

Title 49—TRANSPORTATION

Chapter III—Federal Highway Administration, Department of Transportation

SUBCHAPTER B—MOTOR CARRIER SAFETY REGULATIONS

[Docket No. MC-7; Notice 70-5]

PART 391—QUALIFICATIONS OF DRIVERS

PART 392—DRIVING OF MOTOR VEHICLES

Miscellaneous Amendments

On June 2, 1969, the Federal Highway Administrator announced that he was considering a complete substantive and editorial revision of Part 391 of the Motor Carrier Safety Regulations (34 F.R. 9080). Part 391 deals with qualifications of drivers of commercial motor vehicles operating in interstate or foreign commerce. Interested persons were invited to submit comments on the proposed rules by the close of business on September 3, 1969. The closing date for comments was later extended to October 6, 1969 (34 F.R. 13610).

Some 10,000 filings, representing the views of approximately 14,000 named parties, were received. These comments have been carefully considered. As will appear more fully below, several changes in the regulations have been made, in response to problems and issues raised by respondents.

In the main, however, the Administrator has adhered to the belief that a complete revision of the driver qualification rules is necessary and appropriate at this time. He remains convinced that the public interest in motor vehicle safety requires upgrading the training and ability of drivers, hiring as drivers only persons whose records demonstrate their capability for safe operation of heavy vehicles, and insuring that drivers of modern, more complex vehicles can safely withstand the increased physical and mental demands that their occupation now imposes. Therefore, the Administrator does not agree with the contentions that any Federal regulations setting forth more stringent minimum qualifications for drivers of commercial vehicles are unlikely to prove effective.

A number of respondents argued that the proposal to revise Part 391 in its entirety placed undue emphasis on the driver as a causal element in highway accidents. The Administrator realizes, of course, that there are many factors which contribute to the dismal toll of deaths, injuries, and property damage. He fully intends to continue to cover as many of them as his authority permits. However, it cannot reasonably be denied that adherence to improved driver qualification rules will play a vital part in the overall effort to improve motor vehicle safety. After carefully considering the available evidence, both in docket comments and elsewhere, the Administrator remains convinced that his statement in the preamble to the proposed rules (34 F.R. 9081) still holds true:

Accident experience in recent years has demonstrated that reduction of the effects of organic and physical disorders, emotional impairments, and other limitations of the good health of drivers are increasingly important factors in accident prevention. Technological advances in equipment and highway engineering, together with increased knowledge in the areas of highway safety and the various skills that today's commercial motor vehicle drivers must possess, make it necessary that criteria for determining whether individuals are qualified to drive commercial motor vehicles be upgraded. The mobility of the modern labor force requires access to more information by which a potential driver's ability, training, mental attitude, and experience in the operation of commercial motor vehicles can be determined. Medical advances, improved diagnostic techniques, and modern man's increased exposure to physical hazards call for revision of the regulations' physical qualifications for driving commercial motor vehicles.

In general, the format of the revised part has been altered only slightly from the proposal. The major changes are the addition of a new section (§ 391.63), providing certain exemptions in cases where drivers are hired on an intermittent, casual, or occasional basis, and the transfer of the so-called "grandfather" exemptions, for drivers who are regularly employed as drivers on the effective date of the new rules, to Subpart G. The substantive aspects of these provisions are discussed in more detail below.

The principal changes in Subpart A, the general provisions of the part, reflect an attempt to provide more definite guidance for the situation in which the driver of a commercial motor vehicle is also the owner of the equipment he operates. A new paragraph (c) has been added to § 391.1 to make it clear that when the owner-driver is acting in the capacity of a motor carrier, he is responsible for compliance with both the rules that apply to motor carriers and the rules that apply to drivers. In addition, the definition of the term "motor carrier" in § 391.3(a) has been revised so that the owner-driver will be regarded solely as a driver for purposes of Part 391 when he is driving his equipment on behalf of a motor carrier, whether under a lease arrangement or otherwise. A new definition of the term "employs" in § 391.3(c) makes it clear that, in general, a motor carrier is responsible for insuring that every driver who operates a commercial vehicle in furtherance of the carrier's business is a qualified driver, regardless of the form of contractual or other arrangement between the carrier and the driver.

Subpart B, dealing with general qualifications and disqualifications of drivers, was the subject of most of the comments received. In the preamble to the proposal, the Administrator specifically invited comments on the provision, in § 391.11 (b) (1), that precludes a person who is less than 21 years of age from driving a commercial vehicle. Comments in response to this invitation generally favored retention of the 21-years-or-older prerequisite. Many respondents noted that statistics collected by liability insurance companies indicate that persons who have not yet attained the age of 21 are in a higher risk category than older

persons. There were some respondents who favored lowering the minimum age of 19, on the ground that motor carriers should be allowed to establish apprenticeship training programs to attract younger persons into driving as an occupation. The Administrator has concluded that the minimum age should be retained at this time. However, he will give further consideration to establishing conditions under which persons who are less than 21 years old can be permitted to drive under close supervision for the purpose of training them to become journeyman drivers.

The requirement that a driver must be able to write the English language has been deleted from § 391.11(b)(2). The deletion was made in response to comments which pointed out that in some border areas of the United States and in a few urban centers drivers frequently are literate only in a language other than English. It was felt that retention of the requirement that a driver must be able to write English would, in those cases, lead to unnecessary loss of employment by experienced and capable drivers.

