



DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Part 393

[Docket No. FMCSA-2025-0119]

RIN 2126-AC93

Parts and Accessories Necessary for Safe Operation; Brakes on Portable Conveyors

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

ACTION: Final rule.

SUMMARY: FMCSA adds an exception for portable conveyors used in aggregate industry operations, and manufactured before 2010, from the requirement that each commercial motor vehicle (CMV) be equipped with brakes acting on all wheels, provided certain conditions are satisfied. This final rule responds to a petition for rulemaking from the Michigan Aggregates Association. The exception will provide relief from a regulatory requirement for certain portable conveyors without impacting safety.

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. If you have questions on viewing or submitting material to the docket, call Dockets Operations at (202) 366-9826.

SUPPLEMENTARY INFORMATION:

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I. AVAILABILITY OF RULEMAKING DOCUMENTS

To view any documents mentioned as being available in the docket, go to <https://www.regulations.gov/docket/FMCSA-2025-0119/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

CFR	Code of Federal Regulations
CMV	Commercial motor vehicle
DOT	Department of Transportation
FMCSA	Federal Motor Carrier Safety Administration
FMCSRs	Federal Motor Carrier Safety Regulations
FR	Federal Register
MPH	Miles per hour
NPRM	Notice of proposed rulemaking
PIA	Privacy Impact Assessment
PTA	Privacy Threshold Assessment

III. LEGAL BASIS

Under 49 U.S.C. § 31136(a), DOT is required to “prescribe minimum safety standards for commercial motor vehicles. At a minimum, the regulations shall ensure that—(1) commercial motor vehicles are maintained, equipped, loaded, and operated safely; (2) the responsibilities imposed on operators of commercial motor vehicles do not impair their ability to operate the vehicles safely; (3) the physical condition of operators of commercial motor vehicles is adequate to enable them to operate the vehicles safely...; (4) the operation of commercial motor vehicles does not have a deleterious effect on the physical condition of the operators; and (5) an operator of a commercial motor vehicle is not coerced by a motor carrier, shipper, receiver, or transportation intermediary to operate a commercial motor vehicle in violation of a regulation promulgated under this section, or chapter 51 or chapter 313 of this title.”

This final rule is based on the authority of 49 U.S.C. § 31136(a)(1) to ensure that CMVs are equipped and operated safely. It does not implicate the driver-centered requirements of 49 U.S.C. § 31136(a)(2) through (4). Because this final rule creates an exception to a requirement for brakes, there is no obvious risk of coercion related to this final rule to which a driver might be subjected.

Commercial motor vehicle is defined in 49 Code of Federal Regulations (CFR) 390.5 to include “any self-propelled or towed motor vehicle used on a highway in interstate commerce to transport passengers or property when the vehicle—(1) Has a gross vehicle weight rating or gross combination weight rating, or gross vehicle weight or gross combination weight, of 4,536 kg (10,001 pounds) or more, whichever is greater.” The portable conveyors addressed by this final rule and their towing vehicles have gross combination weights of 10,001 pounds or more, and are thus CMVs.

For the reasons explained below, FMCSA believes that exempting portable conveyors from the requirement in 49 CFR 393.42(a) to have brakes acting on all wheels (under the required conditions) will not adversely affect the operational safety of combinations including such conveyors.

IV. DISCUSSION OF PROPOSED RULEMAKING AND COMMENTS

A. Proposed Rulemaking

On May 30, 2025, FMCSA published in the *Federal Register* (Docket No. FMCSA-2025-0119, 90 FR 22938) a notice of proposed rulemaking (NPRM) titled “Parts and Accessories Necessary for Safe Operation; Brakes on Portable Conveyors.” The NPRM proposed to amend the FMCSR to add an exception for portable conveyors used in aggregate industry operations, and manufactured before 2010, from the requirements that each CMV be equipped with brakes acting on all wheels, provided certain conditions are satisfied. The proposal does not apply to portable conveyors manufactured in or after 2010 because such conveyors are fitted with disc braking systems that can withstand sand, rocks, and other material; however, the drum brakes available prior to 2010 were ineffectual or unsafe in such conditions and the older conveyors cannot be retrofitted with disc brakes.

B. Comments and Responses

FMCSA solicited comments concerning the NPRM for 60 days ending July 29, 2025. By that date, seven comments were received from the following parties: the Illinois Association of Aggregate Producers, Infra, the Michigan Aggregates Association, the National Sand, Stone & Gravel Association, the Owner-Operator Independent Drivers Association, the Pennsylvania Aggregates and Concrete Association, and the Virginia Transportation Construction Alliance. All comments were supportive of the NPRM, and none of the commenters suggested any modifications to the proposal. In addition, the Michigan Aggregates Association and the National Sand, Stone & Gravel Association

stated that this rule would promote consistency across jurisdictions and reduce confusion and inconsistent enforcement of brake requirements for portable conveyors.

