

TABLE 3—EPA-APPROVED CLARK COUNTY REGULATIONS—Continued

County citation	Title/subject	County effective date	EPA approval date	Additional explanation
Section 12.3	Permit Requirements for Major Sources in Nonattainment Areas.	5/18/10	[Insert Federal Register page number where the document begins], 10/18/12.	Submitted on 9/01/10.
Section 12.4	Authority to Construct Application and Permit Requirements For Part 70 Sources.	5/18/10	[Insert Federal Register page number where the document begins], 10/18/12.	Submitted on 9/01/10.
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 [FR Doc. 2012-25545 Filed 10-17-12; 8:45 am]
 BILLING CODE 6560-50-P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Parts 365, 371, and 375

[Docket No. FMCSA-2012-0322]

FMCSA Policy on the Suspension of Operating Authority for Hostage Load Violations

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.
ACTION: Notice of enforcement policy.

SUMMARY: FMCSA provides notice of the Agency’s new policy concerning enforcement of its household goods (HHG) motor carrier and broker regulations. FMCSA may take enforcement action when a HHG motor carrier or broker knowingly and willfully fails, in violation of a contract, to deliver or unload at the destination a shipment of HHG for which charges have been estimated and for which payment has been tendered. A motor carrier or broker found holding a HHG shipment hostage may be subject to suspension of registration for a period of not less than 12 months to not more than 36 months.

DATES: This decision is effective October 18, 2012.

FOR FURTHER INFORMATION CONTACT: Brodie Mack, Jr., Commercial Enforcement and Investigations Division, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590, (202) 366-8045; email brodie.mack@dot.gov.

SUPPLEMENTARY INFORMATION:

Background

The U.S. Department of Transportation (DOT) assumed

responsibility for regulating the HHG industry in 1996 from the Interstate Commerce Commission (ICC). Congress terminated the ICC in the ICC Termination Act of 1995 (Pub. L. 104-88, 109 Stat. 803). Consequently, DOT inherited the responsibility of handling consumer complaints regarding deceptive business practices and hostage shipments. In 2000, FMCSA was delegated the responsibility for enforcement of HHG consumer protection in the Motor Carrier Safety Improvement Act of 1999 (MCSIA), Public Law 106-159, 113 Stat. 1748. However, FMCSA lacked the authority to fully address brokers and motor carriers engaged in the practice of holding HHG shipments hostage in violation of a contract. Congress responded by including the “Household Goods Movers Oversight Enforcement and Reform Act of 2005” in the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU). In SAFETEA-LU, Congress specifically addressed (codified at 49 U.S.C. 14915) the problem of persons, including, but not limited to, brokers and motor carriers, who hold HHG shipments hostage. The statute defines a hostage shipment, establishes civil and criminal penalties, and permits the suspension of the operating authority registration of a motor carrier or broker from 12 to 36 months when it holds a shipment hostage.

Policy

Pursuant to 49 U.S.C. 14915, any person, including a motor carrier or broker, that holds a HHG shipment hostage is subject to a \$10,000 civil penalty for each violation. Each day the goods are held hostage may constitute a separate violation. In addition with the publication of this policy statement FMCSA may suspend a broker or motor carrier’s registration for a period of not less than 12 months or more than 36 months. The suspension of a carrier’s or broker’s registration extends to and

includes any carrier or broker having the same ownership or operational control as the suspended carrier or broker.

FMCSA may suspend a carrier’s or broker’s registration upon a determination by FMCSA that the carrier or broker knowingly and willfully failed, in violation of a contract, to deliver or unload at the destination of a shipment of HHG for which charges have been estimated and for which payment has been tendered. Pursuant to 49 U.S.C. 13707(b)(3)(A), payment is tendered when a shipper pays: (1) 100 percent of the charges contained in a binding estimate provided by the carrier; (2) not more than 110 percent of the charges contained in a nonbinding estimate provided by the carrier; (3) or in the case of a partial delivery of the shipment, the prorated percentage of the charges.

FMCSA will take action to suspend a carrier’s or broker’s registration for hostage load violations in accordance with the procedures in 49 U.S.C. 13905. FMCSA may determine that a hostage load violation has occurred based on the results of an investigation, an Agency determination as stated in a final order, or admission by the motor carrier or broker. FMCSA initiates a proceeding to suspend the carrier’s or broker’s registration by issuing an order to the carrier or broker to show good cause why the registration should not be suspended in accordance with 49 U.S.C. 13905. The order provides notice of the alleged violation, explains how to submit a written response with supporting documentation, and informs the registered entity that failure to respond and demonstrate good cause will result in suspension of its registration.