Subparagraphs (4) and (5) of § 391.11 (b) were the subject of many comments that appear to have stemmed from misunderstanding of what those provisions were meant to require. As originally written, their purport was to insure that every driver is capable of ascertaining that the cargo he transports is properly loaded. Some respondents read into these provisions a requirement that drivers must personally load, block, and brace the cargo. The Administrator has therefore revised these subparagraphs to make it clear that a driver must be able to determine whether loading is proper by visual inspection or handling characteristics of the vehicle, so that he can require corrective action if it is necessary. However, there is no requirement that the driver must personally perform the corrective actions, or enter a sealed cargo compartment.

Section 391.15, dealing with disqualification of drivers, was easily the most controversial provision of the proposed revision. In it, the Administrator proposed to disqualify drivers who commit offenses of a nature that would ordinarily lead to loss of driving privileges under State laws. The section has been changed in two principal ways. First, the disqualification of drivers who are convicted of, or forfeit bond under charges of, three or more moving traffic violations within 3 years has been deleted. It appears that the proposal was too draconian for implementation at this time, in view of the unevenness of motor vehicle law enforcement from State-to-State, the lack of a uniform rule as to what constitutes a moving violation, and the hardships it would work on many drivers. A companion rule has been changed so that only conviction of serious motor vehicle offenses committed after the effective date of the rule will be grounds for disqualification. Some respondents argued that serious offenses committed while a driver is operating his personal vehicle should not be grounds for disqualification. The Administrator has concluded, however, that the commission

of a serious offense while operating a vehicle indicates that the perpetrator is unfit to drive a commercial vehicle irrespective of whether or not the offense was committed while on duty. For this reason, he has not limited the grounds for disqualification to offenses committed while a commercial vehicle is being driven.

Subpart C of the regulations requires drivers to furnish, and motor carriers to obtain, information about the background and driving records of drivers. It also requires carriers to act on that information, both at the time of the driver's initial application for employment and thereafter while he is in the carrier's employ, to insure that the driver can safely operate a commercial vehicle. There were some respondents who opposed adoption of these rules on the grounds that they preempted the right of a motor carrier unilaterally to remove a driver from the highway for safety reasons. They do not do so, as § 391.1(b) makes clear. It was suggested that the rules encroach upon the arbitration procedures created by collective bargaining agreements. The Administrator recognizes the right of labor and management to regulate most aspects of their relationship through collective bargaining agreements within the framework of Federal and State law. However, he does not concur with the viewpoint that the safety of the motoring public is a proper subject to be hazarded by procedural arrangements in those agreements. The overwhelming weight of the available evidence establishes, beyond rational doubt, that a driver's predilection for involvement in serious accidents can frequently be foretold by his past driving record and his general character. Since this is the case, drivers whose records demonstrate that they are likely to cause highway accidents should not continue operating heavy commercial vehicles. In the absence of a showing of the feasibility of screening of drivers by a Federal agency, reliance on motor carriers' enlightened self-interest in careful screening of their drivers appears to be the only viable approach to the problem. For these reasons, the Administrator has declined to make any basic changes in the subpart. As written, it requires persons seeking employment as drivers to fill out an application form with the details of their past employment and driving record. The carrier must use that information to investigate the applicant's driving and employment history. In addition, motor carriers are required to make an annual review of the driving record of each regularly employed driver. Drivers must furnish their employers with a listing of the violations of which they have been convicted during the preceding year. The list must be furnished at least once every 12 months; however, in the initial year of the rule's operation, carriers may spread the reporting requirement over the entire year, so that every driver has complied with it by the end of 1971.

There was little objection in principle to the proposals for making successful completion of both a road test and a

written examination prerequisites for qualification to drive a commercial motor vehicle. The Administrator has retained the substance of both requirements. The interests of commercial motor vehicle safety would, in his view, be promoted by insuring that drivers have demonstrated their skill and knowledge of applicable regulations by completion of approved tests.

The road test is to be given by the motor carrier or a person the carrier designates. While it is arguable that the purpose of the testing requirement would be better served by a test given by a Federal agency, there are at present insufficient administrative resources to undertake that task. Under the regulation, a potential driver must be tested on his skill at operating the type of motor vehicle the motor carrier intends to assign to him. In this context, the term "assign" does not mean "permanently (or exclusively) dedicate." It requires only that the carrier make a fair assessment of the types of equipment the applicant is likely to operate if he is hired. Section 391.33 permits the road test to be waived when the applicant can show that he has recently and successfully completed the same, or an equivalent, test. In the notice of proposed rule making, a waiver was permitted if the driver held a so-called "classified license" issued by a State which licenses individuals to drive specified categories of large commercial vehicles. It has come to the Administrator's attention that some classified licenses are issued without first requiring the applicant to take a road test on the particularly type of vehicle involved. Therefore, language has been added to § 391.33(a)(1) to make it clear that such a license may be accepted as equivalent to the road test only when it is issued after successful completion of a road test on a commercial vehicle.

