2301 and 2501, unless otherwise noted.

Source

The provisions of this Chapter 37 adopted July 20, 1973, effective July 21, 1973, 3 Pa.B. 1372, unless otherwise noted.

Cross References

This chapter cited in 52 Pa. Code § 3.381 (relating to applications for transportation of property, household goods in use and persons); 52 Pa. Code § 3.384 (relating to disposition of applications for ETA and TA); and 52 Pa. Code § 29.101 (relating to operation of leased equipment).

Subchapter A. GENERAL PROVISIONS

Sec.	
37.1—37.8.	[Reserved].
37.11—37.22.	[Reserved].
37.31—37.44.	[Reserved].
37.51—37.95.	[Reserved].
37.101—37.176.	[Reserved].
37.181—37.199.	[Reserved].
37.201.	General.
37.202.	Definitions.
37.203.	Effect of incorporation of the <i>Code of Federal Regulations</i> .
37.204.	Adoption of portions of 49 CFR by reference.
37.205.	Additions or modifications to 49 CFR.
37.206.	Interpretations of the Federal Highway Administration, United States Department of Transportation.

Cross References

This subchapter cited in 52 Pa. Code § 37.271 (relating to application).

§§ 37.1—37.8. [Reserved].**Source**

The provisions of these §§ 37.1—37.8 adopted July 20, 1973, effective July 21, 1973, 3 Pa.B. 1372; amended August 15, 1975, effective August 16, 1975, 5 Pa.B. 2135; reserved May 19, 1995, effective May 20, 1995, 25 Pa.B. 1951. Immediately preceding text appears at serial pages (85920), (90000) to (90001) and (43460) to (43465).

§§ 37.11—37.22. [Reserved].**Source**

The provisions of these §§ 37.11—37.22 adopted July 20, 1973, effective July 21, 1973, 3 Pa.B. 1372; amended August 15, 1975, effective August 16, 1975, 5 Pa.B. 2135; reserved May 19, 1995, effective May 20, 1995, 25 Pa.B. 1951. Immediately preceding text appears at serial pages (43465) to (43475).

§§ 37.31—37.44. [Reserved].**Source**

The provisions of these §§ 37.31—37.44 adopted July 20, 1973, effective July 21, 1973, 3 Pa.B. 1372; amended August 15, 1975, effective August 16, 1975, 5 Pa.B. 2135; reserved May 19, 1995, effective May 20, 1995, 25 Pa.B. 1951. Immediately preceding text appears at serial pages (43475) to (43479), (78383) to (78384) and (43482) to (43495).

§§ 37.51—37.64. [Reserved].**Source**

The provisions of these §§ 37.51—37.64 adopted July 20, 1973, effective July 21, 1973, 3 Pa.B. 1372; amended August 15, 1975, effective August 16, 1975, 5 Pa.B. 2135; reserved May 19, 1995, effective May 20, 1995, 25 Pa.B. 1951. Immediately preceding text appears at serial pages (43495) to (43499) and (78387).

§ 37.65. [Reserved].**Source**

The provisions of this § 37.65 adopted July 20, 1973, effective July 21, 1973, 3 Pa.B. 1372; reserved October 22, 1982, effective October 23, 1982, 12 Pa.B. 3781. Immediately preceding text appears at serial pages (43500) to (43501).

§ 37.66. [Reserved].**Source**

The provisions of this § 37.66 adopted July 20, 1973, effective July 21, 1973, 3 Pa.B. 1372; reserved October 22, 1982, effective October 23, 1982, 12 Pa.B. 3781. Immediately preceding text appears at serial page (43502).

§§ 37.67—37.95. [Reserved].**Source**

The provisions of these §§ 37.67—37.95 adopted July 20, 1973, effective July 21, 1973, 3 Pa.B. 1372; amended August 15, 1975, effective August 16, 1975, 5 Pa.B. 2135; reserved May 19, 1995, effective May 20, 1995, 25 Pa.B. 1951. Immediately preceding text appears at serial pages (78387) to (78389) and (43504) to (43511).

§§ 37.101—37.176. [Reserved].**Source**

The provisions of these §§ 37.101—37.176 adopted July 20, 1973, effective July 21, 1973, 3 Pa.B. 1372; amended August 15, 1975, effective August 16, 1975, 5 Pa.B. 2135; reserved May 19, 1995, effective May 20, 1995, 25 Pa.B. 1951. Immediately preceding text appears at serial pages (43511) to (43541), (78391) to (78392), (43544) to (43547), (78393) to ((78394), (43550) to (43591), (90002) to (90003), (43596) to (43603), (78397) to (78398), (43606) to (43607) and (90004).

