

ADDENDUM G.—REFERENCE SET WITH 1995 WORK RVUS—Continued

HCPDS <sup>1</sup>	Description	Work RVU
99244	Office consultation	2.23
99245	Office consultation	2.96
99252	Initial inpatient consult	1.13
99253	Initial inpatient consult	1.56
99254	Initial inpatient consult	2.27
99255	Initial inpatient consult	3.14
99263	Follow-up inpatient consult	1.16
99282	Emergency dept visit	0.47
99283	Emergency dept visit	1.07
99284	Emergency dept visit	1.68
99285	Emergency dept visit	2.63
99291	Critical care, first hour	3.64
99292	Critical care, addl 30 min	1.84
99295	Neonatal critical care	16.03
99296	Neonatal critical care	7.40
99297	Neonatal critical care	3.84
99302	Nursing facility care	1.67
99311	Nursing facility care, subseq	0.54
99353	Home visit, estab patient	1.48
99381	Preventive visit, new, infant	1.19
99382	Preventive visit, new, age 1-4	1.36
99383	Preventive visit, new, age 5-11	1.36
99384	Preventive visit, new, 12-17	1.53
99385	Preventive visit, new, 18-39	1.53
99386	Preventive visit, new, 40-64	1.88
99387	Preventive visit, new, 65 & over	2.06
99391	Preventive visit, est, infant	1.02
99392	Preventive visit, est, age 1-4	1.19
99393	Preventive visit, est, age 5-11	1.19
99394	Preventive visit, est, 12-17	1.36
99431	Initial care, normal newborn	1.17
99433	Normal newborn care, hospital	0.62
99440	Newborn resuscitation	2.93

<sup>1</sup> All numeric CPT HCPDS Copyright 1994 American Medical Association.

(Section 1848 of the Social Security Act (42 U.S.C. 1395w-4))

(Catalog of Federal Domestic Assistance Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: December 22, 1994.

**Neil J. Stillman,**

*Deputy Assistant Secretary for Information Resources Management.*

[FR Doc. 94-32286 Filed 12-29-94; 8:45 am]

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**DEPARTMENT OF TRANSPORTATION**

**Federal Highway Administration**

**49 CFR Part 391**

RIN 2125-AC50

**Controlled Substances Testing; Removal of Foreign Implementation Date**

**AGENCY:** Federal Highway Administration (FHWA), DOT.

**ACTION:** Final rule; removal of compliance date.

**SUMMARY:** The Federal Highway Administration announces the removal of the compliance date from regulations

governing drug testing of foreign-based employees of foreign-domiciled motor carriers. On February 15, 1994, the FHWA published a notice of proposed rulemaking which proposed to begin controlled substances and alcohol testing of foreign-based employees of foreign-domiciled employers under 49 CFR part 382 on January 1, 1996. But 49 CFR part 391 requires foreign-based employees of foreign-domiciled employers to implement controlled substances testing effective January 2, 1995. The removal of the compliance date in part 391 is to allow completion of the part 382 rulemaking process initiated in compliance with the Omnibus Transportation Employee Testing Act of 1991. Also the delay will allow negotiation with foreign governments to continue in an orderly and effective fashion.

**EFFECTIVE DATE:** This rule is effective December 30, 1994.

**FOR FURTHER INFORMATION CONTACT:** *For information regarding program issues:* Mr. Ronald Finn, Office of Motor Carrier Standards, (202) 366-0647, or *for information regarding legal issues:* Mr. David Sett, Office of the Chief Counsel, (202) 366-0834, Federal Highway

Administration, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

**SUPPLEMENTARY INFORMATION:** On November 21, 1988, the FHWA, along with certain other agencies within the Department of Transportation (the Department), adopted regulations requiring pre-employment/use, periodic, post-accident, reasonable cause and random drug testing of commercial motor vehicle drivers. The FHWA rule applies to all covered drivers while they are operating in the United States, regardless of whether they are based in a foreign country or the United States. The rule provided, however, that it would not apply to any person for whom compliance would violate the domestic laws or policies of another country. The rule as originally published further provided that in any event it would not be effective until January 1, 1990, with respect to any person for whom a foreign government contends that application of the rules raises questions of compatibility with that country's laws or policies. See 53

