

322, Public Law 106-69, 113 Stat. 986, at 1022, and 49 CFR 1.73, the heading for chapter III of title 49, Code of Federal Regulations, is revised to read as follows:

CHAPTER III—OFFICE OF MOTOR CARRIER SAFETY, DEPARTMENT OF TRANSPORTATION

Issued on: October 21, 1999.

Julie Cirillo,

Acting Director, Office of Motor Carrier Safety.

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DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 1

[Docket No. OST-1999-6189]

Organization and Delegation of Powers and Duties; Redelegation to the Director, Office of Motor Carrier Safety

AGENCY: Office of the Secretary, DOT.

ACTION: Final rule.

SUMMARY: The Secretary of Transportation (Secretary) redelegates to the Director, Office of Motor Carrier Safety (OMCS), the authority previously delegated by statute to the Federal Highway Administrator to carry out the duties and powers related to motor carrier safety vested in the Secretary by chapters 5 and 315 of title 49, United States Code. This action, combined with the Secretary's previous delegation to the OMCS, enables that office to exercise all of the authority previously held by the Federal Highway Administration's Office of Motor Carriers.

EFFECTIVE DATE: This rule is effective on October 9, 1999.

FOR FURTHER INFORMATION CONTACT: Mr. Charles Medalen, Office of the Chief Counsel, HCC-20, (202) 366-1354, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590; or Ms. Gwyneth Radloff, Office of the General Counsel, (202) 366-9319, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

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Background

Section 338 of the FY 2000 Department of Transportation and Related Agencies Appropriations Act (Public Law 106-69, 113 Stat. 986, at 1022, October 9, 1999) prohibits the Federal Highway Administration (FHWA) from spending funds to carry out the functions and operations of its Office of Motor Carriers (OMC). The legislation provides that, if the Secretary delegates those functions and operations outside of the FHWA, the funds shall also be transferred. Accordingly, on October 9, 1999, the Secretary rescinded as much of the current delegation of his authority to the Federal Highway Administration to carry out motor carrier functions and operations as he could (see Final rule, 64 FR 56270, October 19, 1999), and redelegated that authority to the Director of the new Office of Motor Carrier Safety in the Department of Transportation.

However, the duties and powers related to motor carrier safety vested in the Secretary by chapters 5 and 315 of title 49, United States Code, were delegated by statute to the Federal Highway Administrator by 49 U.S.C. 104(c)(2) and could not be exercised or transferred by the Secretary without legislative approval. Public Law 106-73 (113 Stat. 1046, October 19, 1999) amended the second proviso of Sec. 338 to read as follows: "Provided further, That notwithstanding section 104(c)(2) of title 49, United States Code, the Federal Highway Administrator shall not carry out the duties and functions vested in the Secretary under 49 U.S.C. chapters 5 and 315." Sec. 338, as amended by Public Law 106-73, now prohibits the Federal Highway Administrator from carrying out the duties and powers related to motor carrier safety vested in the Secretary by chapters 5 and 315 and restores the Secretary's authority to exercise or delegate these authorities, effective retroactively to October 9, 1999.

Accordingly, the Secretary delegates the authority to carry out certain portions of chapters 5 and 315 to the

Director, Office of Motor Carrier Safety. This restores to the Office of Motor Carrier Safety the authority under 49 U.S.C. 521(b) to issue civil penalties or assist the Department of Justice in pursuing civil or criminal cases, authority that could not be exercised under the original version of Sec. 338. Also being delegated to OMCS is the Secretary's authority: (1) To investigate motor carriers, subpoena witnesses and records and take depositions (49 U.S.C. 502); (2) relating to service of process, designation of agents to receive service of process, and identification of interstate motor vehicles (49 U.S.C. 503 and 31504); (3) to establish recordkeeping and reporting requirements for, and inspect the equipment and records of, motor carriers (49 U.S.C. 504); (4) to require motor carriers to file copies of their contracts or other arrangements with shippers (49 U.S.C. 505); (5) to investigate violations of chapter 5 by motor carriers (49 U.S.C. 506); (6) to bring a civil action or request the Attorney General to bring court proceedings against motor carriers or brokers to enforce chapter 5 or a regulation or order based on chapter 5 (49 U.S.C. 507); (7) to issue regulations governing the release by a motor carrier of a former driver's safety performance records to his or her subsequent motor carrier employers (49 U.S.C. 508); (8) to levy civil penalties against motor carriers for violations of certain statutes on which the Federal Motor Carrier Safety Regulations (FMCSRs) are based (49 U.S.C. 521(b)(1)-(5), (7)); (9) relating to the disclosure of certain business information obtained during inspections by Department of Transportation employees (49 U.S.C. 523); (10) relating to qualifications and maximum hours of service of motor carrier drivers (49 U.S.C. 31502); and (11) relating to investigation of the need for regulation of qualifications and maximum hours of service of motor carrier drivers (49 U.S.C. 31503).

This rule is being published as a final rule effective retroactively to October 9, 1999 pursuant to section 2 of Public Law 106-73. As the rule relates to Departmental organization, procedure, and practice, notice and comment on it are unnecessary under 5 U.S.C. 553(b). In addition, the functions addressed in this rule were transferred to enable the Department's motor carrier safety program to continue. For this reason, the Secretary finds good cause under 5 U.S.C. 553(d)(3) to make this rule effective retroactively to October 9, 1999.

List of Subjects in 49 CFR Part 1

Authority delegations (government agencies), Organization and functions (Government agencies).

In consideration of the foregoing, part 1 of title 49, Code of Federal Regulations, is amended as follows:

PART 1—[AMENDED]

1. The authority citation for part 1 is revised to read as follows:

Authority: 49 U.S.C. 322; 46 U.S.C. 2104(a); 28 U.S.C. 2672; 31 U.S.C. 3711(a)(2); Pub. L. 101-552, 104 Stat. 2736; Pub. L. 106-69, 113 Stat. 1022; Pub. L. 106-73, 113 Stat. 1046.

§ 1.48 [Amended]

2. In § 1.48, remove and reserve paragraphs (e), (f), and (g).

3. In § 1.73, remove paragraph (j) and redesignate paragraph (k) as paragraph (j).

4. In § 1.73, add paragraphs (k), (l), (m), and (n) to read as follows:

§ 1.73 Delegation to the Director of the Office of Motor Carrier Safety.

* * * * *

(k) Carry out 49 U.S.C. 31503 as it relates to investigation of the need for regulation of qualifications and maximum hours of service of employees of motor carriers and motor private carriers.

(l) Carry out 49 U.S.C. 31502 relating generally to qualifications and maximum hours of service of employees and safety of operation and equipment of motor carriers, motor private carriers and motor carriers of migrant workers.

(m) Carry out 49 U.S.C. 503 and 31504 relating generally to service of process,

designation of agents to receive service of process, and identification of interstate motor vehicles so far as they pertain to motor private carriers of property and motor carriers of migrant workers (except motor contract carriers).

(n) Carry out 49 U.S.C. 502, 504, 506, and 523 to the extent they relate to motor carriers, motor carriers of migrant workers, and motor private carriers; 49 U.S.C. 507 to the extent it relates to motor carriers, motor carries of migrant workers, motor private carriers, or freight forwarders; and 49 U.S.C. 505, 508, and 521(b)(1), (2), (3), (4), (5), and (7).

Issued in Washington, DC, on October 22, 1999.

Rodney E. Slater,

Secretary of Transportation.

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