§§ 37.181—37.199. [Reserved].**Source**

The provisions of these §§ 37.181—37.199 adopted July 20, 1973, effective July 21, 1973, 3 Pa.B. 1372; amended August 15, 1975, effective August 16, 1975, 5 Pa.B. 2135; reserved May 19, 1995, effective May 20, 1995, 25 Pa.B. 1951. Immediately preceding text appears at serial pages (90004) to (90007), (73181), (90008) to (90014), (90016) to (90019), (78405) to (78414), (95623) to (95624), (78417) to (78420), (78423), (43626) to (43627) and (113357).

§ 37.201. General.

(a) *Purpose.* This chapter prescribes the minimum requirements for drivers and vehicles involved in the transportation of property and passengers by motor carrier, as regulated by the Commission. Much of this chapter incorporates by reference 49 CFR Parts 382 and 390—396.

(b) *Application.*

(1) Except as provided for in Subchapter D (relating to requirements for lightweight vehicles), this chapter is applicable to drivers, employees, officers, agents, representatives and motor carriers, involved in the transportation of property, including household goods, and passengers as regulated by the Commission.

(2) A motor carrier shall be knowledgeable of and comply with the applicable requirements of this chapter, and shall instruct its drivers, employees, officers, agents and representatives of them.

(3) Motor vehicles, operated by motor carriers regulated by the Commission, shall be maintained in compliance with this chapter, and other applicable laws and regulations of the Commonwealth.

(4) Driver and vehicle inspections of a motor carrier regulated by the Commission, conducted by qualified personnel employed by a Federal, State or

local government agency, may be used in an investigation or administrative proceeding before the Commission.

Source

The provisions of this § 37.201 adopted May 19, 1995, effective May 20, 1995, 25 Pa.B. 1951.

§ 37.202. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

AC—Alcohol concentration—The concentration of alcohol in a person's blood or breath. When expressed as a percentage, the term means grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath.

Act—66 Pa.C.S. (relating to the Public Utility Code).

Bus—A motor vehicle designed, constructed and used for the transportation of passengers under certificates of public convenience and necessity issued by the Commission in scheduled route or in group or party service. For the purpose of this chapter, the designed seating capacity of the bus shall be 16 or more passengers.

Business district—The territory contiguous to and including a highway when within any 600 feet along the highway there are buildings in use for business or industrial purposes, including hotels, banks or office buildings, railroad stations and public buildings which occupy at least 300 feet of frontage on one side or 300 feet collectively on both sides of the highway.

Direct assistance—Transportation and other relief services provided by a motor carrier or its drivers incident to the immediate restoration of essential services—such as, electricity, medical care, wastewater, water, telecommunications and telecommunication transmissions—or essential supplies—such as, food and fuel. The term does not include transportation related to long term rehabilitation of damaged physical infrastructure or routine commercial deliveries after the initial threat to life and property has passed.

Driveaway-towaway operation—An operation in which a motor vehicle constitutes the commodity being transported and one or more set of wheels of the vehicle being transported are on the surface of the roadway during transportation.

Driver—A person who drives or is in actual physical control of a vehicle.

Driving a vehicle while under the influence of alcohol—Committing one or more of the following acts in a motor vehicle:

(i) Driving a motor vehicle while the person's alcohol concentration is .04% or more.

(ii) Driving under the influence of alcohol, as prescribed by Commonwealth law.

(iii) Refusal to undergo testing required in the enforcement of 49 CFR 392.5(a)(2) (relating to intoxicating beverage).

Emergency—A hurricane, tornado, storm—for example: thunderstorm, snow-storm, ice storm, blizzard, sandstorm, and the like—high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, mud slide, drought, forest fire, explosion, blackout or other occurrence, natural or man-made, which interrupts the delivery of essential services or essential supplies or otherwise immediately threatens human life or public welfare, if the hurricane, tornado or other event results in one of the following:

(i) A declaration of an emergency by the President of the United States, the Governor of a State or his authorized representatives having authority to declare emergencies; or by other Federal, State or local government officials having authority to declare emergencies.

(ii) A request by a police officer for tow trucks to move wrecked or disabled vehicles.

Emergency relief—An operation in which a motor carrier or driver of a motor vehicle is providing direct assistance to supplement State and local efforts and capabilities to save lives or property or to protect public health and safety as a result of an emergency as defined in this section.

Employee—One or more of the following:

(i) A driver of a motor vehicle.

(ii) A mechanic.

(iii) A freight handler.

(iv) An individual, other than an employee, who is employed by a motor carrier and who in the course of employment directly affects motor vehicle safety.

Employer—A common or contract motor carrier as regulated by the Commission.

Gross combination weight rating—The value specified by the manufacturer as the loaded weight of a combination.

Gross vehicle weight rating—The value specified on the Federal weight certification label by the manufacturer as the loaded weight of a single vehicle.

Gross weight—The combined weight of a vehicle or combination of vehicles and its load excluding the driver's weight.

Intermittent, casual or occasional driver—A driver who in any period of 7 consecutive days is employed or used as a driver by more than a single motor carrier.