FR 47134, codified at 49 CFR 391.81 *et seq.*

The FHWA has delayed the effective date of drug testing requirements for foreign-based employees of foreign-based motor carriers on four occasions. See 54 FR 39546, September 27, 1989; 54 FR 53294, December 27, 1989; 56 FR 18994, April 24, 1991; 57 FR 31277, July 14, 1992. The last of these established January 2, 1995, as the date for compliance with subpart H of part 391.

Meanwhile, on October 28, 1991, the Omnibus Transportation Employee Testing Act of 1991 (Omnibus Act) was enacted (Pub. L. 102-143, Title V). The Omnibus Act requires the Secretary of Transportation to issue regulations requiring drug and alcohol testing of commercial motor vehicle drivers. Final rules implementing such testing were published on February 15, 1994. See 59 FR 7484, 49 CFR part 382. These new rules institute alcohol testing and will completely replace the current drug testing rule in subpart H of 49 CFR part 391 by January 1, 1996. After that time, subpart H of part 391 will no longer be in effect. However, because § 391.83(c) provides that foreign-based employees of foreign-domiciled carriers shall be subject to the drug testing rules in part 391 as of January 2, 1995, foreign motor carriers would be required to conduct testing for 1995 alone. The FHWA published a notice of proposed rulemaking (NPRM) on February 15, 1994, which proposed to require foreign-based motor carriers to conduct both alcohol and controlled substances testing under the rules in 49 CFR part 382 rather than requiring foreign-based motor carriers to conduct just controlled substances testing under the rules in 49 CFR part 391. See 59 FR 7528.

The Omnibus Act applies to foreign-based motor carriers and drivers on its face, with the proviso that the new rules be "consistent with the international obligations of the United States, and \* \* \* consider applicable laws and regulations of foreign countries." 49 U.S.C. 31306(h). Thus, foreign-based drivers are required by the statute to be covered, but the Secretary is granted the authority to deem the requirement satisfied by the testing laws of foreign nations or through international agreements.

On February 15, 1994, the FHWA published an NPRM soliciting comments on methods for conducting testing of foreign drivers. The FHWA proposed that the final controlled substances and alcohol testing rule under 49 CFR part 382 be amended to cover foreign-based drivers of foreign-based carriers. To accomplish this, § 382.103(c)(4), which excludes foreign-

based carriers, would be deleted. Based on the comments about the efficacy and progress of the negotiations process aimed at achieving compatibility and reciprocity of testing standards, the implementation date was chosen to provide the greatest opportunity for the negotiation process to be completed successfully. However, if the process were not completed successfully, the requirements of 49 CFR parts 40 and 382 were proposed to go into effect on January 1, 1996. The FHWA continues to analyze comments and negotiate with foreign governments to achieve compatible laws and reciprocity of testing standards. To permit these discussions to progress in an orderly fashion, and to allow additional time to work on compatibility and reciprocity with foreign governments, the FHWA is removing the date on which foreign-based motor carriers would be subject to the drug testing rules at 49 CFR part 391.

This final rule removes the date by which testing programs must commence for persons located outside the territory of the United States, including foreign-based employees of American companies (or their foreign subsidiaries). This action does not postpone testing for any other person, including U.S.-based employees of foreign companies and their American subsidiaries.

