



DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Part 393

[Docket No. FMCSA-2025-0107]

RIN 2126-AC81

Parts and Accessories Necessary for Safe Operation; Certification and Labeling Requirements for Rear Impact Protection Guards

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

ACTION: Final rule.

SUMMARY: FMCSA amends the Federal Motor Carrier Safety Regulations (FMCSR) to rescind the requirement that the rear impact guard be permanently marked or labeled with a certification from the impact guard manufacturer as required by the applicable Federal Motor Vehicle Safety Standard (FMVSS) promulgated by the National Highway Traffic Safety Administration (NHTSA). The certification label or marking provides motor carriers purchasing new trailers or new impact guards to replace damaged devices with a means to determine whether the equipment is certified as meeting the FMVSS. However, the labeling or marking requirement has proven problematic for motor carriers when the label or marking becomes illegible or wears off during the service life of the trailer or guard. This final rule eliminates an unintended regulatory burden on motor carriers without compromising safety, as it does not affect the applicable FMVSS. The final rule also rescinds a guidance document pertaining to illegible, incomplete, or missing rear impact guard certification labels.

DATES: Effective [Insert date 30 days after date of publication in the FEDERAL REGISTER].

Petitions for reconsideration of this final rule must be submitted to the FMCSA Administrator no later than [Insert date 30 days after date of publication in the FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Mr. David Sutula, Chief, Vehicle and Roadside Operations Division, FMCSA, 1200 New Jersey Avenue S.E., Washington, D.C. 20590-0001; (202) 366-2551; David.Sutula@dot.gov.

SUPPLEMENTARY INFORMATION:

FMCSA organizes this final rule as follows:

- I. Availability of Rulemaking Documents
- II. Abbreviations
- III. Legal Basis
- IV. Discussion of Proposed Rulemaking and Comments
- V. International Impacts
- VI. Section-by-Section Analysis
- VII. Regulatory Analyses
 - A. E.O. 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures
 - B. E.O. 14192 (Unleashing Prosperity Through Deregulation)
 - C. Congressional Review Act
 - D. Regulatory Flexibility Act
 - E. Assistance for Small Entities
 - F. Unfunded Mandates Reform Act of 1995
 - G. Paperwork Reduction Act
 - H. E.O. 13132 (Federalism)
 - I. Privacy
 - J. E.O. 13175 (Indian Tribal Governments)
 - K. National Environmental Policy Act of 1969

I. Availability of Rulemaking Documents

To view any documents mentioned as being available in the docket, go to <https://www.regulations.gov/docket/FMCSA-2025-0107/document> and choose the document to review. To view comments, click this final rule, then click “Browse Comments.” If you do not have access to the internet, you may view the docket online by visiting Dockets Operations on the ground floor of the DOT West Building, 1200 New Jersey Avenue S.E., Washington, D.C. 20590-0001, between 9 a.m. and 5 p.m., Monday

through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366-9317 or (202) 366-9826 before visiting Dockets Operations.

II. ABBREVIATIONS

ATA	American Trucking Associations
CFR	Code of Federal Regulations
CMV	Commercial motor vehicle
CVSA	Commercial Vehicle Safety Alliance
DOT	Department of Transportation
FMCSR	Federal Motor Carrier Safety Regulations
FMVSS	Federal Motor Vehicle Safety Standard
FR	Federal Register
NHTSA	National Highway Traffic Safety Administration
NPRM	Notice of proposed rulemaking
NTTC	National Tank Truck Carriers
OMB	Office of Management and Budget
OOIDA	Owner-Operator Independent Drivers Association
PIA	Privacy Impact Assessment
PTA	Privacy Threshold Assessment
U.S.C.	United States Code

III. LEGAL BASIS

This rulemaking is based on the authority of the Motor Carrier Act of 1935 (49 Stat. 543) (1935 Act) and the Motor Carrier Safety Act of 1984 (Title II of Pub. L. No. 98-554, 98 Stat. 2832) (1984 Act), as amended.

The 1935 Act, as amended, provides that “[t]he Secretary of Transportation may prescribe requirements for—(1) qualifications and maximum hours of service of employees of, and safety of operation and equipment of, a motor carrier; and (2) qualifications and maximum hours of service of employees of, and standards of equipment of, a private motor carrier, when needed to promote safety of operation” (49 U.S.C. § 31502(b)).

