

Title 33
ENVIRONMENTAL QUALITY

Part V. Hazardous Wastes and Hazardous Materials

Subpart 2. Department of Public Safety and Corrections—Hazardous Materials

Chapter 103. Motor Carrier Safety and Hazardous Materials

§10301. General Provisions

A. Through contract between the Department of Public Safety and Corrections and the United States Department of Transportation, the state has agreed to adopt and assume responsibility for enforcing certain federal regulations as required by 49 CFR 350.11 and additional regulations listed below. The authority to adopt such regulations is provided in R.S. 32:1501 et seq.

B. Only the Office of State Police may enforce the regulations adopted or enacted under this Chapter.

C. Any term used in these rules is used in its commonly accepted meaning except where the term has been specifically defined in R.S. 32:1502 or 49 CFR.

D. All rules or parts of rules adopted pursuant to R.S. 32:1504 that relate to highway transportation regulations and promulgated prior to January 20, 1988, are hereby repealed.

E. All authorizations for alternate means of compliance with prior regulations as provided in R.S. 32:1506, and 32:1507, which relate to highway transportation and granted prior to January 20, 1988, are hereby revoked.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 14:31 (January 1988), amended LR 17:1115 (November 1991).

§10303. Federal Motor Carrier Safety and Hazardous Materials

A. The following federal motor carrier safety regulations and hazardous materials regulations promulgated by the United States Department of Transportation, revised as of August 10, 2015, and contained in the following parts of 49 CFR as now in effect or as hereafter amended, are made a part of this Chapter.

Hazardous Material Regulations	
Part 107	Hazardous Materials Program Procedures
Part 171	General Information, Regulations, and Definitions
Part 172	Hazardous Materials Table, Special Provisions, and Hazardous Materials Communications, Emergency Response Information, and Training Requirements
Part 173	Shippers—General Requirements for Shipments and Packagings
Part 177	Carriage by Public Highways
Part 178	Specifications for Packagings
Part 180	Continuing Qualification and Maintenance of Packagings
Motor Carrier Safety Regulations	
Part 355	Compatibility of State Laws and Regulations Affecting Interstate Motor Carrier Operations
Part 360	Fees for Motor Carrier Registration and Insurance
Part 365	Rules Governing Applications for Operating Authority
Part 367	Standards for Registration with States
Part 373	Receipts and Bills
Part 374	Passenger Carrier Regulations
Part 375	Transportation of Household Goods in Interstate Commerce: Consumer Protection Regulations
Part 376	Lease and Interchange of Vehicles
Part 379	Preservation of Records
Part 382	Controlled Substances and Alcohol Use and Testing
Part 383	Commercial Driver's License Standards; Requirements and Penalties

Hazardous Material Regulations	
Part 384	State Compliance with Commercial Driver's License Program
Part 385	Safety Fitness Procedures
Part 386	Rules of Practice for Motor Carrier, Broker, Freight Forwarder and Hazardous Materials Proceedings
Part 387	Minimum Levels of Financial Responsibility for Motor Carriers
Part 388	Cooperative Agreements with States
Part 389	Rulemaking Procedures-Federal Motor Carrier Safety
Part 390	Federal Motor Carrier Safety Regulations; General
Part 391	Qualifications of Drivers
Part 392	Driving of Commercial Motor Vehicles
Part 393	Parts and Accessories Necessary for Safe Operation
Part 395	Hours of Service of Drivers
Part 396	Inspection, Repair, and Maintenance
Part 397	Transportation of Hazardous Materials; Driving and Parking Rules

AUTHORITY NOTE: Promulgated in accordance with R.S. 32: 1501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 14:31 (January 1988), amended LR 17:1115 (November 1991), LR 19:351 (March 1993), LR 20:58 (January 1994), LR 24:956 (May 1998), LR 24:2321 (December 1998), LR 29:711 (May 2003), LR 30:447 (March 2004), LR 32:641 (April 2006), LR 34:882 (May 2008), amended by the Department of Public Safety and Corrections, Office of State Police, Transportation and Environmental Safety Section, LR 37:1613 (June 2011), LR 38:1417 (June 2012), amended by the Department of Public Safety and Corrections, Office of State Police, LR 40:371 (February 2014), LR 42:280 (February 2016).

§10305. Applicability of Regulations

A. For the purpose of this Chapter, the federal regulations, as adopted or amended herein, shall govern all carriers, drivers, persons or vehicles:

1. to which the federal regulations apply;
2. engaged in the transportation of hazardous materials within this state;
3. designed or used to transport 16 or more people, including the driver.