#### Rulemaking Analyses and Notices

The FHWA finds that further notice and opportunity for comment are unnecessary under 5 U.S.C. § 553(b)(3)(B) inasmuch as the issue of when foreign-based employees of foreign-domiciled carriers should be subject to the FHWA's new alcohol and controlled substances testing rules at 49 CFR part 382, rather than the current part 391 rules, has already been the subject of notice-and-comment rulemaking (RIN 2125-AD11) in a December 15, 1992, advance notice of proposed rulemaking (57 FR 59356) and a February 15, 1994, notice of proposed rulemaking (59 FR 7528). In addition, the FHWA believes that further notice and opportunity for comment are not required under the regulatory policies and procedures of the Department of Transportation. In light of the earlier opportunities to comment on this subject, the FHWA does not anticipate that providing an additional comment period would result in the receipt of useful information.

The FHWA also believes that this final rule is exempt from the 30-day delayed effective date requirement of the Administrative Procedure Act under 5 U.S.C. § 553(d)(1) because it "grants or

recognizes an exemption or relieves a restriction." If 49 CFR § 391.83(c) were not amended to remove the compliance date, foreign-based drivers would be subject to the drug testing rules of 49 CFR part 391 as of January 2, 1995. This action provides that foreign-based drivers will continue to be excluded from the requirements of 49 CFR part 391, effectively granting an exemption to the controlled substances testing requirements in 49 CFR part 391 which would otherwise soon apply to these drivers. Therefore, the FHWA finds that good cause exists to proceed directly to a final rule which is effective upon its date of publication.

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

The FHWA has determined that this action is neither a significant regulatory action under Executive Order 12866 nor significant under the Department of Transportation's regulatory policies and procedures. In this final rule, the FHWA removes the date on which the drug testing rules at 49 CFR part 391 would apply to foreign-based employees of foreign-domiciled carriers, thereby continuing to exempt these employees from these drug testing rules. It is anticipated that the economic impact of this rulemaking will not be substantial because, in removing the compliance date for foreign-based employees of foreign carriers, the FHWA is not altering existing regulations in such a way as to either impose or eliminate any economic burden. These employees are not now subject to the drug testing rules at 49 CFR part 391, and this action simply maintains their exempt status.

#### Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (Pub. L. 96-354, 5 U.S.C. 601-612), the FHWA has evaluated the effects of this rule on small entities. This final rule will remove the compliance date by which foreign-domiciled motor carriers would have been required to test drivers for the use of controlled substances under 49 CFR part 391. In removing this compliance date, the FHWA is simply continuing to exempt these employees from the agency's controlled substances testing requirements. Therefore, a full regulatory evaluation is not required. For this reason and under the criteria of the Regulatory Flexibility Act, the FHWA hereby certifies that this action will not have a significant economic impact on a substantial number of small entities.

### Executive Order 12612 (Federalism Assessment)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the final rule does not have sufficient federalism implications to warrant the preparation of a separate Federalism assessment. This action removes the requirement that foreign-based motor carriers conduct controlled substances testing. It does not place any requirements on the States and thus does not limit the policy-making discretion of States.

### Executive Order 12372 (Intergovernmental Review)

Catalog of Federal Domestic Assistance Program Number 20.217, Motor Carrier Safety. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.

### Paperwork Reduction Act

This action does not contain a collection of information requirement for purposes of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501-3520.

### National Environmental Policy Act

The agency has analyzed this action for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and has determined that this action will not have any effect on the quality of the environment.

### Regulation Identification Number

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

### List of Subjects in 49 CFR Part 391

Controlled substances, Driver qualifications, Drug abuse, Drug testing, Highways and roads, Highway safety, Motor carriers, Motor vehicle safety, Reporting and recordkeeping requirements, Safety, Transportation.

Issued on: December 29, 1994.

### Rodney E. Slater,

Federal Highway Administrator.

In consideration of the foregoing, the FHWA is amending title 49, Code of Federal Regulation, subtitle B, chapter III, part 391 as set forth below:

### PART 391—QUALIFICATION OF DRIVERS

1. The authority citation for part 391 continues to read as follows:

**Authority:** 49 U.S.C. 504, 31136, and 31502; and 49 CFR 1.48.

### Subpart H—Controlled Substances Testing

2. In § 391.83, paragraph (c) is revised to read as follows:

#### § 391.83 Applicability.

\* \* \* \* \*

(c) This subpart is not applicable with respect to any foreign-based employee of a foreign-domiciled motor carrier.