The written examination requirement in § 391.35 has been modified by requiring the examination questions to be taken from a list prepared and published by the Bureau of Motor Carrier Safety. The Administrator has taken this step in response to contentions that carrier prepared questions may open the door to arbitrary and discriminatory hiring practices. He is also cognizant of the fact that written examinations have historically been used as a method of foreclosing minority groups from access to certain occupations. In order to avoid the possibility of invidious use of the written examination requirement, a list of 100 approved questions (and their answers) will be published as Appendix C to the Motor Carrier Regulations and will be periodically revised. The questions asked must be drawn from the list. Carriers are required to retain the questions asked an applicant and his answers to those questions so that they can be audited if necessary.

The physical qualifications for drivers in § 391.41 have been revised in the light of discussions with the Administration's medical advisers. A misprint in § 391.41(b)(1) that had evoked considerable comment has been corrected. The dis-

qualification of diabetics, found in § 391.41(b)(3), has been changed in response to a number of comments arguing that only diabetics who are actually using insulin to control their conditions should be disqualified. A number of respondents opposed the proposal to disqualify persons having blood pressure in excess of 160/90. The Administrator agrees that it is not medically sound to establish a maximum blood pressure level without regard to the age and physical structure of the individual under consideration. Therefore, § 391.41(b)(6) has been modified so that only persons who have high blood pressure likely to interfere with their ability to operate a vehicle safely will be disqualified. Finally, the disqualification of a person who consumes alcoholic beverages "to excess" has been deleted because it seemed to set too subjective a standard. Instead, only persons having current clinical diagnoses of alcoholism will be disqualified under § 391.41(b)(13).

Under the rules, a driver will have to take and pass a physical examination every 2 years. This is a change from the proposal, which would have required an annual examination. There were some respondents who argued that the interval between mandatory physical examinations should vary inversely with the age of the driver, rather than being the same for all drivers. The Administrator recognizes the merit of that position; nevertheless, he has elected to adhere to a universally-applicable time span because of the enforcement difficulties that a sliding scale would present. The requirement for a physical examination between periodic examinations (contained in § 391.45(c)) has been rewritten to make it clear that additional examinations are necessary only in cases in which drivers suffer serious injuries or diseases of a type likely to impair their ability to drive. No additional examination is required if, for example, a driver is unable to work for a brief period of time owing to a cold or a minor attack of influenza.

In § 391.47 of the proposal, the Administrator provided a procedure under which the Director of the Bureau of Motor Carrier Safety could resolve conflicts between medical examiners on the question whether a particular person is physically qualified to drive. Among other things, the proposal would have required a person seeking such a determination from the Director to obtain a favorable opinion from either a Federal medical examiner, the medical advisory committee of a State motor vehicle administration, or an advisory committee of the medical association in the State that licensed him to drive. Some respondents pointed out that it would be impossible in many instances for an applicant to secure an opinion from any of those three sources. The Administrator has therefore deleted this requirement.

Section 391.49 permits the Director to grant waivers of certain physical defects which would otherwise disqualify a driver. Under the procedure, a driver's application for a waiver must be joined in by the motor carrier that will employ him, and a waiver is valid only so long

as the driver continues to be employed by that carrier. Several respondents objected to the latter requirement on the ground that it would unduly tie the beneficiary of a waiver to the employ of a particular carrier. It is clear, however, that the advisability of granting a waiver is, in part, dependent on knowledge of the conditions under which the individual will drive if a waiver of his defect is granted. Those conditions vary greatly as between the operations of various carriers. Hence, the Administrator has determined that no waivers will be granted without prior review of the nature of the transportation that the driver in question intends to undertake. Other evidence of the nature of the work those applicants intend to undertake may also be required.

Subpart F provides for record keeping requirements. As the result of comments, the Administrator has made an editorial change in § 391.51 so that the mandatory record for each driver is now called a "driver qualification file," rather than a "personnel file." The purpose of this change is to make clear that the records required by this section need not be maintained physically in the same file as other records—such as payroll records—that a carrier maintains for each driver it employs.

The exemptions contained in Subpart G have been extensively altered. Section 391.61 contains provisions relating to drivers who are regularly employed in that capacity on January 1, 1971, the effective date of the revision of Part 391. As long as those drivers continue to be regularly employed by the carriers for whom they were driving on or before December 31, 1970, they are exempt from the requirements pertaining to employment applications, road tests, and written examinations. Some respondents objected to the absence of a continuing exemption for older drivers who incur breaks in service or who change their employers. The Administrator has concluded that the interests of safety would be best served if those drivers were required to requalify under the revised rules. A driver who has had a break in service should be required to demonstrate that his driving skill and knowledge of applicable regulations have remained current. Similarly, a driver who changes his employer may be called upon to operate equipment with which he may not be thoroughly familiar. In addition, his new employer should be given the basic information needed to make the investigations and inquiries required by § 391.23. Consequently, that driver will be required to file an application for employment and to complete a road test and written examination.

Section 391.61 of the proposed rules exempted so-called "single-trip" driver (drivers who are employed to drive for one round trip having a duration of 7 days or less) from certain of the requirements of Part 391. In response to comments from several motor carriers, the Administrator has expanded the section (now denominated § 391.63) to include intermittent, casual, or occasional driv-

ers, even though those drivers may drive for more than a single trip. At the same time, the exemptions have been revised to specify with more precision the requirements from which drivers who are not regularly employed will be exempt. It was the purpose of the proposal to eliminate only the requirements pertaining to employment application and the investigation of drivers' characters and backgrounds with respect to intermittent, casual, or occasional drivers. The revised rules make this clear.