B. For the purpose of this Chapter, the federal motor carrier safety regulations, as adopted or amended herein, shall also govern all carriers, drivers, persons or vehicles not subject to the federal regulations, if the operated vehicle has a single or combined gross vehicle weight or gross vehicle weight rating, greater than 26,000 pounds and is used in commerce or industry.

C. The adopted federal regulations applicable to all carriers, drivers, persons or vehicles set forth in Subsections A and B of this Section shall be amended as follows.

1. For the adopted regulations governing all carriers, drivers or vehicles as specified in Subsection B, substitute "26,000 pounds" for all references made to "10,000 pounds."

2. Part 391.11(b)(1) shall read, "is at least 21 years old, or is at least 18 years old and lawfully possesses an appropriately classified driver's license secured from the Louisiana Department of Public Safety and Corrections."

3.a. If a driver has been regularly employed by a motor carrier for a continuous period of no less than three years immediately prior to January 20, 1988, such driver is exempt from complying with Parts 391.21, 391.23, and 391.33.

b. If a driver has been employed as a commercial motor vehicle operator for a minimum of 24 months prior to March 31, 1992, such driver is exempt from complying with Parts 391.41(b)(1), (2), (3), (4), (5), (10), and (11).

c. However, such a driver may remain qualified only as long as an examining physician determines, during the biennial medical examination required in 49 CFR Part 391.45, that the existing medical or physical condition that would otherwise render a driver unqualified has not significantly worsened or that another disqualifying medical or physical condition has not manifested. The medical examiner's certificate must display upon its face the inscription **MEDICALLY UNQUALIFIED OUTSIDE LOUISIANA** when a driver is qualified in accordance with the provisions stated herein.

4. When applicable, the words “Louisiana Department of Public Safety and Corrections” and/or “Office of State Police” shall be substituted where “U.S. Department of Transportation,” “Federal Highway Administration,” “Federal Highway Administrator,” “Director,” “Bureau of Motor Carrier Safety” or “Office of Motor Carrier Safety” appear.

5. Where special U.S. Department of Transportation forms or procedures are specified or required, substitute the compatible Louisiana Department of Public Safety and Corrections forms or procedures if such are required by the state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 14:31 (January 1988), amended LR 14:298 (May 1988), LR 17:1115 (November 1991), repromulgated LR 18:78 (January 1992), amended LR 18:746 (July 1992), LR 20:58 (January 1994), LR 36:2573 (November 2010), LR 37:2187 (July 2011), amended by the Department of Public Safety and Corrections, Office of State Police, Transportation and Environmental Safety Section, LR 38:1417 (June 2012).

§10307. Assessment of Civil Penalties

A. Any person who is determined by the Secretary of the Department of Public Safety and Corrections, after reasonable notice and opportunity for a fair and impartial hearing held in accordance with the Administrative Procedure Act, to have committed an act that is a violation of R.S. 32:1501 et seq., or adopted or promulgated regulations as provided in this Chapter, is subject to a civil penalty not to exceed the amount determined by applicable law.

B.1. For purposes of this Chapter, “reasonable notice and opportunity for a fair and impartial hearing held in accordance with the Administrative Procedure Act” is defined as the 45-day period following receipt of the violation notice within which the person has the right to request a hearing. Receipt of the violation shall be deemed to have occurred five days following the date the notice of violation was mailed by the department to:

a. in the case of an out-of-state carrier, to the address provided for on the carrier’s Motor Carrier Identification Report as prescribed by 49 CFR Part 390.19;

b. in the case of an intrastate carrier, to the carrier address of record as determined by the Department of Public Safety and Corrections; in the case of a driver, to the address on record with the licensing authority of the state in which the person is licensed.

2. The person will have 45 days following receipt of the notice of violation within which to make written request to the Department of Public Safety and Corrections for an administrative hearing. Failure to request said hearing within 45 days of receipt of the violation notice shall constitute a conviction of the violation for purposes of R.S. 32:414.2(A)(9)(a).

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 14:31 (January 1988), amended LR 17:1116 (November 1991), LR 31:2953 (November 2005).

§10309. Recovery of Civil Penalties

A. To enforce the collection of a civil penalty levied after due process upon a person determined by the secretary of the Department of Public Safety and Corrections to have committed an act that is a violation of R.S. 32:1501 et seq., or adopted or promulgated regulations as provided in this Chapter, the secretary shall act in accordance with the provisions of R.S. 32:1525.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1501 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 14:31 (January 1988), amended LR 14:488 (July 1988), LR 17:1116 (November 1991), LR 40:372 (February 2014).