



**DEPARTMENT OF TRANSPORTATION**

**[4910-EX-P]**

**Federal Motor Carrier Safety Administration**

**49 CFR Parts 383 and 390**

**[Docket No. FMCSA-2012-0156]**

**RIN 2126-AB53**

**Gross Combination Weight Rating (GCWR); Definition**

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

**ACTION:** Withdrawal of direct final rule.

**SUMMARY:** FMCSA withdraws its August 27, 2012, direct final rule (DFR) amending the definition of “gross combination weight rating” (GCWR) in 49 CFR parts 383 and 390. The DFR would have taken effect on October 26, 2012. However, the Agency received several adverse comments in response to the DFR and will, therefore develop a notice of proposed rulemaking to request public comments on proposed changes to the GCWR definition.

**DATES:** The direct final rule published August 27, 2012 (77 FR 51706) is withdrawn effective October 26, 2012.

**FOR FURTHER INFORMATION CONTACT:** Tom Kelly, Office of Enforcement and Program Delivery, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue, SE, Washington, DC 20590-0001, by telephone at (202) 366-1812 or via e-mail at [Thomas.Kelly@dot.gov](mailto:Thomas.Kelly@dot.gov). Office hours are from 9 a.m. to 5 p.m. ET, Monday through Friday, except Federal holidays. If you have questions on viewing or submitting material to the docket, contact Renee V. Wright, Program Manager, Docket Operations, telephone (202) 366-9826.

## **SUPPLEMENTARY INFORMATION:**

### **I. Public Participation and Request for Comments**

#### **A. Viewing Comments and Documents**

To view comments, go to <http://www.regulations.gov>, FMCSA-2012-0156. If you do not have access to the internet, you may also view the docket online by visiting the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

#### **B. Privacy Act**

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the Federal Register (73 FR 3316).

### **II. Background**

On August 27, 2012, FMCSA published a DFR to amend the definition of “gross combination weight rating” (GCWR) in 49 CFR parts 383 and 390. The DFR provided that the rule would be effective October 26, 2012, if no adverse comments were received by September 26, 2012. In view of three adverse comments submitted to the docket, FMCSA withdraws the DFR through this notice.

Commenter John F. Nowak stated that the definition of GCWR should not be amended until the National Highway Traffic Safety Administration (NHTSA) changes its regulations to require manufacturers to include a vehicle’s GCWR in addition to its gross

vehicle weight rating (GVWR) on the certification label. He argued that it was difficult at this time for drivers, motor carriers, and law enforcement officers to obtain GCWR information quickly. Mr. Nowak claimed that currently only the second half of the existing definition of GCWR is readily available for use by carrier and enforcement personnel. This commenter went on to say that because FMCSA must be aware of the difficulty in obtaining the manufacturer's GCWR for any particular vehicle, the second sentence of the existing definition must be retained.

Currently, the definitions in 49 CFR 383.5 and 390.5 both define Gross combination weight rating (GCWR) as the value specified by the manufacturer as the loaded weight of a combination (articulated) vehicle. In the absence of a value specified by the manufacturer, GCWR will be determined by adding the GVWR<sup>1</sup> of the power unit and the total weight of the towed unit and any load thereon.

Mr. Nowak agrees with FMCSA that the definition of GCWR should ultimately be changed to reflect NHTSA's definition of that term. Prior to this change, however, he suggests that the FMCSA place the responsibility for obtaining GCWR information on law enforcement officers and refrain from taking adverse action against drivers or carriers for failure to have this information.

Commenter Bryce Baker indicates that manufacturers do not list the GCWR on the vehicle. Even if such a value is available from the manufacturer, he states, the time needed to obtain the information would make enforcement fruitless. Although commenter David S. McQueen also opposes the change included in the DFR, his position

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<sup>1</sup> GVWR stands for gross vehicle weight rating.

seems to be based on a misunderstanding of the GCWR definition used by the National Highway Traffic Safety Administration.

FMCSA Response: The comments submitted by these three individuals qualify as adverse. Therefore, under 49 CFR 389.39(d), FMCSA withdraws the direct final rule of August 27, 2012 (77 FR 51706).

Issued on: October 22, 2012

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Larry W. Minor  
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Federal Motor Carrier Safety Administration

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