Lightweight vehicle—A motor vehicle, other than a vehicle that is being used to transport passengers for hire; or a vehicle that is being used to transport hazardous materials of a type or quantity that requires the vehicle to be marked or placarded under 49 CFR 177.823 (relating to marking and placarding motor vehicles) that was one of the following:

(i) Manufactured on or after January 1, 1972, and has a manufacturer's gross vehicle weight rating of 10,000 pounds or less, in the case of a single

vehicle, or a manufacturer's gross combination weight rating of 10,000 pounds or less, in the case of an articulated vehicle.

(ii) Manufactured before January 1, 1972, and has a gross weight including its load and the gross weight of a vehicle being towed by the motor vehicle of 10,000 pounds or less.

Medical examiner—A person who is licensed, certified or registered, in accordance with applicable state laws and regulations, to perform physical examinations.

Motor carrier—Includes the following:

(i) *Common carrier by motor vehicle*—Persons or corporations holding out or undertaking, directly or indirectly, to transport property, or a class of property or passengers between points within this Commonwealth by motor vehicle for compensation, whether or not the owner or operator of the vehicle; or providing or furnishing a motor vehicle with or without driver for transportation or for use in transportation of property as described in this definition, and including common carriers by rail, water or air and express or forwarding public utilities insofar as the common carrier or the public utilities are engaged in the motor vehicle operation, except as expressly exempted by the act.

(ii) *Contract carrier by motor vehicle*—A person or corporation who or which provides or furnishes transportation of property, or a class of property or passengers, between points within this Commonwealth by motor vehicles for compensation whether or not the owner or operator of the motor vehicle, or who or which provides or furnishes with or without driver a motor vehicle for the transportation or for use in the transportation other than as a common carrier by motor vehicle, except as expressly exempted by the act.

Motor vehicle—A vehicle, machine, tractor, trailer or semitrailer propelled or drawn by mechanical power and used upon the highways in the transportation of passengers or property, or a combination thereof. The term includes a truck, truck tractor or combination having a gross vehicle weight rating or registered gross weight in excess of 10,000 pounds, and a vehicle defined as a bus in this section. For purposes of § 37.205(1) (relating to additions or modifications to 49 CFR), this definition does not apply. See the definition in § 37.205(1)(ii)(C).

Operator—See definition of “driver” in this section.

Out-of-service order—A declaration by an enforcement officer employed by the Commission that a driver or a motor vehicle is out-of-service under § 37.205(6)(ii), (7)(i) or the Commission's Out-of-Service Criteria.

Person—A natural person, firm, copartnership, association or corporation.

Principal place of business—A single location designated by the motor carrier, normally its headquarters, where records required by this chapter will be maintained. Provisions in this chapter are made for maintaining certain records at locations other than the principal place of business.

Regularly employed driver—A driver who, in a period of 7 consecutive days is employed or used as a driver solely by a single motor carrier.

Residence district—The territory contiguous to and including a highway not comprising a business district when the property on the highway for a distance of 300 feet or more is in the main improved with residences or residences and buildings in use for business.

Trailer—The term includes:

(i) *Full trailer*—A trailer so constructed that no part of its weight rests upon the towing vehicle. The term includes a semitrailer attached to a towing vehicle by means of an auxiliary front axle or dolly.

(ii) *Pole trailer*—A motor vehicle which is designed to be drawn by another motor vehicle and attached to the towing vehicle by means of a reach or pole, or by being boomed or otherwise secured to the towing vehicle, for transporting long or irregularly shaped loads such as poles, pipes or structural members, which generally are capable of sustaining themselves as beams between the supporting connections.

(iii) *Semitrailer*—A trailer so constructed that some part of its weight rests upon or is carried by the towing vehicle.

Truck—A motor vehicle designed, used or maintained primarily for the transportation of property.

Truck tractor—A motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn.

Vehicle—Every device in, upon or by which a person or property is or may be transported or drawn upon a highway, except devices used exclusively upon rails or tracks.

Authority

The provisions of this § 37.202 amended under the Public Utility Code, 66 Pa.C.S. § 501.

Source

The provisions of this § 37.202 adopted May 19, 1995, effective May 20, 1995, 25 Pa.B. 1951; amended February 13, 1998, effective February 14, 1998, 28 Pa.B. 801. Immediately preceding text appears at serial pages (233156) to (233159).

Cross References

This section cited in 52 Pa. Code § 37.203 (relating to effect of incorporation of the *Code of Federal Regulations*); 52 Pa. Code § 37.204 (relating to adoption of portions of 49 CFR by reference); 52 Pa. Code § 37.205 (relating to additions or modifications to 49 CFR); and 52 Pa. Code § 37.271 (relating to application).

§ 37.203. Effect of incorporation of the *Code of Federal Regulations*.