[FR Doc. 94-32333 Filed 12-30-94; 8:45 am]

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### DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 17

RIN 1018-AC27

### Endangered and Threatened Wildlife and Plants; Determination of Endangered Status for *Arabis Perstellata*

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Final rule.

**SUMMARY:** The U.S. Fish and Wildlife Service (Service) determines endangered status for *Arabis perstellata* (rock cress) under the authority of the Endangered Species Act of 1973, as amended (Act). The species is made up of two subspecies occupying distinct geographic areas. The small rock cress (*Arabis perstellata* E. L. Braun var. *perstellata* Fernald) is currently known from 27 populations in Kentucky—24 in Franklin County, 2 in Owen County, and 1 in Henry County. The large rock cress (*Arabis perstellata* E. L. Braun var. *ampla* Rollins) is known from only two populations in Rutherford County, Tennessee. Both subspecies are endangered throughout their range due to habitat alteration; residential, commercial, or industrial development; timber harvesting; grazing and trampling; and competition with native and exotic weedy species, especially the European garlic mustard (*Alliaria petiolata*). This action extends Federal protection under the Act to the rock cress.

**EFFECTIVE DATE:** February 2, 1995.

**ADDRESSES:** The complete file for this rule is available for public inspection,

by appointment, during normal business hours at the Asheville Field Office, U.S. Fish and Wildlife Service, 330 Ridgefield Court, Asheville, North Carolina 28806.

**FOR FURTHER INFORMATION CONTACT:** Mr. J. Allen Ratzlaff at the above address (704/655-1195, Ext. 229).

### SUPPLEMENTARY INFORMATION:

#### Background

Both varieties of *Arabis perstellata* E.L. Braun, (*Arabis perstellata* E. L. Braun var. *ampla* Rollins, large rock cress, and *Arabis perstellata* E.L. Braun var. *perstellata* Fernald, small rock cress) are perennial members of the mustard family (Brassicaceae). The large rock cress is known from only one county in Tennessee, and the small rock cress is known from only three counties in Kentucky. Both varieties have round stems and alternate leaves. Their stems and foliage have a grayish coloration due to the large quantity of hairs. Their stems arise from horizontal bases and grow up to 80 centimeters (cm) (31.5 inches) long, often drooping from rock ledges. Each year a basal rosette of leaves is produced, and new flowering branches emerge from the old rosette of the previous season. Their lower leaves vary from 4 to 15 cm (1.6 to 6.0 inches) long and are obovate to oblanceolate with slightly toothed and pinnatifid margins. Their upper leaves are smaller—up to 3.5 cm (1.4 inches) long—and are elliptic to oblanceolate, with coarse teeth along the margin. Both surfaces of their leaves are stellate-pubescent. The inflorescence is an elongate raceme with numerous flowers. Their flowers have four petals that are 3 to 4 millimeters (mm) (0.12 to 0.16 inch) long, are white to lavender, and have four pale green sepals that are 2 to 3 mm (0.08 to 0.12 inch) long. There are six stamens, with two shorter than the other four. The ovary is elongate, two-chambered, and develops into a silique. Fruiting stalks are about 1 cm (0.4 inch) long at maturity; siliques are up to 4 cm (1.6 inches) long and are covered with both simple and stellate hairs. Flowering is from late March to early May. Fruits mature from mid-May to early June. Their oblong seeds are reddish brown; somewhat flattened; about 1 mm (0.04 inch) long; and, in places, minutely hairy (Jones 1991).

*Arabis perstellata* was named by E.L. Braun from plants collected between 1936 and 1993 on wooded hillsides along Elkhorn Creek in Franklin County, Kentucky. Braun (1940) distinguished the new taxon from the similar *Arabis dentata* (Torr.) T. & G. (now called *Arabis shortii* (Fern.) Gleason) by its