In addition to rules dealing with driver qualification, the notice also proposed to locate two closely allied rules in Part 392, which governs the driving of motor vehicles. A new § 392.9a requires drivers who must wear corrective lenses in order to meet minimum standards of visual acuity to wear spectacles while they are driving. Language to this effect is found in the medical history form following § 391.11 of the existing regulations. Some respondents asked the Administrator to permit drivers to wear contact lenses as well as spectacles. However, the Administrator has concluded that the risk that contact lenses will become lost or cause eye irritation while a vehicle is in motion is too great to justify granting the requested modification.

Section 392.42 of the proposal would have required drivers who receive notification of revocation or suspension of their operators' licenses promptly to notify their employers of that fact. There was no adverse comment on the proposal, and it is being adopted without change.

In consideration of the foregoing, Chapter III of Title 49, CFR, is amended: (a) By revising Part 391 of Subchapter B to read as set forth below; (b) by amending Part 392 of Subchapter B as set forth below; and (c) by adding a new Appendix C after Subchapter B, reading as set forth below.

Effective date. These amendments are effective on January 1, 1971.

(Sec. 204, Interstate Commerce Act, as amended, 49 U.S.C. 304; sec. 6, Department of Transportation Act, 49 U.S.C. 1655; delegation of authority in 49 CFR Part 1)

Issued on April 16, 1970.

F. C. TURNER,
Federal Highway Administrator.

I. Part 391 of Title 49, CFR is revised to read as follows:

Subpart A—General	
Sec.	
391.1	Scope of the rules in this part; additional qualifications; duties of carrier-drivers.
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—Examination and Tests	
Sec.	
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.
391.45	Persons who must be medically examined and certified.
391.47	Conflict of medical evaluations.
391.49	Waiver of certain physical defects.

Subpart F—Files and Records	
391.51	Driver qualification files.

Subpart G—Exemptions	
391.61	Drivers who were regularly employed before January 1, 1971.
391.63	Intermittent, casual, or occasional drivers.
391.65	Drivers furnished by other motor carriers.

AUTHORITY: The provisions of this Part 391 issued under sec. 204, Interstate Commerce Act, as amended, 49 U.S.C. 304; sec. 6, Department of Transportation Act, 49 U.S.C. 1655; delegation of authority in 49 CFR Part 1.

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.

§ 391.3 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.

§ 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 § 391.61, 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 blocking, bracing, and other methods of securing cargo in or on the motor vehicle he drives;

(6) Is physically qualified to drive a motor vehicle in accordance with § 391.41;

(7) Has been issued a currently-valid motor vehicle operator's license or permit;

(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 presented 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 successfully completed 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.

§ 391.15 Disqualification of drivers.

(a) A driver who is disqualified shall not drive a motor vehicle. A motor car-

rier shall not require or permit a driver who is disqualified to drive a motor vehicle.

(b) A driver is disqualified if—

(1) He has, within the preceding 3 years and after December 31, 1970, been convicted of, or forfeited bond or collateral upon, any of the following charges:

(i) A felony, the commission of which involved the use of a motor vehicle by that driver; or

(ii) A crime involving the manufacturing, knowing transportation, knowing possession, sale, or habitual use of amphetamines, a narcotic drug, a formulation of an amphetamine, or a derivative of a narcotic drug; or

(iii) Operating a motor vehicle under the influence of alcohol, an amphetamine, a narcotic drug, a formulation of an amphetamine, or a derivative of a narcotic drug; or

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

(2) Any license, permit, or privilege to operate a motor vehicle which he has held has been suspended, revoked, withdrawn, or denied and has not been reinstated by the authority that suspended, revoked, withdrew, or denied it.

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 law 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; and

(11) 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.

(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.

§ 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 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.

§ 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 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 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 govern-

ing 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.

§ 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	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.

Subpart D—Examinations and Tests

§ 391.31 Road test.

(a) Except as provided in §§ 391.33 and 393.61, 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.

§ 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 files as 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 and 391.61, a person shall not drive a motor vehicle unless he has first successfully completed a written examination and has been issued a certificate of written examination in accordance with this section.

(b) The written examination shall be given by the motor carrier or a person

designated by it on a form prescribed by the motor carrier. The examination shall be administered by a competent person.

(c) The examination shall consist of at least 30 questions, testing the examinee's knowledge of Parts 390-397 of this subchapter, taken from the list of questions published by the Bureau of Motor Carrier Safety.¹ A person who correctly answers at least 70 percent of the questions has successfully completed the examination.

(d) If the examinee successfully completes the examination, the person who administered it shall advise him of the correct answers to any questions he failed to answer correctly and shall complete a certificate in substantially the following form:

CERTIFICATION OF WRITTEN EXAMINATION

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

----- (Signature of person taking examination) -----	----- (Date of examination) -----
----- (Location of examination) -----	
----- (Signature of examiner) -----	----- (Title) -----
----- (Organization and address of examiner) -----	

(e) A copy of the certificate required by paragraph (d) 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 (d) of this section;

(2) The questions asked on the examination; and

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

§ 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 (d) 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 a written examination or any other test of his knowledge of Parts 390-397 of this subchapter as a condition to his employment as a driver.

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 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 he—

(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 the use of a foot, a leg, a hand, fingers, or an arm, and no other structural defect or limitation, which is likely to interfere with his ability to control and safely drive a motor vehicle, or has been granted a waiver pursuant to § 391.49 upon a determination that the impairment will not interfere with his ability to control and safely drive a motor vehicle.