(a) *Title and name changes*. To reconcile differences between this chapter and the incorporated sections of Federal regulations and to effectuate their joint enforcement, the following words and phrases shall be substituted for the language of the Federal regulations:

- (1) Reference to interstate commerce means transportation as regulated by the Commission.
 - (2) Reference to the Director means the Director of Transportation and Safety.
 - (3) Reference to the Regional Director means the Director of Transportation and Safety.
 - (4) Reference to commercial motor vehicle means motor vehicle, as defined in § 37.202 or § 37.205 (relating to definitions; and additions or modifications to 49 CFR) as appropriate.
 - (5) Reference to the Secretary means the Director of Transportation and Safety.
 - (6) Reference to special agent means an enforcement officer employed by the Commission.
 - (7) Reference to the Federal Highway Administration means the Commission.
 - (8) Reference to the Federal Highway Administration Administrator or FHWA Administrator means the Director of Transportation and Safety, except in § 37.205(1)(iv).
 - (9) Reference to the subchapter or Subchapter B means Chapter 37.
 - (10) Reference to the Regional Offices of Motor Carrier Safety means Bureau of Transportation and Safety.
 - (11) Reference to the Associate Administrator means the Director of Transportation and Safety.
 - (12) Reference to Part 40 means 49 CFR Part 40 (relating to procedures for transportation workplace drug testing programs).
- (b) *Address changes.* Reference to addresses of the offices of the Federal Highway Administration means: Public Utility Commission, Motor Carrier Enforcement Division, Post Office Box 3265, Harrisburg, Pennsylvania 17105-3265.
- (c) *Forms and documents.* Reference to forms and documents in the Federal Motor Carrier Safety Regulations incorporated by reference, shall be replaced by the appropriate form prescribed by the Commission.
- (d) *49 CFR Parts 382 and 390—396.* Appropriate parts may be obtained from the following:
- (1) United States Government Printing Office, Room 118 Federal Building, 1000 Liberty Avenue, Pittsburgh, Pennsylvania 15222, (412) 644-2721.
 - (2) United States Government Printing Office, 100 North 17th St., Robert Morris Building, Philadelphia, Pennsylvania 19103, (215) 597-0677.
 - (3) United States Superintendent of Documents, United States Government Printing Office, Washington, D. C. 20402, (202) 655-4000.

Source

The provisions of this § 37.203 adopted May 19, 1995, effective May 20, 1995, 25 Pa.B. 1951.

§ 37.204. Adoption of portions of 49 CFR by reference.

The Commission incorporates by reference the following portions of 49 CFR (relating to transportation), subject to §§ 37.202 and 37.205 (relating to definitions; and additions or modifications to 49 CFR).

- (1) Part 382 (relating to driver drug and alcohol testing).
- (2) Part 390 (relating to Federal motor carrier safety regulations; general).
- (3) Part 391 (relating to qualifications of drivers).
- (4) Part 392 (relating to driving of motor vehicles).
- (5) Part 393 (relating to parts and accessories necessary for safe operation).
- (6) Part 395 (relating to hours of service for drivers).
- (7) Part 396 (relating to inspection, repair and maintenance).

Source

The provisions of this § 37.204 adopted May 19, 1995, effective May 20, 1995, 25 Pa.B. 1951.

Cross References

This section cited in 52 Pa. Code § 37.205 (relating to additions or modifications to 49 CFR); and 52 Pa. Code § 31.32 (relating to equipment).

§ 37.205. Additions or modifications to 49 CFR.

As stated in § 37.204 (relating to adoption of portions of 49 CFR by reference), this chapter generally incorporates 49 CFR Parts 382 and 390—396. The following modifications, additions and deletions to those parts also apply:

- (1) Part 382 (relating to controlled substances and alcohol use and testing).
 - (i) 49 CFR 382.103 (relating to applicability) is modified to incorporate the following provisions:
 - (A) 49 CFR 382.103(a) is modified to read: This part applies to motor carriers and persons who operate a motor vehicle as defined in this section at subparagraph (ii)(C), in transportation as regulated by the Commission.
 - (B) 49 CFR 382.103(c) is deleted in its entirety and replaced with the following: the Commission will permit compliance with this part by persons who have been subject to the testing provisions of another Department of Transportation agency.
 - (ii) 49 CFR 382.107 (relating to definitions) is adopted in its entirety except for the following revisions:
 - (A) The term “commerce” is deleted in its entirety.
 - (B) The term “commercial motor vehicle” is deleted in its entirety.
 - (C) The term “motor vehicle” means a vehicle, self propelled or towed, used in transportation regulated by the Commission, that is one of the following:
 - (I) The vehicle has a gross vehicle weight rating or gross combination weight rating of 26,001 or more pounds.