This final rule amends the FMCSR by rescinding the requirement that the rear impact guard be permanently marked or labeled with a certification from the impact guard manufacturer as required by the applicable FMVSS. The 1935 Act authorized the Agency to adopt and enforce this requirement, and also authorizes the amendment of this requirement.

The 1984 Act provides concurrent authority to regulate drivers, motor carriers, and vehicle equipment. It requires the Secretary of Transportation to “prescribe regulations on commercial motor vehicle safety.” The regulations shall prescribe minimum safety standards for CMVs. At a minimum, pursuant to 49 U.S.C. § 31136(a), as amended, the regulations shall ensure that: (1) CMVs are maintained, equipped, loaded, and operated safely; (2) the responsibilities imposed on operators of CMVs do not impair their ability to operate the vehicles safely; (3) the physical condition of operators of CMVs is adequate to enable them to operate vehicles safely; (4) the operation of CMVs does not have a deleterious effect on the physical condition of the operators; and (5) drivers are not coerced by motor carriers, shippers, receivers, or transportation intermediaries to operate a vehicle in violation of a regulation promulgated under 49 U.S.C. § 31136 (which is the basis for much of the FMCSR) or 49 U.S.C. chapters 51 or 313.

This final rule concerns parts and accessories necessary for the safe operation of CMVs. It is based on section 31136(a)(1) because it deals with maintenance of rear impact guards. The final rule does not implicate the driver-centered requirements of sections 31136(a)(2)– (4). As the amendment in this rule pertains only to the certification label or marking, FMCSA does not expect CMV drivers will be exposed to greater risk of being coerced to operate trailers with missing or non-compliant rear impact guards, as required by section 31136(a)(5).

IV. DISCUSSION OF PROPOSED RULEMAKING AND COMMENTS

A. Proposed Rulemaking

On May 30, 2025, FMCSA published in the *Federal Register* (Docket No. FMCSA-2025-0107, 90 FR 22942) a notice of proposed rulemaking (NPRM) titled “Parts and Accessories Necessary for Safe Operation: Certification and Labeling Requirements for Rear Impact Protection Guards.” The NPRM proposed to amend the

FMCSR to rescind the requirement that the rear impact guard be permanently marked or labeled with a certification from the impact guard manufacturer as required by NHTSA's applicable FMVSS.

B. Comments and Responses

FMCSA solicited comments concerning the NPRM for 60 days ending July 29, 2025. By that date, five comments were received from the following parties: the American Trucking Associations (ATA), the Commercial Vehicle Safety Alliance (CVSA), the National Tank Truck Carriers (NTTC), the Owner-Operator Independent Drivers Association (OOIDA), and Eric Hein, a private citizen.

ATA, CVSA, NTTC, and OOIDA submitted comments in support of the NPRM. Eric Hein opposed the NPRM, arguing that NHTSA and FMCSA had repeatedly declined previous requests to rescind 49 CFR 393.86(a)(6). He noted that NHTSA and FMCSA had both concluded that its removal would compromise the overall safety of the motoring public.

FMCSA disagrees with Mr. Hein. While a certification that a rear underride device meets applicable NHTSA standards at the time of manufacture is a safety measure, its value as a guarantor of safety declines as wear and tear degrade the legibility of the label as the vehicle continues in service. That fact is well known to CVSA, whose members are repeatedly confronted with so-called "permanent" labels that are only partially legible or even worn away. Furthermore, motor carriers are unable to obtain replacement certification labels if the original is degraded. When FMCSA amended its rules on rear impact guards in 2021, it declined to make obscured or missing certification labels a basis for a failed inspection. Sec. 15.a.1 of Appendix A to 49 CFR part 396 (Minimum Periodic Inspection Standards) makes a "missing guard" a reason for failure, along with certain structural and dimensional deficiencies, but a missing label was not

considered a problem of comparable concern and was therefore not included on the list in the appendix (86 FR 62105, 62111, 62112, Nov. 9, 2021).

