

### A. Background

NASA is in the process of implementing a new Agency-wide Integrated Financial Management System. This implementation requires a minor change to the number of digits and sequence of characters used in the contract identification number. This final rule makes these administrative changes to the contract numbering scheme used for NASA contracts.

### B. Regulatory Flexibility Act

This final rule does not constitute a significant revision within the meaning of FAR 1.501 and Public Law 98-577, and publication for public comment is not required. However, NASA will consider comments from small entities concerning the affected NFS Part 1804 in accordance with 5 U.S.C. 610.

### C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes do not impose recordkeeping or information collection requirements which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

#### List of Subjects in 48 CFR Part 1804

Government Procurement.

Tom Luedtke,

Assistant Administrator for Procurement.

Accordingly, 48 CFR Part 1804 is amended as follows:

1. The authority citation for 48 CFR Part 1804 continues to read as follows:

Authority: 42 U.S.C. 2473(c)(1).

#### PART 1804—ADMINISTRATIVE MATTERS

##### 1804.7101 [Amended]

2. Amend section 1804.7101 in paragraph (b) by removing the number “11” and adding “10” in its place.

##### 1804.7102 [Amended]

3. Amend section 1804.7102 by—

a. In the table of paragraph (a) under the column CONTRACT PREFIX—

(i) Removing “NAS 2” and adding “NAS2—” in its place;

(ii) Removing “NAS 4” and adding “NAS4—” in its place;

(iii) Removing “NAS 3” and adding “NAS3—” in its place;

(iv) Removing “NAS 5” and adding “NAS5—” in its place;

(v) Adding a hyphen immediately after “NASW”;

(vi) Removing “NAS 9” and adding “NAS9—” in its place;

(vii) Removing “NAS 1” and adding “NAS1—” in its place;

(viii) Removing “NAS 8” and adding “NAS8—” in its place;

(ix) Removing “NAS 7” and adding “NAS7—” in its place; and

(x) Removing “NAS 13” and adding “NAS13” in its place;

b. In paragraph (c) removing “DEN 8” and adding “DEN8—” in its place; and

c. In paragraph (d) removing “NCA 8” and adding “NCA8—” in its place.

#### 1804.7103 [Amended]

4. Amend section 1804.7103 in paragraph (a) by removing “NAS 2 97001 and NAS 2 97002” and adding “NAS2-97001 and NAS2-97002” in its place.

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## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

#### 49 CFR Part 397

[Docket No. FMCSA-02-13376; Docket No. RSPA-02-12773 (HM-232B)]

RIN 2126-AA74; RIN 2137-AD69

#### Revision to Periodic Tire Check Requirement for Motor Carriers Transporting Hazardous Materials

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

ACTION: Final rule.

**SUMMARY:** The Federal Motor Carrier Safety Administration is eliminating an outdated requirement for certain motor vehicle operators to stop periodically to check their tires. Eliminating this requirement enhances the security of hazardous materials shipments.

**DATES:** The effective date of this final rule is November 4, 2002.

**FOR FURTHER INFORMATION CONTACT:** William Quade, (202) 366-6121, Office of Enforcement and Compliance (MC-ECH), Federal Motor Carrier Safety Administration, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:30 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

#### SUPPLEMENTARY INFORMATION:

##### Background

After the terrorist attacks of September 11, 2001, the Federal Motor Carrier Safety Administration (FMCSA) and the Research and Special Programs Administration (RSPA) reviewed government and industry hazardous materials transportation safety and security programs with a view towards identifying areas where security should

be enhanced. Over 800,000 shipments of hazardous materials occur each day in the United States. The overwhelming majority of these shipments—approximately 95 percent—are made by highway. Many of the hazardous materials transported by motor carriers potentially may be used as weapons of mass destruction or in the manufacture of such weapons. Since September 11, 2001, on several occasions, Federal law enforcement officials provided information indicating that terrorist organizations may be planning to use motor vehicles transporting certain hazardous materials for additional terrorist attacks on facilities in the United States.

Prior to 1975, the Secretary of Transportation regulated the transportation of hazardous materials by highway under the authority of the Motor Carrier Safety Act (MCSA). The authority to issue regulations under the MCSA is currently delegated to FMCSA. 49 CFR 1.73(g). In 1974, Congress passed the Hazardous Materials Transportation Act (HMTA). The HMTA gave the Secretary the authority to issue “regulations for the safe transportation in commerce of hazardous materials” applicable to “any person who transports, or causes to be transported or shipped, a hazardous material \* \* \*.” Public Law 93-633; 88 Stat. 2156 (Jan. 3, 1975). The Secretary delegated this rulemaking authority to RSPA. 49 CFR 1.53(b).

Motor carriers that transport hazardous materials in interstate commerce must comply with both the Hazardous Materials Regulations (HMR; 49 CFR parts 171-180), administered by RSPA, and the Federal Motor Carrier Safety Regulations (FMCSR; 49 CFR parts 390-397), administered by FMCSA. Motor carriers that transport hazardous materials in intrastate commerce must comply with the HMR, and the FMCSR to the extent that they apply (See 62 FR 1208, 1213 (January 8, 1997) and 49 CFR 177.804). As a result of a 1984 amendment to the MCSA and a 1990 amendment to the HMTA, RSPA is authorized to eliminate or amend regulations (other than highway routing regulations) that appear in part 397 of the FMCSR and that apply solely to the maintenance, equipment, loading, or operation of motor vehicles carrying hazardous materials. Therefore, we are issuing this final rule as a joint RSPA-FMCSA rulemaking.