- (II) The vehicle is used to transport more than 16 passengers, including the driver.
- (D) The term “employer” is deleted in its entirety.
- (E) The term “employer” is deleted in its entirety. See the definition in § 37.202 (relating to definitions).
- (iii) 49 CFR 382.109 (relating to preemption of State and local laws) is deleted in its entirety.
- (iv) 49 CFR 382.305 (relating to random testing) is modified to incorporate the following provisions:
 - (A) 49 CFR 382.305(1) is modified to add the following provision: For purposes of this section only, FHWA means the Federal Highway Administration.
 - (B) 49 CFR 382.305(m) is modified to add the following provision: The Commission will evaluate the FHWA Administrator’s decision to increase or decrease minimum annual percentage rate for alcohol and controlled substance testing. If the Commission determines to adopt requirements that are different from the FHWA Administrator’s decision, the minimum annual testing percentage rate will be published in the *Pennsylvania Bulletin*.
- (v) 49 CFR 382.405 (relating to access to facilities and records) is modified to delete subsection (e).
- (vi) 49 CFR 382.501 (relating to removal from safety-sensitive function) is modified to delete subsection (c).
- (2) Part 390 (relating to general).
 - (i) 49 CFR 390.1 (relating to purpose) is deleted in its entirety.
 - (ii) 49 CFR 390.3 (relating to general applicability) is deleted in its entirety.
 - (iii) 49 CFR 390.5 (relating to definitions) is deleted in its entirety.
 - (iv) 49 CFR 390.7 (relating to rules of construction) is modified to incorporate the following provision: 49 CFR 390.7(a) is modified to delete the reference to Part 325 of Subchapter A.
 - (v) 49 CFR 390.9 (relating to state and local laws effect on) is deleted in its entirety.
 - (vi) 49 CFR 390.11 (relating to motor carrier to require observance of driver regulations) is modified to delete the reference to Part 325 of Subchapter A.
 - (vii) 49 CFR 390.21 (relating to marking of commercial motor vehicles) is modified to read: A vehicle shall be marked according to the requirements contained in §§ 29.71 and 31.33 (relating to markings of vehicles; and identification of equipment).
 - (viii) 49 CFR 390.27 (relating to locations of regional motor carrier safety offices) is deleted in its entirety.

(ix) 49 CFR 390.33 (relating to vehicles used for purpose other than as defined) is modified to read: When a motor vehicle other than a bus is used to perform the functions normally performed by a bus, the regulations pertaining to buses and to the transportation of passengers apply to that motor vehicle and to its operation as though it were a bus, except with respect to vehicles operated by a motor carrier to transport its employees to and from their place of work in the regular course of the business of the carrier. Likewise, when a motor vehicle of one type is used to perform the functions normally performed by a motor vehicle of another type, the requirements of this chapter apply to the motor vehicle and to its operation in the same manner as though the motor vehicle of the latter type.

(x) 49 CFR 390.35 (relating to certificates, reports, and records: falsification, reproduction, or alteration) is modified to delete every reference to Part 325 of Subchapter A.

(xi) 49 CFR 390.37 (relating to violation and penalty) is deleted in its entirety.

(3) Part 391 (relating to qualifications of drivers).

(i) 49 CFR 391.2 (relating to general exemptions) is deleted in its entirety.

(ii) 49 CFR 391.11(b)(1) (relating to qualifications of drivers) is modified to read: Is at least 18 years of age, unless transporting hazardous materials in a vehicle that is required to be placarded in accordance with 49 CFR 177.823 in which case the driver shall be the applicable age required under Federal and state law.

(iii) 49 CFR 391.15(d)(iv) (relating to disqualification of drivers) is deleted in its entirety.

(iv) 49 CFR 391.49 (relating to waiver of certain physical defects) is modified to incorporate the following provisions:

(A) 49 CFR 391.49(a) is modified to read: A person who is not physically qualified to drive under 49 CFR 391.41(b)(1) or (2) (relating to physical qualifications for drivers) and who is otherwise qualified to drive a motor vehicle, may drive a motor vehicle, other than a motor vehicle which transports passengers or a motor vehicle which transports hazardous materials, if the Commission has granted an application for waiver submitted by the motor carrier on behalf of that person.

(B) 49 CFR 391.49(b) is modified to read: An application for a waiver shall be submitted by the motor carrier that will employ the driver who seeks a waiver of his physical disqualification, if the application is granted. The application shall be addressed to the Director, Bureau of Transportation and Safety, Pennsylvania Public Utility Commission, Post Office Box 3265, Harrisburg, Pennsylvania 17105-3265.

(C) 49 CFR 391.49(d) is modified to add the following provision: (4) A copy of a waiver of physical disqualification approved by the appropri-

ate Federal regional director or by a qualified employe of the Department of Transportation will be accepted by the Commission in lieu of the required medical documents, unless requested by the Commission.

(v) 49 CFR 391.67 (relating to drivers of articulated (combination) farm vehicles) is deleted in its entirety.