In the 2021 final rule, FMCSA acknowledged that CVSA had submitted petitions for rulemaking to both FMCSA and NHTSA requesting elimination of the labeling requirement for rear impact guards, and determined the petition was outside the scope of that rulemaking and would be addressed separately (86 FR 62108). In the September 4, 2024 letter denying CVSA's petition, FMCSA agreed with NHTSA's analysis of the safety benefits of FMVSS No. 223 in their separate denial of CVSA's petition. While FMCSA determined a rule text change was not necessary at that time, the Agency did find it appropriate to address the issue through regulatory guidance, which was issued shortly thereafter on December 10, 2024, explaining that an illegible, incomplete, or missing rear impact guard certification label does not establish a violation of 49 CFR 393.86(a)(6).¹ Following FMCSA's denial of CVSA's initial petition and subsequent issuance of guidance, the Agency determined that the requirement in section 393.86(a)(6) was still causing confusion and concern regarding rear impact guard inspection requirements. As noted in the NPRM for this rulemaking, FMCSA believes the rescission of section 393.86(a)(6) "would eliminate an unintended regulatory burden on motor carriers without compromising safety." This rulemaking does not affect the applicable FMVSS. Therefore, this final rule does not remove the labeling requirement for rear impact guards in FMVSS No. 223, nor does it reduce the safety benefits associated with that requirement.

¹ FMCSA. "Does an illegible, incomplete, or missing rear impact guard certification label establish a violation of 49 CFR 393.86(a)(6), or indicate that the impact guard did not meet the National Highway Traffic Safety Administration's (NHTSA) strength and energy absorption requirements applicable to manufacturers at the time the trailer was built?" FMCSA-VEH-393.86-FAQ001(2024-12-10) (Dec. 10, 2024). Available on FMCSA's Guidance Portal at <https://www.fmcsa.dot.gov/regulations/enforcement/does-illegible-incomplete-or-missing-rear-impact-guard-certification-label>.

V. INTERNATIONAL IMPACTS

Motor carriers and drivers are subject to the laws and regulations of the countries in which they operate, unless an international agreement states otherwise. Drivers and carriers should be aware of the regulatory differences between nations.

VI. SECTION-BY-SECTION ANALYSIS

This section-by-section analysis describes the changes to the regulatory text in numerical order.

A. Regulatory Provisions

Section 393.86 Rear impact guards and rear end protection

FMCSA amends section 393.86 to remove the certification and labeling requirements in paragraph (a)(6).

B. Guidance Statements and Interpretations

This rule amends a regulation that has associated guidance statement(s) or interpretation(s). Such guidance statements do not have the force and effect of law, are strictly advisory, and are not meant to bind the public in any way. Conformity with guidance statements is voluntary. Guidance is intended only to provide information to the public regarding existing requirements under the law or FMCSA policies. A guidance statement does not alter the substance of a regulation.

On December 10, 2024, FMCSA issued a guidance document to address the issue of illegible, incomplete, or missing rear impact guard certification labels under section 393.86(a)(6).² FMCSA rescinds this guidance as no longer necessary.

² Id.

VII. REGULATORY ANALYSES

A. Executive Order (E.O.) 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

FMCSA has considered the impact of this final rule under E.O. 12866 (58 FR 51735, Oct. 4, 1993), Regulatory Planning and Review, and DOT Order 2100.6B.³ The Office of Information and Regulatory Affairs within the Office of Management and Budget (OMB) determined that this final rulemaking is not a significant regulatory action under section 3(f) of E.O. 12866, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. Accordingly, OMB has not reviewed it under that E.O.

Section 393.86(a) currently requires most trailers and semitrailers manufactured on or after January 26, 1998, to be equipped with rear impact guards that meet NHTSA's requirements. This final rule eliminates only the FMCSR requirement that the impact guard have a certification label or marking in perpetuity, while retaining NHTSA's requirement applicable at the time of manufacture and sale.

This rulemaking eliminates the problem of motor carriers receiving citations for missing or illegible certification labels during inspections by Federal and State personnel. Because the Agency does not have data on the frequency with which such citations are accompanied by a State-issued fine, it is not possible to estimate the cost savings for motor carriers; however, the Agency expects the cost savings to be de minimis.