The Agency Official who issued the order reviews the registered entity’s response. After reviewing the response, the Agency Official issues a written decision and may take one of three actions. First, he or she may enter an order suspending the entity’s

registration, if the registered entity failed to show good cause why its registration should not be suspended. Second, the Agency Official may enter an order directing the registered entity to come into compliance, if the Agency Official determines that corrective action is more appropriate than suspension. The compliance order informs the carrier or broker that willful failure to comply may result in suspension or revocation of registration. Third, the Agency Official may determine that suspension is not appropriate and enter an order terminating the proceeding. This mirrors the procedure the Agency follows when taking action under 49 U.S.C. 13905 to suspend, amend or revoke operating authority registration generally, for non-HHG motor carriers as well as HHG carriers. See 77 FR 46147, 46149 (Aug. 2, 2012).

In determining whether to initiate a registration suspension for hostage load violations FMCSA generally considers a motor carrier's six-year compliance history. The six-year period is consistent with FMCSA's penalty assessment policies regarding "history of prior offenses" under 49 U.S.C. 521(b)(2)(D) and "pattern of violations" warranting assessment of maximum civil penalties under section 222 of MCSIA, see 69 FR 77828 (Dec. 28, 2004) and 74 FR 14184 (Mar. 30, 2009), and its determinations under 49 U.S.C. 13902 and 13905 on willingness and ability to comply with applicable regulations. See 77 FR 46147, 46144–46149 (Aug. 2, 2012). Accordingly, FMCSA may suspend the registration of a carrier or broker found holding a shipment hostage for a first time for no less than 12 months pursuant to 49 U.S.C. 14915. If a carrier or broker commits a second hostage load violation within 6 years of the first violation, FMCSA may suspend its registration for 24 months. If a carrier or broker commits a third violation within 6 years of the first violation, FMCSA may suspend its registration for 36 months.

Issued on: September 18, 2012.

William A. Bronrott,
Deputy Administrator.

[FR Doc. 2012–25678 Filed 10–17–12; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 536

[NHTSA–2010–0131; EPA–HQ–OAR–2010–0799; FRL–9706–5]

RIN 2127–AK79; RIN 2060–AQ54

2017 and Later Model Year Light-Duty Vehicle Greenhouse Gas Emissions and Corporate Average Fuel Economy Standards

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Correcting amendment.

SUMMARY: This document contains corrections to the final rule regulation which was published in the **Federal Register** of Monday, October 15, 2012 (77 FR 62624). The final rule established fuel economy standards for light-duty vehicles under the Energy Policy and Conservation Act (EPCA), as amended by the Energy Independence and Security Act (EISA), 49 U.S.C. 32901 *et seq.*

DATES: *Effective Date:* This correcting amendment is effective on December 14, 2012.

FOR FURTHER INFORMATION CONTACT: Rebecca Yoon, Office of Chief Counsel, National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590. Telephone: (202) 366–2992.

SUPPLEMENTARY INFORMATION:

Background

NHTSA and EPA published in the **Federal Register** of October 15, 2012, final rules to establish coordinated standards to improve fuel economy and reduce greenhouse gas emissions for vehicles manufactured for sale in the United States in model years 2017 and beyond. The final rules, consistent with President Obama's directive to the agencies on May 21, 2010, respond to the country's critical need to reduce oil consumption and address global climate change.

Need for Correction

As published, the final regulations inadvertently misprinted one of the values for "VMT_u," which represents lifetime vehicle miles traveled for the model year and compliance category in which a traded or transferred credit is used for compliance in 49 CFR part 536. The value printed for passenger cars in model year 2011 was "152,922," when the value intended to be printed, consistent with prior rulemakings, is "150,922." To correct the mistake, NHTSA is replacing the value in the table to alleviate any confusion.

List of Subjects in 49 CFR Part 536

Fuel economy, Reporting and recordkeeping requirements.

Accordingly, 49 CFR part 536 is corrected by making the following correcting amendments:

PART 536—TRANSFER AND TRADING OF FUEL ECONOMY CREDITS

- 1. The authority citation for part 536 continues to read as follows:

Authority: 49 U.S.C. 32903, delegation of authority at 49 CFR 1.50.

- 2. Revise § 536.4(c) to read as follows:

§ 536.4 Credits.

* * * * *

(c) *Adjustment factor.* When traded or transferred and used, fuel economy credits are adjusted to ensure fuel oil savings is preserved. For traded credits, the user (or buyer) must multiply the calculated adjustment factor by the number of its shortfall credits it plans to offset in order to determine the number of equivalent credits to acquire from the earner (or seller). For transferred credits, the user of credits must multiply the calculated adjustment factor by the number of its shortfall credits it plans to offset in order to determine the number of equivalent credits to transfer from the compliance category holding the available credits. The adjustment factor is calculated according to the following formula:

$$A = \frac{VMT_u * MPG_{ae} * MPG_{se}}{VMT_e * MPG_{au} * MPG_{su}}$$