

thereon shall be corrected in accordance with § 396.11(a)(3). Repairs of items of intermodal equipment placed out-of-service are also to be documented in the maintenance records for such equipment.

\* \* \* \* \*

■ 7. Revise § 396.17(f) to read as follows:

**§ 396.17 Periodic inspection.**

\* \* \* \* \*

(f) Vehicles passing periodic inspections performed under the auspices of any State government or equivalent jurisdiction, meeting the minimum standards contained in appendix G of this subchapter, will be considered to have met the requirements of an annual inspection for a period of 12 months commencing from the last day of the month in which the inspection was performed.

\* \* \* \* \*

■ 8. Revise § 396.19(b) to read as follows:

**§ 396.19 Inspector qualifications.**

\* \* \* \* \*

(b) Motor carriers and intermodal equipment providers must retain evidence of that individual's qualifications under this section. They must retain this evidence for the period during which that individual is performing annual motor vehicle inspections for the motor carrier or intermodal equipment provider, and for one year thereafter. However, motor carriers and intermodal equipment providers do not have to maintain documentation of inspector qualifications for those inspections performed as part of a State periodic inspection program.

**§ 396.23 [Amended]**

■ 9. In § 396.23, remove paragraph (a) and redesignate paragraph (b) as paragraph (a) and reserve a new paragraph (b).

■ 10. Amend Appendix G to Subchapter B of Chapter III by:

■ a. Adding Section 1.l and footnotes 1 and 2;

■ b. Adding Section 1.m;

■ b. Adding Section 10.c;

■ c. Adding Section 14; and

■ d. Removing "Comparison of Appendix G, and the New North American Uniform Driver Vehicle Inspection Procedure (North American Commercial Vehicle Critical Safety Inspection Items and Out-Of-Service Criteria)," including the introductory text and paragraphs 1.–13.

The additions read as follows:

**Appendix G to Subchapter B of Chapter III—Minimum Periodic Inspection Standards**

\* \* \* \* \*

**1. Brake System**

\* \* \* \* \*

**l. Antilock Brake System<sup>1</sup>**

(1) Missing ABS malfunction indicator components (*i.e.*, bulb, wiring, etc.).

(2) ABS malfunction indicator that does not illuminate when power is first applied to the ABS controller (ECU) during initial power up.

(3) ABS malfunction indicator that stays illuminated while power is continuously applied to the ABS controller (ECU).

(4) ABS malfunction indicator lamp on a trailer or dolly does not cycle when electrical power is applied:

(a) Only to the vehicle's constant ABS power circuit, or

(b) Only to the vehicle.<sup>2</sup>

(5) With its brakes released and its ignition switch in the normal run position, power unit does not provide continuous electrical power to the ABS on any vehicle it is equipped to tow.

(6) Other missing or inoperative ABS components.

**m. Automatic Brake Adjusters**

(1) Failure to maintain a brake within the brake stroke limit specified by the vehicle manufacturer.

(2) Any automatic brake adjuster that has been replaced with a manual adjuster.

(3) Damaged, loose, or missing components.

(4) Any brake that is found to be out of adjustment on initial inspection must be evaluated to determine why the automatic brake adjuster is not functioning properly and the problem must be corrected in order for the vehicle to pass the inspection. It is not acceptable to manually adjust automatic brake adjusters without first correcting the underlying problem. For example, there may be other components within the braking system that are distressed or out of specification (*i.e.*, broken welds, loose mounting hardware, cracked brake drums, worn bushings, etc.) that would require immediate attention.

\* \* \* \* \*

**10. Tires**

\* \* \* \* \*

c. Installation of speed-restricted tires unless specifically designated by motor carrier.

\* \* \* \* \*

**14. Motorcoach Seats**

a. Any passenger seat that is not securely fastened to the vehicle structure.

b. [Reserved]

<sup>1</sup> Power units manufactured after March 1, 2001, have two ABS malfunction indicators, one for the power unit and one for the units that they tow. Both malfunction indicators are required to be fully functional.