The Agency does not expect this final rule to result in safety benefits beyond the baseline established in the FMCSR. As required by section 396.17, motor carriers currently complete annual inspections of all items identified in Appendix A to part 396, which includes rear impact guards. In addition, CMVs are subject to inspections

³ DOT Order 2100.6B is available at <https://www.transportation.gov/regulations/dot-order-21006b-policies-and-procedures-rulemakings>.

conducted in accordance with CVSA’s North American Standard Inspection Program that may occur throughout the year, which include the examination of rear impact guards.

B. E.O. 14192 (Unleashing Prosperity Through Deregulation)

E.O. 14192 (90 FR 9065, Jan. 31, 2025), Unleashing Prosperity Through Deregulation, requires that for “each new [E.O. 14192 regulatory action] issued, at least ten prior regulations be identified for elimination.”⁴

Implementation guidance for E.O. 14192 issued by OMB (Memorandum M-25-20, March 26, 2025) defines two different types of E.O. 14192 actions: an E.O. 14192 deregulatory action and an E.O. 14192 regulatory action.⁵

An E.O. 14192 deregulatory action is defined as “an action that has been finalized and has total costs less than zero.” This final rulemaking is expected to have total costs less than zero, and therefore is considered an E.O. 14192 deregulatory action. This rulemaking will result in cost savings for motor carriers that will no longer be issued citations for missing or illegible certification labels during Federal and State inspections. The cost savings of this final rulemaking could not be quantified.

C. Congressional Review Act

This final rule is not a *major rule* as defined under the Congressional Review Act (5 U.S.C. §§ 801–808).⁶

D. Regulatory Flexibility Act

⁴ Executive Office of the President, *Executive Order 14192 of January 31, 2025, Unleashing Prosperity Through Deregulation*, 90 FR 9065-9067 (Feb. 6, 2025).

⁵ OMB, *Guidance Implementing Section 3 of Executive Order 14192, Titled “Unleashing Prosperity Through Deregulation,”* Memorandum M-25-20 (Mar. 26, 2025).

⁶ A *major rule* means any rule that OMB finds has resulted in or is likely to result in (a) an annual effect on the economy of \$100 million or more; (b) a major increase in costs or prices for consumers, individual industries, geographic regions, Federal, State, or local government agencies; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets (5 U.S.C. § 804(2)).

The Regulatory Flexibility Act (5 U.S.C. § 601 *et seq.*), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996,⁷ requires Federal agencies to consider the effects of the regulatory action on small business and other small entities and to minimize any significant economic impact. The term *small entities* means small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000 (5 U.S.C. § 601(6)). Accordingly, DOT policy requires an analysis of the impact of all regulations on small entities, and mandates that agencies strive to lessen any adverse effects on these businesses. The Small Business Administration develops the size standards used to classify entities as small, and establishes separate standards for each industry, as defined by the North American Industry Classification System. The motor carriers that will be affected by this rule fall into many different industry codes with differing size standards. Because this final rule will impact all motor carriers, including those considered to be small entities, FMCSA anticipates that this final rule will impact a substantial number of small entities.

However, FMCSA has determined that this final rule will not have a significant impact on the affected entities. This final rule rescinds the requirement that the manufacturer certification label be permanently displayed on the rear impact guard. The manufacturer certification label provides a motor carrier purchasing new trailers or new impact guards to replace damaged devices with a means to determine whether the equipment is certified as meeting the NHTSA requirements. However, the labeling requirement has proven problematic for motor carriers when the label becomes illegible or wears off during the service life of the trailer. This final rule eliminates an unintended regulatory burden on motor carriers without compromising safety. The Agency expects

⁷ Pub. L. No. 104–121, 110 Stat. 857, (Mar. 29, 1996).

the impacts of this final rule will be de minimis, and therefore, does not expect the final rule to have a significant economic impact on a substantial number of small entities.

Consequently, I certify that this action will not have a significant economic impact on a substantial number of small entities.

E. Assistance for Small Entities

In accordance with section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. No. 104–121, 110 Stat. 857), FMCSA wants to assist small entities in understanding this final rule so they can better evaluate its effects on themselves and participate in the rulemaking initiative. If the final rule will affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please consult the person listed under FOR FURTHER INFORMATION CONTACT.