(vi) 49 CFR 391.68 (relating to private motor carrier of passengers (non-business)) is deleted in its entirety.

(vii) 49 CFR 391.69 (relating to drivers operating in Hawaii) is deleted in its entirety.

(viii) 49 CFR 391.71 (relating to intrastate drivers of vehicles transporting combustible liquids) is deleted in its entirety.

(ix) 49 CFR 391.73 (relating to private motor carrier of passengers (business)) is deleted in its entirety.

(x) 49 CFR 391.81(c) (relating to purpose and scope) is deleted in its entirety.

(xi) 49 CFR 391.83 (relating to applicability) is modified to incorporate the following provisions:

(A) 49 CFR 391.83(a) applies to motor carriers and persons who operate a motor vehicle, as defined in this subpart, in transportation regulated by the Commission.

(B) 49 CFR 391.83(b) is deleted in its entirety.

(C) 49 CFR 391.83(c) is deleted in its entirety.

(xii) 49 CFR 391.85 (relating to definitions) is adopted in its entirety except for the following revisions:

(A) The term "commercial motor vehicle" is deleted in its entirety.

(B) The term "motor vehicle" means a vehicle, self propelled or towed, used in the transportation regulated by the Commission, that is one of the following:

(I) The vehicle has a gross vehicle weight rating of 26,001 or more pounds.

(II) The vehicle is designed to transport more than 15 passengers, including the driver.

(C) The term "interstate commerce" is deleted in its entirety.

(D) The term "motor carrier" is defined in § 37.202.

(xiii) 49 CFR 391.93 (relating to implementation schedule) applies.

(xiv) 49 CFR 391.125 (relating to termination schedule of this subpart) applies.

(4) Part 392 (relating to driving of motor vehicles). 49 CFR 392.2 (relating to applicable operating rules) is revised to incorporate the following revision: Every motor vehicle shall be operated in accordance with the laws, ordinances and regulations of the jurisdiction in which it is being operated. However, in any conflict between the Federal regulations and the Commission regulations, the Commission regulations prevail if they represent a higher standard.

(5) Part 393 (relating to parts and accessories necessary for safe operation).

(i) *Lighting devices and reflectors.* 49 CFR 393.11, Table 1, Footnote 11 is modified by adding the following: Exemption. A vehicle with projecting loads may mark the extremities of the load with red flags only as provided in 49 CFR 393.87 (relating to flags on projecting loads) provided the vehicle is operating only during those times of the day when lighted lamps are not required under 49 CFR 392.30 (relating to lighted lamps; moving vehicles).

(ii) *Tires.* 49 CFR 393.75 (relating to tires) is modified to incorporate the following provision: Vehicles permitted to operate with oversize wheels and tires under 75 Pa.C.S. § 4969 (relating to permit for movement of vehicles with oversize wheels and tires) are not subject to the requirements of this section.

(iii) *Bus exhaust system.* 49 CFR 393.83 (relating to exhaust system location) is modified to incorporate the following provisions:

(A) 49 CFR 393.83(c) is modified to read: A bus exhaust system which does not discharge at or within 6 inches of the rearmost part of the bus shall discharge to an outside edge of the vehicle body.

(B) 49 CFR 393.83(d)(1) is modified to read: A bus exhaust system which does not discharge at or within 15 inches of exhaust system which does not discharge at or within 15 inches of the rearmost part of the bus shall discharge to an outside edge of the vehicle body.

(iv) *Seats, seat belt assemblies and seat belt assembly anchorages.* 49 CFR 393.93(d) (relating to seats, seat belt assemblies, and seat belt assembly anchorages) is deleted in its entirety.

(6) Part 395 (relating to hours of service of drivers).

(i) *Scope of the rules in this part.*

(A) 49 CFR Part 395.1 (relating to scope of the rules in this part) is modified to include the following provision: Drivers of lightweight vehicles. The requirements of 49 CFR 395.8 (relating to driver's record of duty status) do not apply to a driver of a lightweight vehicle as defined in § 37.202. A motor carrier that employs the driver shall maintain and retain for a period of 6 months accurate and true time records showing:

(I) The time the driver reports for duty each day.

(II) The total number of hours the driver is on duty each day.

(III) The time the driver is released from duty each day.

(IV) The total time for the preceding 7 days in accordance with 49 CFR 395.8(j)(2) for drivers used for the first time or intermittently.

(B) 49 CFR 395.1(i) is deleted in its entirety.

(C) 49 CFR 395.1(j) is deleted in its entirety.

(ii) *Drivers declared out of service.* 49 CFR 395.13(a) (relating to drivers declared out of service) is replaced in its entirety by the following:

(A) Every enforcement officer of the Commission is authorized to declare a driver out of service and to notify the motor carrier of that declaration, upon finding at the time and place of examination that the driver has violated the out-of-service criteria as set forth in §§ 37.221 and 37.222 (relating to application; and out-of-service criteria).

