

PART 388—COOPERATIVE AGREEMENTS WITH STATES

Sec.

- 388.1 Eligibility.
- 388.2 Extent of acceptance.
- 388.3 Cancellation.
- 388.4 Exchange of information.
- 388.5 Requests for assistance.
- 388.6 Joint investigation, inspection, or examination.
- 388.7 Joint administrative activities related to enforcement of safety and hazardous materials laws and regulations.
- 388.8 Supplemental agreements.

AUTHORITY: 49 U.S.C. 113 and 502; 49 CFR 1.73.

SOURCE: 33 FR 19725, Dec. 25, 1968, unless otherwise noted.

EDITORIAL NOTE: Nomenclature changes to part 388 appear at 66 FR 49873, Oct. 1, 2001.

§ 388.1 Eligibility.

Any State may agree with the Federal Motor Carrier Safety Administration to enforce the safety laws and regulations of said State and the United States concerning motor carrier transportation by filing with the Administrator at Washington, DC 20590, a written acceptance of the terms herein.

§ 388.2 Extent of acceptance.

The written acceptance may be in letter form, signed by competent authority of said State charged with regulations of motor carrier safety and hazardous materials transportation and shall specify the terms herein pertaining to the obligations of a State in which said State will participate. To the extent that a State agrees to participate in the terms herein, officials of the Federal Motor Carrier Safety Administration will reciprocate.

§ 388.3 Cancellation.

Cancellation or withdrawal, in whole or in part, from any agreement made under this chapter may be effected by written notice from either party indicating the effective date of said cancellation or withdrawal.

§ 388.4 Exchange of information.

(a) *Federal Motor Carrier Safety Administration furnishing information to State.* Information that comes to the attention of an employee of the Fed-

eral Motor Carrier Safety Administration in the course of his/her official duties of investigation, inspection, or examination of the property, equipment, and records of a motor carrier or others, pursuant to 49 U.S.C. 504(c), and that is believed to be a violation of any law or regulation of the State pertaining to unsafe motor carrier operations and practices, shall be communicated to the appropriate State authority by an official of the Federal Motor Carrier Safety Administration.

(b) *State furnishing information to Federal Motor Carrier Safety Administration.* Information that comes to the attention of a duly authorized agent of the State in the course of his/her official duties of investigation, inspection, or examination of the property, equipment, and records of a motor carrier or others, and that is believed to be a violation of any provision of the safety or hazardous materials laws of the United States concerning highway transportation or the regulations of the Federal Motor Carrier Safety Administration thereunder, shall be communicated to the Field Administrator.

[51 FR 12621, Apr. 14, 1986, as amended at 67 FR 61824, Oct. 2, 2002]

§ 388.5 Requests for assistance.

(a) *State request for Federal Motor Carrier Safety Administration assistance.* Upon written request of the appropriate State authority, the officials of the Federal Motor Carrier Safety Administration for that State shall, as time, personnel, and funds permit, obtain evidence for use by said State in the enforcement of its laws and regulations concerning unsafe motor carrier operations. Evidence obtained in this manner shall be transmitted to the appropriate State authority together with the name and address of an agent or employee, if any, having knowledge of the facts, who shall be made available when necessary to testify as a witness in an enforcement proceeding or other action.

(b) *Federal Motor Carrier Safety Administration request for State assistance.* Upon written request from a Regional Director of Motor Carriers, the appropriate State authority, shall, as time, personnel, and funds permit, obtain evidence in the State for use by the

§ 388.6

Federal Motor Carrier Safety Administration in its enforcement of the safety and hazardous materials laws and regulations of the United States concerning highway transportation. Evidence obtained in this manner shall be transmitted to the Field Administrator, together with the name and address of an agent or employee, if any, having knowledge of the facts, who shall be made available when necessary to testify as a witness in an enforcement proceeding or other action.

[33 FR 19725, Dec. 25, 1968, as amended at 51 FR 12621, Apr. 14, 1986; 60 FR 38743, July 28, 1995; 67 FR 61824, Oct. 2, 2002]

§ 388.6 Joint investigation, inspection, or examination.

Upon agreement by the Field Administrator and the appropriate State authority, there will be conducted a joint investigation, inspection, or examination of the property, equipment, or records of motor carriers or others, for the enforcement of the safety and hazardous materials laws and regulations of the United States and the State concerning highway transportation. The said Field Administrator and the appropriate State authority shall decide as to the location and time, the objectives sought, and the identity of the person who will supervise the joint effort and make the necessary decisions. Any agent or employee of either agency who has personal knowledge of pertinent facts shall be made available when necessary to testify as a witness in an enforcement proceeding or other action.

[33 FR 19725, Dec. 25, 1968, as amended at 51 FR 12621, Apr. 14, 1986; 67 FR 61824, Oct. 2, 2002]

§ 388.7 Joint administrative activities related to enforcement of safety and hazardous materials laws and regulations.

To facilitate the interchange of information and evidence, and the conduct of joint investigation and administrative action, the Field Administrator and the appropriate State authority shall, when warranted, schedule joint conferences of staff members of both agencies. Information shall be exchanged as to the nature and extent of the authority and capabilities of the

49 CFR Ch. III (10–1–05 Edition)

respective agencies to enforce the safety and hazardous materials laws and regulations of the State or of the United States concerning motor carrier transportation. The Federal Motor Carrier Safety Administration and the State (or appropriate State authority) shall use their best efforts to inform each other of changes in their rules and regulations and cooperate with and assist each other in conducting training schools for Federal and State enforcement officials engaged in such duties.

[33 FR 19725, Dec. 25, 1968, as amended at 51 FR 12621, Apr. 14, 1986; 67 FR 61824, Oct. 2, 2002]

§ 388.8 Supplemental agreements.

The terms specified in this part may be supplemented from time to time by specific agreement between the Federal Motor Carrier Safety Administration and the appropriate State authority in order to further implement the provisions of 49 U.S.C. 502.

[51 FR 12621, Apr. 14, 1986]

PART 389—RULEMAKING PROCEDURES—FEDERAL MOTOR CARRIER SAFETY REGULATIONS

Subpart A—General

- Sec.
389.1 Applicability.
389.3 Definitions.
389.5 Regulatory docket.
389.7 Records.

Subpart B—Procedures for Adoption of Rules

- 389.11 General.
389.13 Initiation of rule making.
389.15 Contents of notices of proposed rule making.
389.17 Participation by interested persons.
389.19 Petitions for extension of time to comment.
389.21 Contents of written comments.
389.23 Consideration of comments received.
389.25 Additional rule making proceedings.
389.27 Hearings.
389.29 Adoption of final rules.
389.31 Petitions for rule making.
389.33 Processing of petition.
389.35 Petitions for reconsideration.
389.37 Proceedings on petitions for reconsideration.