Section 397.17 of the FMCSR requires periodic tire inspections for certain vehicles transporting hazardous materials. Drivers of vehicles with dual tires must stop every two hours or 100 miles to inspect the tires. When

originally promulgated, this requirement was intended to prevent possible fires caused by overheated tube-type tires. With advancements in tire technology, fires caused by tire overheating occur much less frequently.

To require a vehicle transporting a hazardous material to stop at frequent regular intervals increases the security risk associated with such transportation. Any stop provides an opportunity for potential highjacking or theft of the vehicle and its cargo. Eliminating the tire check stop reduces this potential security risk. On July 16, 2002, we published a Notice of Proposed Rulemaking (NPRM) (67 FR 46624) proposing to eliminate this outdated requirement for certain motor vehicle operators to stop periodically to check their tires.

#### Discussion of Comments

We received eight comments on the NPRM. Most commenters support the proposal to eliminate the requirement that certain motor vehicle operators periodically stop to check their tires. They agree with us that advancements in tire technology, specifically the elimination of inner-tubes, have largely eliminated the risk of fire caused by tire overheating. Hence, stopping every two hours or 100 miles to check the tires is no longer necessary. The commenters also support our position that frequent stops compromise the security of hazardous materials shipments and increase the vulnerability to theft and hijackings.

One commenter disagrees with the proposed changes, stating that a reduction in potential security risks for motor carriers should not come from the elimination of regulations that were established to promote carrier and public safety. As stated in the NPRM, we are not eliminating all tire checks. An operator of a motor vehicle transporting hazardous materials must still check each tire at the beginning of each trip and each time the vehicle is parked. Thus, we do not agree that elimination of the periodic 2 hour/100 mile tire check requirement reduces safety. This commenter also suggests that training for drivers that includes increased security awareness concerning hijackings and theft would be beneficial. In this regard, we note that in an NPRM published under Docket HM-232 on May 2, 2002 (67 FR 22030), we are proposing to add a provision to § 172.704 to require the training of hazmat employees to include a security component covering how to recognize and respond to possible security threats.

A commenter who supports the proposal notes that 49 CFR 392.9, Safe loading, requires drivers of trucks and truck tractors to stop periodically to examine the vehicle's cargo and its load-securing devices. The commenter suggests that we also analyze the risk and benefits related to periodic inspection of load-securing devices. The requirement for safe loading of cargo applies to all types of cargo and not just hazardous materials shipments, and therefore is outside the scope of this rulemaking.

#### Rulemaking Analyses and Notices

##### *Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures*

The FMCSA has determined that this is not a significant regulatory action within the meaning of Executive Order 12866, or significant within the meaning of DOT regulatory policies and procedures (44 FR 11034).

Eliminating the periodic tire check requirement for motor vehicles transporting hazardous materials will not result in increased compliance costs on the industry. Instead, eliminating periodic stops to check tires will decrease costs for the industry by reducing en route shipment delays and, thus, improving overall delivery times. Because this final rule eliminates a requirement, preparation of a cost-benefit analysis is not warranted.

##### *Regulatory Flexibility Act*

In compliance with the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the FMCSA evaluated the effects of this action on small entities. Accordingly, we certify that this action does not have a significant economic impact on a substantial number of small entities.

##### *Executive Order 13132 (Federalism)*

This action was analyzed in accordance with the principles and criteria contained in Executive Order 13132. It has been determined that this final action does not have a substantial direct effect on States, nor would it limit the policy-making discretion of the States. Nothing in this document preempts any State law or regulation.

##### *Executive Order 13175*

This final rule has been analyzed under Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments). Because this final rule does not significantly or uniquely affect the communities of the Indian tribal governments and does not impose substantial direct compliance costs, the funding and consultation

requirements of Executive Order 13175 do not apply.

##### *Unfunded Mandates Reform Act of 1995*

This final rule does not impose an unfunded mandate, as defined by the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1532 *et seq.*) that will result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year.

##### *Paperwork Reduction Act*

This action does not contain an information collection requirement for the purposes of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

##### *Environmental Assessment*

There are no significant environmental impacts associated with this final rule.

#### List of Subjects in 49 CFR Part 397

Administrative practice and procedure, Highway safety, Intergovernmental relations, Motor carriers, Parking, Radioactive materials, Reporting and recordkeeping requirements, Tires.

In consideration of the foregoing, FMCSA is amending chapter III, subchapter B, Title 49 of the Code of Federal Regulations, as follows:

#### **PART 397—TRANSPORTATION OF HAZARDOUS MATERIALS; DRIVING AND PARKING RULES**

1. The authority citation for part 397 is revised to read as follows:

**Authority:** 49 U.S.C. 322; 49 CFR 1.73. Subpart A also issued under 49 U.S.C. 5103, 31136, 31502, and 49 CFR 1.53. Subparts C, D, and E also issued under 49 U.S.C. 5112, 5125.

2. In § 397.17, paragraph (a) is revised to read as follows:

##### **§ 397.17 Tires.**

(a) A driver must examine each tire on a motor vehicle at the beginning of each trip and each time the vehicle is parked.

\* \* \* \* \*

Issued on September 30, 2002.

**Joseph M. Clapp,**

*Administrator, Federal Motor Carrier Safety Administration.*

**Ellen G. Engleman,**

*Administrator, Research and Special Programs Administration.*

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