<sup>2</sup> This section is applicable to tractors with air brakes built on or after March 1, 1997, and all other vehicles with air brakes built on or after March 1, 1998. This section is also applicable to vehicles over 10,000 lbs. GVWR with hydraulic brakes built on or after March 1, 1999.

Issued under the authority of delegation in 49 CFR 1.87. July 14, 2016.

T.F. Scott Darling, III,  
Acting Administrator.

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**DEPARTMENT OF TRANSPORTATION**

**Federal Motor Carrier Safety Administration**

**49 CFR Part 396**

[Docket No. FMCSA-2015-0176]

RIN 2126-AB81

**Amendments to Regulatory Guidance Concerning Periodic Inspection of Commercial Motor Vehicles**

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

**ACTION:** Amendment of regulatory guidance.

**SUMMARY:** FMCSA amends regulatory guidance, previously published in the **Federal Register**, regarding the periodic inspection of commercial motor vehicles (CMVs). Elsewhere in today's issue of the **Federal Register**, FMCSA amends the Federal Motor Carrier Safety Regulations (FMCSRs) to, among other things, eliminate the option for a motor carrier to satisfy the periodic (annual) inspection requirement through a violation-free roadside inspection. As a result of this amendment to the FMCSRs, certain regulatory guidance is amended to ensure consistency between the FMCSRs and the published guidance.

**DATES: Effective Date:** This regulatory guidance is effective July 22, 2016.

**FOR FURTHER INFORMATION CONTACT:** Mr. Mike Huntley, Vehicle and Roadside Operations Division, Office of Bus and Truck Standards and Operations, Federal Motor Carrier Safety Administration, telephone: 202-366-5370; *michael.huntley@dot.gov*.

**SUPPLEMENTARY INFORMATION:** On November 17, 1993, the Federal Highway Administration (FHWA)<sup>1</sup> published "Regulatory Guidance for the Federal Motor Carrier Safety Regulations" at 58 FR 60734. The publication included interpretations of

<sup>1</sup> The Motor Carrier Safety Improvement Act of 1999 [Pub. L. 106-159, 113 Stat. 1748 (December 9, 1999)] established the FMCSA in the Department of Transportation. On January 4, 2000, the Office of the Secretary published a final rule delegating to the FMCSA Administrator the motor carrier safety functions required by MCSIA, which included certain motor carrier safety functions previously delegated to the FHWA (65 FR 200).

49 CFR 396.17, a rule that requires all CMVs to be inspected at least once every 12 months in accordance with Appendix G to the FMCSRs (“Minimum Periodic Inspection Standards”), and 49 CFR 396.23, a rule that identifies alternative inspections that are considered equivalent to the annual inspection required under 49 CFR 396.17. The Agency interpreted the regulations to permit a roadside inspection to be considered as equivalent to the annual inspection. The regulatory guidance was republished on April 4, 1997, at 62 FR 16370.

A final rule issued by FMCSA, published elsewhere in today’s issue of the **Federal Register**, amends 49 CFR 396.17(f) and removes 49 CFR 396.23(a) to eliminate the option for a motor carrier to meet the periodic inspection requirements through roadside inspections.

Because not every element of Appendix G is reviewed/inspected during a roadside inspection conducted under the North American Standard Inspection, most roadside inspections do not meet the periodic (annual) inspection requirements under 49 CFR 396.17. For this reason, FMCSA does not believe it is appropriate to continue to allow motor carriers to use roadside inspections conducted by enforcement officials to satisfy the annual inspection requirements in 49 CFR 396.17(f). Motor carriers or their agents will now be required to complete a periodic inspection of every CMV under their control in accordance with Appendix G at least once every 12 months, irrespective of whether a roadside inspection is performed, unless the vehicle is subject to a mandatory State inspection program in accordance with 49 CFR 396.23 which has been determined to be as effective as the requirements of 49 CFR 396.17.

Given the amendments to 49 CFR 396.17(f) discussed above, the final rule also removes 49 CFR 396.23(a), which currently permits a roadside inspection program of a State or other jurisdiction to be considered as meeting the periodic inspection requirements of 49 CFR 396.17.