(B) 49 CFR 395.13(b)(1) and (2) are deleted in their entirety. Subsection (b)(3), "Exception," is redesignated as subsection (b).

(C) 49 CFR 395.13(c)(2) is deleted in its entirety.

(7) Part 396 (relating to inspection of motor vehicles in operation). 49 CFR 396.9 is deleted in its entirety and replaced by the following:

(i) *Personnel authorized to perform inspections.* Every enforcement officer employed by the Commission is authorized to stop vehicles of motor carriers in operation for the purpose of performing safety inspections under sections 307 and 506 of the act (relating to inspectors for enforcement; and inspection of facilities and records). Commission enforcement officers are authorized to enter upon the premises of any motor carrier during normal business hours, upon notice to the carrier, for the purpose of performing safety inspections upon motor vehicles used in regulated operations.

(ii) *Prescribed inspection form.* The Commission Vehicle Inspection Report shall be used to record findings from motor vehicles and drivers selected for inspection.

(iii) *Motor vehicles declared "out of service."*

(A) *Declaration.* Out-of-service enforcement officers employed by the Commission shall declare and mark "out of service" any motor vehicle which by reason of its mechanical condition or loading would likely cause an accident or breakdown. The Commission's out of service sticker shall be used to mark vehicles out of service.

(B) *Operation.* A motor carrier may not permit or require a person to operate, nor may a person operate a motor vehicle declared and marked out-of-service, until the repairs required by the out-of-service notice have been satisfactorily completed. The term "operate," as used in this section, includes towing, except that vehicles marked out of service may be towed by means of a vehicle using a crane or hoist. A vehicle combination consisting of an emergency towing vehicle and an out of service vehicle may not be operated unless the combination meets the performance requirements of this chapter, except for those conditions noted on the Commission Vehicle Inspection Report.

(C) *Removal of sticker.* A person may not remove the out-of-service sticker from a motor vehicle prior to completion of all repairs required by the out of service notice on the Commission Vehicle Inspection Report.

(iv) *Retention of inspection report.* Motor carriers shall retain a copy of the Commission's vehicle inspection report at their principal place of business or where the vehicle is housed, for 1 year from the date of inspection.

Source

The provisions of this § 37.205 adopted May 19, 1995, effective May 20, 1995, 25 Pa.B. 1951.

Cross References

This section cited in 52 Pa. Code § 37.202 (relating to definitions); 52 Pa. Code § 37.203 (relating to effect of incorporation of the *Code of Federal Regulations*); 52 Pa. Code § 37.204 (relating to adoption of portions of 49 CFR by reference).

§ 37.206. Interpretations of the Federal Highway Administration, United States Department of Transportation.

The Commission will be guided by the interpretations issued by the Federal Highway Administration, United States Department of Transportation.

Source

The provisions of this § 37.206 adopted May 19, 1995, effective May 20, 1995, 25 Pa.B. 1951.

Subchapter B. DRIVER OUT-OF-SERVICE CRITERIA

Sec.

- 37.221. Application.
37.222. Out-of-service criteria.

Source

The provisions of this Subchapter B adopted May 19, 1995, effective May 20, 1995, 25 Pa.B. 1951, unless otherwise noted.

§ 37.221. Application.

In determining whether a driver of a motor carrier vehicle will be placed out of service as the result of an inspection by an enforcement officer, the enforcement officer will use the criteria in this chapter.

Cross References

This section cited in 52 Pa. Code § 37.205 (relating to additions or modifications to 49 CFR).

§ 37.222. Out-of-service criteria.

- (a) The driver out-of-service criteria can be found in the Commission's Uniform Out-Of-Service Criteria.
- (b) The Commission's Uniform Out-of-Service Criteria may be obtained by contacting: Pennsylvania Public Utility Commission, Motor Carrier Enforcement Division, Post Office Box 3265, Harrisburg, Pennsylvania 17105-3265.

Cross References

This section cited in 52 Pa. Code § 37.205 (relating to additions or modifications to 49 CFR).

Subchapter C. VEHICLE OUT-OF-SERVICE CRITERIA

- Sec.
37.251. Application.
37.252. Out-of-service criteria.
37.253. Additional standards.

Source

The provisions of this Subchapter C adopted May 19, 1995, effective May 20, 1995, 25 Pa.B. 1951, unless otherwise noted.

§ 37.251. Application.

In determining whether a motor carrier vehicle will be placed out-of-service as the result of an inspection by an enforcement officer, the enforcement officer will use the criteria in this chapter.

§ 37.252. Out-of-service criteria.

(a) The vehicle out of service criteria can be found in the Commission's Uniform Out-Of-Service Criteria.