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

(4) Has no 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 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 (Snellen) 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 at not less than 5 feet in the better ear without use of a hearing aid, or, if tested by use of an audiometric device, does not have a loss greater than 25-30 decibels at 500 Hz, 1,000 Hz, and

2,000 Hz in the better ear without a hearing aid.

(12) Does not use an amphetamine, narcotic, or any habit-forming drug; and

(13) Has no current clinical diagnosis of alcoholism.

§ 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 subparagraph (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:

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 Motor Carrier Safety Regulations provide that no driver shall use a narcotic or other habit-forming drug.

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 spectacles." 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

¹ 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. 20591, or to any Regional Federal Highway Administrator at the address given in § 390.40 of this subchapter.

lenses. Monocular or aphakic drivers are not qualified to operate commercial motor vehicles under existing Motor Carrier Safety Regulations.

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 or 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.

The 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 _____

HEALTH HISTORY

- Yes No
[] [] Head or spinal injuries.
[] [] Seizures, fits, convulsions, or fainting.
[] [] Extensive confinement by illness or injury.
[] [] Cardiovascular disease.
[] [] Tuberculosis.
[] [] Syphilis.
[] [] Gonorrhoea.
[] [] Diabetes.
[] [] Gastrointestinal ulcer.
[] [] Nervous stomach.
[] [] Rheumatic fever.
[] [] Asthma.
[] [] Kidney disease.
[] [] Muscular disease.
[] [] Suffering from any other disease.
[] [] Permanent defect from illness, disease or injury.
[] [] Psychiatric disorder.
[] [] 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 _____

Pulse: 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) _____

Note: This section to be completed only when visual test is conducted by a licensed optometrist.

(Date of examination) _____ (Address of optometrist) _____

(Name of optometrist (Print)) _____ (Signature of 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 _____ In accordance with

(Driver's name (Print)) _____

the Motor Carrier Safety Regulations (40 CFR 391.41-391.49) and with knowledge of his duties, I find him qualified under the regulations.

[] Qualified only when wearing corrective spectacles.

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)

§ 391.45 Persons who must be medically examined and certified.

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.

§ 391.47 Conflict of medical evaluations.

(a) If, having performed medical examinations of a person pursuant to § 391.43, two or more medical examiners disagree as to whether that person is physically qualified to drive a motor vehicle, the Director, on application of that person or a motor carrier, may determine whether that person is physically qualified to drive a motor vehicle.

(b) An application under this section must be accompanied by the physical examination reports of the disagreeing medical examiners. The application must demonstrate to the Director's satisfaction that before he found the person physically qualified to drive, an examiner who did so was fully aware of the person's complete medical history and of the nature of the work the person would perform if he were found physically and otherwise qualified to drive a motor vehicle. As a minimum, the examiner must have been informed of the type, size, and weight of the vehicles the person would drive, the distances he would traverse, the number of hours he would spend in an on-duty status, and the related duties (such as loading, unloading, climbing onto and descending from vehicles, and making repairs en route (if he would be required to do so)) that the person would perform.

(c) If the Director determines that the person is physically qualified to drive a motor vehicle, a medical examiner's certificate may be issued to that person pursuant to § 391.43.

§ 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, other than a motor vehicle which

transports passengers or a motor vehicle which must be placarded or marked in accordance with § 177.823 of this Title 49 (relating to placards or markings upon vehicles which transport hazardous materials), if the Director has granted an application for a waiver with respect to that person.

(b) An application for a waiver must be submitted jointly by the person who seeks a waiver of his physical disqualification (the individual applicant) and by the motor carrier that will employ him if the application is granted. The application must be addressed to the Director, Bureau of Motor Carrier Safety, Washington, D.C. 20591.

(c) An application for a waiver must contain—

(1) A description of the type, size, and special equipment (if any) of the vehicles the individual applicant intends to drive, the general area and type of roads he intends to traverse while driving, the distances he intends to drive, the periods of time he will be on duty while driving, the nature of the commodities or cargo he intends to transport, the methods he or any other person will use to load and secure those commodities or cargo, and the nature and extent of his experience at operating motor vehicles of the type he intends to drive;

(2) An agreement by both applicants that the motor carrier will promptly file with the Director such reports as he may require, including reports about the driving activities, accidents, arrests, license suspensions, revocations, or withdrawals, and convictions which involve the individual applicant; and

(3) An agreement that, if a waiver is granted, it authorizes the individual applicant to drive in interstate commerce only when employed by the motor carrier that joined in his application.

(d) An application for a waiver must be accompanied with—

(1) At least two reports of medical examinations made pursuant to § 391.43, at least one of which was conducted by a medical examiner selected and compensated by the motor carrier, each of which includes the medical examiner's opinion concerning the individual applicant's ability to operate safely a motor vehicle of the type he intends to drive;

(2) A copy of the certificate of driver's road test that was issued to the individual applicant pursuant to § 391.31;

(3) A copy of the certificate of written examination that was issued to the individual applicant pursuant to § 391.35; and

(4) A copy of the individual applicant's application for employment made pursuant to § 391.21.