Small businesses may send comments on the actions of Federal employees who enforce or otherwise determine compliance with Federal regulations to the Small Business Administration’s Small Business and Agriculture Regulatory Enforcement Ombudsman (Office of the National Ombudsman, see <https://www.sba.gov/about-sba/oversight-advocacy/office-national-ombudsman>) and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency’s responsiveness to small business. If you wish to comment on actions by employees of FMCSA, call 1-888-REG-FAIR (1-888-734-3247). DOT has a policy regarding the rights of small entities to regulatory enforcement fairness and an explicit policy against retaliation for exercising these rights.

F. Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. §§ 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. The Act addresses actions that may result in the expenditure by a State, local, or Tribal

government, in the aggregate, or by the private sector of \$206 million (which is the value equivalent of \$100 million in 1995, adjusted for inflation to 2024 levels) or more in any 1 year. Because this final rule will not result in such an expenditure, a written statement is not required.

G. Paperwork Reduction Act

This final rule contains no new information collection requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. §§ 3501–3520).

H. E.O. 13132 (Federalism)

A rule has implications for federalism under section 1(a) of E.O. 13132 if it has “substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.”

FMCSA has determined that this final rule will not have substantial direct costs on or for States, nor will it limit the policymaking discretion of States. Nothing in this document preempts any State law or regulation. Therefore, this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Impact Statement.

I. Privacy

The Consolidated Appropriations Act, 2005,⁸ requires the Agency to assess the privacy impact of a regulation that will affect the privacy of individuals. This final rule will not require the collection of personally identifiable information.

The Privacy Act (5 U.S.C. § 552a) applies only to Federal agencies and any non-Federal agency that receives records contained in a system of records from a Federal agency for use in a matching program.

⁸ Pub. L. No. 108-447, 118 Stat. 2809, 3268, note following 5 U.S.C. § 552a (Dec. 4, 2014).

The E-Government Act of 2002,⁹ requires Federal agencies to conduct a Privacy Impact Analysis (PIA) for new or substantially changed technology that collects, maintains, or disseminates information in an identifiable form. No new or substantially changed technology will collect, maintain, or disseminate information as a result of this final rule. Accordingly, FMCSA has not conducted a PIA.

In addition, the Agency will complete a Privacy Threshold Assessment (PTA) to evaluate the risks and effects the final rule might have on collecting, storing, and sharing personally identifiable information. The PTA will be submitted to FMCSA's Privacy Officer for review and preliminary adjudication and to DOT's Privacy Officer for review and final adjudication.

J. E.O. 13175 (Indian Tribal Governments)

This final rule does not have Tribal implications under E.O. 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.

K. National Environmental Policy Act of 1969

FMCSA analyzed this final rule pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. § 4321 *et seq.*). The Agency believes this final rule will not have a reasonably foreseeable significant effect on the quality of the human environment. This action falls under a published categorical exclusion and is thus excluded from further analysis and documentation in an environmental assessment or environmental impact statement under DOT Order 5610.1D,¹⁰ Subpart B, paragraph e(6)(bb). The categorical

⁹ Pub. L. No. 107-347, sec. 208, 116 Stat. 2899, 2921 (Dec. 17, 2002).

¹⁰ Available at <https://www.transportation.gov/mission/dots-procedures-considering-environmental-impacts>.

exclusion in paragraph (e)(6)(bb) covers regulations pertaining to vehicle operation safety standards, equipment approval, and/or equipment carriage requirements.

List of Subjects in 49 CFR Part 393

Highway safety, Motor carriers, Motor vehicle safety, Reporting and recordkeeping requirements.

Accordingly, FMCSA amends 49 CFR part 393 to read as follows:

**PART 393—PARTS AND ACCESSORIES NECESSARY FOR SAFE
OPERATION**

1. The authority citation for part 393 continues to read as follows:

Authority: 49 U.S.C. 31136, 31151, 31502; sec. 1041(b), Pub. L. 102-240, 105 Stat. 1914, 1993; secs. 5301 and 5524, Pub. L. 114-94, 129 Stat. 1312, 1543, 1560; and 49 CFR 1.87.

§ 393.86 [Amended]

2. Amend § 393.86 by removing and reserving paragraph (a)(6).

Issued under authority delegated in 49 CFR 1.87.

Derek Barrs,
Administrator.