(b) The Commission's Uniform Out-of-Service Criteria may be obtained by contacting: Pennsylvania Public Utility Commission, Motor Carrier Enforcement Division, Post Office Box 3265, Harrisburg, Pennsylvania 17105-3265.

§ 37.253. Additional standards.

The following additional vehicle out-of-service criteria applies: A vehicle shall be out of service if a tire is marked "Not for Highway Use" or otherwise marked and having like meaning, except vehicles permitted to operate with oversize wheels and tires under 75 Pa.C.S. § 4969 (relating to permit for movement of vehicles with oversize wheels and tires).

Subchapter D. REQUIREMENTS FOR LIGHTWEIGHT VEHICLES

- Sec.
37.271. Application.
37.272. Vehicle standards.
37.273. Driver out-of-service criteria.
37.274. Vehicle out-of-service criteria.

Source

The provisions of this Subchapter D adopted May 19, 1995, effective May 20, 1995, 25 Pa.B. 1951, unless otherwise noted.

Cross References

This subchapter cited in 52 Pa. Code § 37.201 (relating to general).

§ 37.271. Application.

(a) This subchapter applies to lightweight vehicles as defined in § 37.202 (relating to definitions). Drivers, employes, officers, agents and representatives of motor carriers operating lightweight motor vehicles, shall be knowledgeable of and comply with this subchapter.

(b) Subchapters A and E (relating to general provisions; and penalties) apply to motor carriers operating lightweight vehicles, except for the following:

- (1) 49 CFR Part 382 (relating to controlled substances and alcohol use and testing).
- (2) 49 CFR Part 391 Subpart H (relating to controlled substances testing).
- (3) 49 CFR Part 393 (relating to parts and accessories necessary for safe operation).
- (4) 49 CFR 395.8 (relating to driver's record of duty status).

§ 37.272. Vehicle standards.

Motor carriers may not permit a vehicle to be operated unless it complies with the applicable Department of Transportation equipment inspection standards in 67 Pa. Code Chapter 175 (relating to vehicle equipment and inspection).

Cross References

This section cited in 52 Pa. Code § 37.274 (relating to out-of-service criteria).

§ 37.273. Driver out-of-service criteria.

Upon finding at the time of examination, a driver operating a lightweight vehicle in violation of the out-of-service criteria as set forth in paragraphs (1)—(5), an enforcement officer employed by the Commission will declare a driver out-of-service.

- (1) The driver is not at least 18 years of age.
- (2) The driver is not licensed to operate the motor vehicle.
- (3) The driver is disqualified under 49 CFR 391.15 (relating to disqualification of drivers).
- (4) The driver is in the possession of or under the influence of drugs or other controlled substances as identified in 49 CFR 392.4(a) (relating to drugs and other substances).
- (5) The driver is in the possession of, has consumed intoxicating beverages within the last 4 hours before going on duty, or is under the influence of an intoxicating beverage.

§ 37.274. Vehicle out-of-service criteria.

Vehicles in operation which are found upon inspection not in compliance with § 37.272 (relating to vehicle standards) will be declared out-of-service by an enforcement officer employed by the Commission and will be placed out-of-service utilizing the Commission's out-of-service sticker.

Subchapter E. PENALTIES

Sec.

37.291. Civil penalties for safety violations.

37.292. Suspension and revocation of certificate.

Source

The provisions of this Subchapter E adopted May 19, 1995, effective May 20, 1995, 25 Pa.B. 1951, unless otherwise noted.

Cross References

This subchapter cited in 52 Pa. Code § 37.271 (relating to application).

§ 37.291. Civil penalties for safety violations.

(a) If a motor vehicle is inspected by an enforcement officer while in operation, and is found to be in violation of this chapter, a complaint may be instituted in accordance with section 701 of the act (relating to complaints), for the purpose of levying civil penalties as prescribed by section 3301 of the act (relating to civil penalties for violations). For the purpose of this section, the phrase “while in operation” includes vehicles housed at the carrier’s facilities but in readiness to be operated.

(b) If a driver of a motor carrier is found to be in violation of this chapter as the result of an inspection or an audit by an enforcement officer, a complaint may be instituted in accordance with section 701 of the act for the purpose of levying civil penalties as prescribed by section 3301 of the act.

(c) If a motor carrier is found to be in violation of this chapter as the result of an inspection or an audit by an enforcement officer, a complaint may be instituted in accordance with section 701 of the act, for the purpose of levying civil penalties as prescribed by section 3301 of the act.

§ 37.292. Suspension and revocation of certificate.

Failure to comply with this chapter or the terms and conditions of the certificates of public convenience or permit issued will be sufficient cause for the Commission to suspend, revoke or rescind the rights and privileges conferred by the certificate of public convenience or permit. A revocation or penalty will not be finally ordered until the common carrier, contract carrier or forwarder has first been given opportunity to be heard as to why the certificate or permit should not be revoked or penalty imposed.

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