1/16 inch ceramic sheathed, type K, grounded thermocouples with a nominal 30 American wire gage (AWG) size conductor. The seven thermocouples must be attached to a steel angle bracket to form a thermocouple rake for placement in the test stand during burner calibration.

(5) *Apparatus Arrangement.* The test burner must be mounted on a suitable stand to position the exit of the burner cone a distance of 8 inches from the ceiling liner panel and 2 inches from the sidewall liner panel. The burner stand should have the capability of allowing the burner to be swung away from the test specimen during warm-up periods.

(6) *Instrumentation.* A recording potentiometer or other suitable instrument with an appropriate range must be used to measure and record the outputs of the calorimeter and the thermocouples.

(7) *Timing Device.* A stopwatch or other device must be used to measure the time of flame application and the time of flame penetration, if it occurs.

(e) *Preparation of Apparatus.* Before calibration, all equipment must be turned on and allowed to stabilize, and the burner fuel flow must be adjusted as specified in paragraph (d)(2).

(f) *Calibration.* To ensure the proper thermal output of the burner the following test must be made:

(1) Remove the burner extension from the end of the draft tube. Turn on the blower portion of the burner without turning the fuel or igniters on. Measure the air velocity using a hot wire anemometer in the center of the draft tube across the face of the opening. Adjust the damper such that the air velocity is in the range of 1550 to 1800 ft./min. If tabs are being used at the exit of the draft tube, they must be removed prior to this measurement. Reinstall the draft tube extension cone.

(2) Place the calorimeter on the test stand as shown in Figure 2 at a distance of 8 inches (203 mm) from the exit of the burner cone to simulate the position of the horizontal test specimen.

(3) Turn on the burner, allow it to run for 2 minutes for warm-up, and adjust the damper to produce a calorimeter reading of 8.0 ±0.5 BTU per $ft.^2$ sec. (9.1 ±0.6 Watts/cm^2).

(4) Replace the calorimeter with the thermocouple rake.

(5) Turn on the burner and ensure that each of the seven thermocouples reads 1700 °F. ±100 °F. (927 °C. ±38 °C.) to ensure steady state conditions have been achieved. If the temperature is out of this range, repeat steps 2 through 5 until proper readings are obtained.

(6) Turn off the burner and remove the thermocouple rake.

(7) Repeat (1) to ensure that the burner is in the correct range.

(g) *Test Procedure.* (1) Mount a thermocouple of the same type as that used for calibration at a distance of 4 inches (102 mm) above the horizontal (ceiling) test specimen. The thermocouple should be centered over the burner cone.

(2) Mount the test specimen on the test stand shown in Figure 1 in either the horizontal or vertical position. Mount the insulating material in the other position.

(3) Position the burner so that flames will not impinge on the specimen, turn the burner on, and allow it to run for 2 minutes. Rotate the burner to apply the flame to the specimen and simultaneously start the timing device.

(4) Expose the test specimen to the flame for 5 minutes and then turn off the burner. The test may be terminated earlier if flame penetration is observed.

(5) When testing ceiling liner panels, record the peak temperature measured 4 inches above the sample.

(6) Record the time at which flame penetration occurs if applicable.

(h) *Test Report.* The test report must include the following:

(1) A complete description of the materials tested including type, manufacturer, thickness, and other appropriate data.

(2) Observations of the behavior of the test specimens during flame exposure such as delamination, resin ignition, smoke, etc., including the time of such occurrence.

(3) The time at which flame penetration occurs, if applicable, for each of the three specimens tested.

Issued in Washington, DC, on September 17, 2007 under authority delegated in 49 CFR part 1.

Krista Edwards,

Acting Administrator.

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DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Part 386

Rules of Practice for Motor Carrier, Broker, Freight Forwarder, and Hazardous Materials Proceedings

CFR Correction

In Title 49 of the Code of Federal Regulations, Parts 300 to 399, revised as of October 1, 2006, on page 276, in Appendix A to Part 386, reinstate Section IV to read as follows:

Appendix A to Part 386—Penalty Schedule; Violations of Notices and Orders

* * * * *

IV. Out-of-Service Order

a. Violation—Operation of a commercial vehicle by a driver during the period the driver was placed out of service.

Penalty—Up to $2,100 per violation.
(For purposes of this violation, the term ''driver'' means an operator of a commercial motor vehicle, including an independent contractor who, while in the course of operating a commercial motor vehicle, is employed or used by another person.)

b. Violation—Requiring or permitting a driver to operate a commercial vehicle during the period the driver was placed out of service.

Penalty—Up to $16,000 per violation.
(This violation applies to motor carriers, including an independent contractor who is not a ''driver,'' as defined under paragraph IVa above.)

c. Violation—Operation of a commercial motor vehicle by a driver after the vehicle was placed out of service and before the required repairs are made.

Penalty—$2,100 each time the vehicle is so operated.
(This violation applies to drivers as defined in IVa above.)

d. Violation—Requiring or permitting the operation of a commercial motor vehicle placed out of service before the required repairs are made.

Penalty—Up to $16,000 each time the vehicle is so operated after notice of the defect is received.
(This violation applies to motor carriers, including an independent owner-operator who is not a ''driver,'' as defined in IVa above.)

e. Violation—Failure to return written certification of correction as required by the out-of-service order.
Penalty—Up to $650 per violation.

f. Violation—Knowingly falsifies written certification of correction required by the out-of-service order.

Penalty—Considered the same as the violations described in paragraphs IVc and IVd above, and subject to the same penalties.

Note: Falsification of certification may also result in criminal prosecution under 18 U.S.C. 1001.

g. Violation—Operating in violation of an order issued under § 386.72(b) to cease all or part of the employer's commercial motor vehicle operations, i.e., failure to cease operations as ordered.

Penalty—Up to $16,000 per day the operation continues after the effective date and time of the order to cease.

h. Violation—Conducting operations during a period of suspension under §§ 386.83 or 386.84 for failure to pay penalties.

Penalty—Up to $11,000 for each day that operations are conducted during the suspension period.

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DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Part 386

RIN 2126–AB12

Civil Penalties Adjustments

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Final rule.

SUMMARY: This final rule specifies inflation adjustments to civil penalties