(e) An application for a waiver shall be signed by both the individual applicant and the motor carrier. If the motor carrier is a corporation, the application shall be signed by an officer of the corporation. If the motor carrier is a partnership, the application shall be signed by a partner. If the motor carrier is an individual proprietorship, the application shall be signed by the proprietor.

(f) The Director may deny the application or he may grant it in whole or in part and issue a waiver subject to such terms, conditions, and limitations as he deems consistent with safety and the public interest. A waiver is valid for a period not exceeding 2 years, and it may be renewed upon submission of a new application pursuant to this section.

(g) If the Director grants a waiver, he will notify each applicant by a letter, which sets forth the terms, conditions, and limitations of the waiver. The motor carrier shall retain the letter (or a legible copy of it) in its files as long as the individual applicant is employed by that motor carrier and for 3 years thereafter. The individual applicant shall have the letter (or a legible copy of it) in his possession whenever he drives a motor vehicle or is otherwise on duty.

(h) The Director may suspend a waiver at any time. The Director may revoke a waiver after the persons to whom it was issued are given notice of the proposed revocation and a reasonable opportunity to be heard.

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 Director's letter granting a waiver of a physical disqualification, if a waiver was issued under § 391.49;

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

(4) 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 to the motor carrier's inquiries concerning the driver's driving record pursuant to § 391.23(d);

(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) The qualification file for a driver furnished by another motor carrier and employed under the rules in § 391.65 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; and

(2) A copy of a certificate from the motor carrier that regularly employs the driver stating that the driver is fully qualified to drive a motor vehicle under the rules in this part.

(f) Except as provided in paragraph (g) 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 request in writing to, and with the approval of, the Director, a motor carrier may keep one or more of its drivers' qualification file or parts of files at a regional or terminal office that the Director approves.

Subpart G—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 subparagraphs (1) through (9) of § 391.11(b) (relating to qualifications of drivers).

§ 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 rules in this part with respect to the driver if—

(1) The driver is a regularly employed driver of another motor carrier;

(2) The motor carrier that regularly employs the driver furnishes a certificate that the driver is fully qualified to drive a motor vehicle under the rules in this part; and

(3) The motor carrier that uses the driver has in its files a copy of the driver's medical examiner's certificate.

(b) A motor carrier that obtains a certificate in accordance with paragraph (a) (2) of this section shall retain that certificate and the copy of the driver's medical examiner's certificate in its files for 3 years.

II. Part 391 of Title 49, CFR is amended by adding the following new section to Subpart A:

§ 392.9a Spectacles to be worn.

A driver whose visual acuity meets any of the minimum requirements of § 391.41 of this subchapter only when he wears corrective lenses shall wear properly prescribed spectacles at all times while he is driving.

III. Part 392 of Title 49, CFR is amended by revising the title of Subpart E thereof to read: "Subpart E—Accidents and License Revocations; Duties of Driver."

IV. Part 392 of Title 49, CFR is amended by adding the following new section at the end of Subpart E:

§ 392.42 Notification of license revocation.

A driver who receives a notice that his license, permit, or privilege to operate a motor vehicle has been revoked, suspended, or withdrawn shall notify the motor carrier that employs him of the contents of the notice before the end of the business day following the day he received it.

V. Subchapter B of Chapter III in Title 49, CFR is amended by adding the following new Appendix C at the end of that subchapter.

APPENDIX C—QUESTIONS FOR WRITTEN EXAMINATION

As required in § 391.35, the written examination shall consist of a least 30 questions, and they shall be chosen in such manner as to test the examinee's knowledge of Parts 390-397 of the Motor Carrier Safety Regulations.

Questions shall be taken from those formulated below and reproduced in such form and manner as to be answered, True or False. Each question is preceded by the applicable section of the Motor Carrier Safety Regulations and the correct answer in parentheses.

Sections	Questions
391.1(b)----- (True)	A motor carrier may require drivers to meet additional or more stringent requirements than those in the Federal regulations.
391.1(c)----- (True)	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.
391.11(b)(1)----- (True)	A driver engaged in over-the-road interstate transportation must be at least 21 years of age.
391.11(b)(2)----- (True)	A driver must be able to understand highway traffic signs in the English language.
391.15(b)(2)----- (False)	Under the Motor Carrier Safety Regulations, a driver's traffic record does not affect his qualification to drive in interstate commerce.
391.15(b)(2)----- (False)	A driver may drive a commercial vehicle in interstate commerce if his State operator's license has been suspended.
391.41(a)----- (True)	A driver required to have a physical examination must carry on his person the Medical Examiner's Certificate or a photographically reproduced copy of the certificate whenever he is on duty.
391.41(b)(3)----- (True)	A person who has diabetes and must take insulin for its control is not qualified to drive a commercial vehicle.
391.41(b)(10)----- (False)	A driver who is color blind as to red, green, and amber is qualified to drive.
391.41(b)(10)----- (True)	A driver is qualified even though he must wear spectacles to meet minimum vision requirements.
391.41(b)(11)----- (False)	A driver is qualified even though he needs to use a hearing aid to meet the minimum hearing level.
391.41(12)----- (True)	A driver may not be addicted to or use narcotics or habit-forming drugs.