As a result of the final rule, and to maintain consistency between the amended FMCSRs and the published regulatory guidance, two regulatory guidance questions/answers are amended as follows:

#### Section 396.17, Question 1

*Question 1:* Some of a motor carrier’s vehicles are registered in a State with a mandated inspection program which has been determined to be as effective as the Federal periodic inspection

program, but these vehicles are not used in that State. Is the motor carrier required to make sure the vehicles are inspected under that State’s program in order to meet the Federal periodic inspection requirements?

*Guidance:* If the State requires all vehicles registered in the State to be inspected through its mandatory program, then the motor carrier must use the State program to satisfy the Federal requirements. If, however, the State inspection program includes an exception or exemption for vehicles which are registered in the State but domiciled outside of the State, then the motor carrier may meet the Federal requirements through a self-inspection, a third party inspection, or a periodic inspection performed in any State with a program that the Federal Motor Carrier Administration (FMCSA) determines is comparable to, or as effective as, the part 396 requirements.

#### Section 396.23, Question 1

*Question 1:* Can a violation-free Commercial Vehicle Safety Alliance (CVSA) Level I or Level V inspection be used to satisfy the periodic inspection requirements of § 396.17?

*Guidance:* No, a CVSA Level I or Level V inspection is not equivalent to the Federal periodic inspection requirements.

Issued on July 14, 2016.

**T.F. Scott Darling, III,**

*Acting Administrator.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 622

[Docket No. 160222132-6585-02]

RIN 0648-BF77

#### Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Shrimp Fishery of the Gulf of Mexico; Amendment 17A

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Final rule.

**SUMMARY:** NMFS issues regulations to implement Amendment 17A to the Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico (FMP), as prepared and submitted by the Gulf of Mexico (Gulf) Fishery

Management Council (Council). This final rule extends the current Gulf commercial shrimp permit moratorium for 10 more years. The intent of this final rule and Amendment 17A is to protect federally managed Gulf shrimp stocks while promoting catch efficiency, economic efficiency, and stability in the fishery.

**DATES:** This rule is effective August 22, 2016.

**ADDRESSES:** Electronic copies of Amendment 17A, which includes an environmental assessment, a Regulatory Flexibility Act analysis, and a regulatory impact review, may be obtained from the Southeast Regional Office Web site at [http://sero.nmfs.noaa.gov/sustainable\\_fisheries/gulf\\_fisheries/shrimp/2016/am17a/index.html](http://sero.nmfs.noaa.gov/sustainable_fisheries/gulf_fisheries/shrimp/2016/am17a/index.html).

**FOR FURTHER INFORMATION CONTACT:** Susan Gerhart, telephone: 727-824-5305, or email: [Susan.Gerhart@noaa.gov](mailto:Susan.Gerhart@noaa.gov).

**SUPPLEMENTARY INFORMATION:** The shrimp fishery in the Gulf is managed under the FMP. The FMP was prepared by the Council and implemented through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

On April 5, 2016, NMFS published a notice of availability for Amendment 17A and requested public comment (81 FR 19547). On April 14, 2016, NMFS published a proposed rule for Amendment 17A and requested public comment (81 FR 22042). The proposed rule and Amendment 17A outline the rationale for the actions contained in this final rule. A summary of the action implemented by Amendment 17A and this final rule is provided below.

#### Management Measure Contained in This Final Rule

This final rule extends the Gulf shrimp Federal permit moratorium until October 26, 2026. Through Amendment 13 to the FMP, the Council established a 10-year moratorium on the issuance of new Federal commercial shrimp vessel permits (71 FR 56039, September 26, 2006). The moratorium on permits indirectly controls shrimping effort in Federal waters and thereby bycatch levels of juvenile red snapper and sea turtles. The final rule implementing the moratorium became effective October 26, 2006, and the moratorium permits became effective in March 2007. Extending the moratorium for an additional 10 years until October 26, 2026, is expected to maintain the biological, social, and economic benefits to the shrimp fishery achieved under