V. INTERNATIONAL IMPACTS

Motor carriers and drivers are subject to the laws and regulations of the countries where 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.

Section 393.42 Brakes required on all wheels.

FMCSA adds new paragraphs (b)(7)(i) through (iii) which provide an exception for portable conveyors manufactured prior to 2010.

VII. REGULATORY ANALYSES

A. Executive Order (E.O.) 12866 (Regulatory Planning and Review), E.O. 13563 (Improving Regulation and Regulatory 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.¹ 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, as supplemented by E.O. 13563, and does not require

¹ DOT Order 2100.6B is available at <https://www.transportation.gov/regulations/dot-order-21006b-policies-and-procedures-rulemakings>.

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.

The final rule adds an exception to the requirement for brakes on all wheels for portable conveyors manufactured prior to 2010, when certain conditions are satisfied. The towing vehicle and the portable conveyor still need to meet the stopping performance required by section 393.52(d). Furthermore, most towing vehicles are now equipped with disc brakes or a combination of disc and drum brakes on wheels, which have improved stopping distances by 30 percent since 2013 after the adoption of FMVSS No. 121 (see 74 FR 37122 and 78 FR 9623). That advancement in braking technology further diminished the necessity for brakes on pre-2010 portable conveyors. Consequently, FMCSA determines that this final rule will have no impact on safety. The final rule will generate cost savings for owners of pre-2010 portable conveyors by enhancing their economic viability and potentially extending their useful lifespan. However, FMCSA does not have data to estimate the reduction in costs that will result from this final rule.

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.”²

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.³

² Executive Office of the President, *Executive Order 14192 of January 31, 2025, Unleashing Prosperity Through Deregulation*, 90 FR 9065-9067 (Feb. 6, 2025).

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

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 will have total costs less than zero, and therefore is considered an E.O. 14192 deregulatory action.

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).⁴

D. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. § 601 *et seq.*), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996,⁵ 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.

No regulatory flexibility analysis is required, however, if the head of an Agency or an appropriate designee certifies that the rule will not have a significant economic impact on a substantial number of small entities. This final rulemaking adds an exception to the requirement for brakes on all wheels for portable conveyors manufactured prior to 2010. By extending this regulatory relief, owners of pre-2010 portable conveyors will

⁴ 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)).

⁵ Pub. L. No. 104-121, 110 Stat. 857 (Mar. 29, 1996).

experience some cost savings. FMCSA considers any realized cost savings to be de minimis.

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, 2005,⁶ 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.

⁶ Pub. L. No. 108-447, 118 Stat. 2809, 3268, note following 5 U.S.C. § 552a (Dec. 4, 2014).

The E-Government Act of 2002,⁷ requires Federal agencies to conduct a Privacy Impact Assessment (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.*). This action falls under a published categorical exclusion (CE) and is thus excluded from further analysis and documentation in an environmental assessment or environmental impact statement under DOT Order 5610.1D,⁸ Subpart B, subsection (e). Specifically, paragraph (e)(6)(bb), which covers

⁷ Pub. L. No. 107-347, sec. 208, 116 Stat. 2899, 2921 (Dec. 17, 2002).

⁸ Available at: <https://www.transportation.gov/mission/dots-procedures-considering-environmental-impacts>.

regulations pertaining to vehicle operation safety standards, equipment approval, and/or equipment carriage requirements, applies to this final rule.

List of Subjects in 49 CFR Part 393

Highway safety, Motor carriers, Motor vehicle safety.

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.

2. Amend § 393.42 by adding paragraph (b)(7) to read as follows:

§ 393.42 Brakes required on all wheels.

* * * * *

(b) * * *

(7) Portable conveyors manufactured prior to 2010 and used by the aggregate industry are not required to be equipped with brakes on all wheels provided:

(i) The combination of portable conveyor and towing vehicle meet the performance requirement in 49 CFR 393.52;

(ii) The sum of the axle weights of the towed vehicle does not exceed 40 percent of the sum of the axle weights of the towing vehicle; and

(iii) The maximum speed of the portable conveyor and towing vehicle is limited to 45 miles per hour (mph) on two lane roads and 55 mph on freeways.

Issued under authority delegated in 49 CFR 1.87.

Derek Barrs,
Administrator.