Sections	Questions
391.45(b) (True)	A driver must be physically examined at least every 24 months.
391.45(c) (True)	If a driver suffers a physical or mental injury or impairment which could affect his ability to perform normal duties, he must undergo a new physical examination and recertification before returning to driving.
392.1 (True)	A driver must be familiar with the rules set forth in the Motor Carrier Safety Regulations.
392.2 (False)	A driver may exceed the posted speed limit if he is late and must make a scheduled arrival.
392.2 (False)	A driver operating in interstate commerce is required to comply with only Federal regulations, not State laws.
392.3 (False)	A driver may continue to drive if he is ill or fatigued in order to complete his run.
392.5(a)(2) (False)	A driver may drink an alcoholic beverage while on duty.
392.9 (True)	No motor vehicle shall be driven unless the driver assures himself that the emergency equipment (fire extinguishers, flares, flags, etc.) is in place and ready for use.
392.9(a) (True)	A driver may not drive if the load or other objects obscure his view of interfere with his driving.
392.9(c) (True)	If the emergency equipment or exit from the cab is blocked by a person, cargo, or other objects, the driver may not operate the unit.
392.9(e) (False)	A driver of a bus transporting passengers need not be concerned with the loading of baggage, miscellaneous express or freight aboard the vehicle.
392.10 (False)	All commercial motor vehicles must stop at railroad crossings.
392.11 (True)	The driver of a vehicle approaching a railroad crossing, who is not required to stop, should slow down so that he can stop in the event of danger before he reaches the rails and should proceed only if it is safe to cross.
392.15(e) (True)	Drivers shall not use turn signals as "do pass" or "okay to pass" for vehicles approaching from the rear.
392.21 (False)	There are no regulations for parking of trucks in the Motor Carrier Safety Regulations.
392.22(c)(1), (2) (True)	If your vehicle becomes disabled, an emergency signal must be placed at a minimum of 100 feet to the front, another 10 feet from the rear, and a third 100 feet to the rear of the disabled vehicle on a straight and level road.
392.25 (False)	Flame-producing emergency signals may be carried on motor vehicles transporting explosives.
392.53 (True)	A motor vehicle may not be driven if any of the required lights or reflectors are obscured by dirt or part of the load.
392.40(e) (True)	A driver must report all details of an accident in which he is involved to the motor carrier employing him, regardless of the amount of property damage.
392.41 (True)	After his vehicle strikes a parked vehicle, a driver must stop immediately and attempt to locate the owner of the parked vehicle.
392.41 (False)	If, after striking a parked vehicle, the driver has been unable to find the owner or operator, he can leave the scene without taking any further action.
392.42 (True)	If a driver receives a notice that his license, permit or privilege to operate a motor vehicle has been revoked, suspended, or withdrawn, he must notify the carrier that employs him before the end of the following business day.
392.50(b) (False)	A driver may smoke in the vicinity of his vehicle while it is being fueled.
392.60 (False)	There are no restrictions in the Motor Carrier Safety Regulations preventing a driver from transporting passengers on a vehicle other than a bus.
392.62 (True)	No driver, while driving a bus, may engage in any unnecessary conversation or other activities tending to distract his attention from the operation of the bus.
392.65 (True)	If there is direct access between the sleeper berth and cab, a driver does not have to stop the vehicle when the co-driver enters or leaves the sleeper berth.
392.68 (False)	A driver may disengage the gears while going down a slight grade in order to pick up speed.
393.1 (True)	The regulations prohibit driving a motor vehicle if certain of its parts and accessories are not in working order.
393.12(a) (True)	All buses and trucks over 80 inches wide must have three identification lamps mounted on the vertical centerline.
393.18(b) (False)	During hours of darkness, loads projecting beyond the sides and over 4 feet beyond the rear of a motor vehicle must be marked by red flags only.
393.32 (True)	Detachable connections cannot be made by twisting together wires from the towed and towing units.
393.41(a) (True)	Parking brakes must be adequate to hold the vehicle on any grade on which it is operated.
393.42(c) (False)	Truck-tractors having only two axles need not have brakes on the front wheels.
393.43(d) (True)	Trailer brakes must automatically apply when the trailer "breaks loose" from the tractor.
393.60(c) (False)	Labels and stickers required by law may be affixed at the top of motor vehicle windshields.
393.65(e)(1) (True)	The filling opening of every fuel tank must be covered by a secure cap or similar device.
393.70(f)(6) (True)	Full trailers and converter dollies must have safety chains in addition to the tow bar attaching them to the towing vehicle.
393.77(a)(6) (False)	Portable heaters may be used in the cabs of motor vehicles.
393.80 (False)	Only one rear vision mirror is required on all motor vehicles.
393.82 (True)	All vehicles must be equipped with a speedometer, except driveway-towaway operations.
393.95(a) (True)	All vehicles must be equipped with fire extinguishers.
393.95(d) (True)	Tire chains must be carried when a driver is likely to encounter conditions requiring their use.
393.95(f)(3) (True)	Three red emergency reflectors and two red flags provide adequate warning devices for a stopped or disabled vehicle.
393.98(c) (False)	First aid kits are required on all motor vehicles.
395.1 (True)	Drivers shall be familiar with the rules governing the hours-of-service limitations.
395.1(a)(1) (False)	If a dispatcher notifies you that your truck will not be ready for an hour but that you must stand by until it is ready, your time waiting for the truck is logged as off-duty.
395.2(e) (True)	Meal stops and coffee breaks taken while a driver is enroute to a destination shall be logged as "on-duty" time.
395.2(a)(1) (False)	A driver awaiting dispatch at a carrier's terminal may show his time as off-duty time.
395.2(a)(2) (False)	Time spent inspecting or servicing your vehicle is off-duty time.

Sections	Questions
395.2(a)(4) (True)	In a two-man operation using a conventional cab truck or tractor not equipped with a sleeper berth, time spent by each occupant riding but not driving would be logged as on-duty time.
395.2(a)(5) (False)	Time spent loading or unloading a vehicle may be logged as on-duty time.
395.2(a)(7) (True)	Time spent at the scene of a breakdown, or repairing a disabled vehicle must be logged as on-duty time.
395.2(g) (False)	A driver may use the seat of his vehicle as a sleeper berth and log his time in it as sleeper berth time.
395.3(a) (False)	A driver may drive after having been on duty for 15 hours.
395.3(a) (True)	Off-duty time may be spent resting in a sleeper berth in two periods, neither of which is less than 2 hours.
395.3(a) (False)	Local drivers are not subject to the hours-of-service regulations.
395.3(b) (True)	A driver may not be on duty more than 60 hours in any period of 7 consecutive days, or 70 hours in any 8 consecutive days in the case of a carrier who operates every day of the week.
395.8(a) (True)	Drivers are required to make true and accurate entries on their logs.
395.8(a) (True)	Failure to make logs when required, or making false entries on the logs, make both the driver and the carrier liable to prosecution.
395.8(a) (True)	A driver is accountable for each entry he makes on his daily log even when he makes entries under company instructions.
395.8(b) (True)	A driver's logs must be kept current to the time of his last change of duty status.
395.8(c) (True)	A driver must make out his logs in his own handwriting.
395.8(r) (False)	A driver may wait until the end of a trip to make out his logs even if the trip takes 2 or more days.
395.8(r) (True)	When drivers' logs are required, the driver must forward the original of his log to the carrier each day.
395.8(s) (False)	A driver must retain a duplicate copy of each daily log for 30 days in his files at home.
395.8(t) (True)	If all of your driving is wholly within a 50-mile radius of your home terminal and the carrier keeps required records you do not have to keep a daily log.
395.13 (True)	If a driver is stopped during a road check and is found to be in violation of the on-duty or driving time rules, he may be placed "out of service" at that point.
396.4 (False)	If a motor vehicle, being operated on a highway, is discovered to be in an unsafe condition, likely to be hazardous or to result in a breakdown, the driver may continue to operate it to the carrier's terminal or shop facility, if the terminal or shop is within 200 miles.
396.4 (False)	A driver may drive a motor vehicle, which by reason of its mechanical condition is so imminently hazardous as to be likely to cause an accident or breakdown, if he has reported the vehicle's condition to his supervisor.
396.5(a) (True)	Certain representatives of the Bureau of Motor Carrier Safety are authorized to inspect vehicles and cargo of motor carriers in operation.
396.5(c)(1) (True)	Representatives of the Bureau of Motor Carrier Safety may declare a motor vehicle "out of service" if, by reason of its mechanical condition or loading, it is so imminently hazardous as to be likely to cause an accident or a breakdown.
396.5(c)(2) (False)	Vehicles that have been marked "out of service" may be operated before necessary repairs have been made.
396.1(0)(4) (True)	Only the person who makes the repairs may certify that the repairs required by an out-of-service notice have been completed.
396.5(c)(4) (True)	The Motor Carrier Safety Regulations allow drivers to make repairs to their vehicles if assistance is not readily available.
396.6 (True)	Motor vehicles damaged in an accident may not be driven until a qualified inspector determines that they are in safe operating condition.
396.7 (True)	Drivers are required to prepare written daily vehicle condition reports.
396.7 (False)	A written vehicle condition report need not be prepared by a driver who informs his shop steward of all defects or deficiencies of the motor vehicle within two hours after returning to the terminal or shop facility.
397.01(b) (False)	The rules in Part 397, Transportation of Hazardous Materials; Driving and Parking Rules, do not apply to over-the-road drivers (interstate), only to city deliveries.
397.02 (False)	Motor carriers are not required to instruct their employees about the hazardous materials regulations.
397.1(b) (True)	Motor vehicles transporting Class A or Class B explosives must be attended at all times.
397.1(c) (False)	Motor vehicles transporting dangerous articles other than explosives may never be left unattended upon any public street or highway.
397.1(d) (True)	Motor vehicles transporting explosives and other dangerous articles must, when practicable, avoid congested places.
397.1(e) (False)	Motor vehicles may be fueled at any time when transporting any type of hazardous material.
397.1(g) (False)	Smoking is permitted on any motor vehicle transporting hazardous materials.
177.817(c) (True)	When transporting dangerous articles, a driver must have in his possession a shipping paper which shows the proper name and classification of the article in transit.
177.823(a)(8) (True)	When required, hazardous material placards must be on both sides, front and rear of the vehicle.
177.823(b)(1) (True)	A tank vehicle used exclusively for transporting gasoline or other flammable liquids must be marked or placarded, whether it is loaded or empty.
177.823(d) (True)	All hazardous material placards must be removed from a van-type trailer after a hazardous commodity is unloaded from the trailer.

[F.R. Doc. 70-4868; Filed, Apr. 21, 1970; 8:45 a.m.]

APPENDIX C—QUESTIONS FOR WRITTEN EXAMINATION—Continued

Sections

Questions

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