



DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Parts 392 and 393

[Docket No. FMCSA-2025-0110]

RIN 2126-AC84

Parts and Accessories Necessary for Safe Operation; Liquid-Burning Flares

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

ACTION: Final rule.

SUMMARY: FMCSA amends the rules for emergency equipment on commercial motor vehicles (CMVs) to remove the references to liquid-burning flares from the warning device requirements in the Federal Motor Carrier Safety Regulations (FMCSR). This action eliminates outdated language referring to warning devices that FMCSA believes are no longer used.

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:

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-2025-0110/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 at U.S. Department of Transportation, 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

AAMVA	American Association of Motor Vehicle Administrators
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
NPRM	Notice of proposed rulemaking
OMB	Office of Management and Budget
PIA	Privacy Impact Assessment
PTA	Privacy Threshold Assessment
UMRA	Unfunded Mandates Reform Act of 1995

III. LEGAL BASIS

FMCSA's authority to promulgate regulations governing Parts and Accessories Necessary for Safe Operation (49 CFR part 393) and many of the regulations on Driving Commercial Motor Vehicles (49 CFR part 392) rests on the requirement in 49 U.S.C. § 31136(a) that the Department of Transportation "shall 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 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." The provisions of 49 U.S.C. § 31136(a)(2) and (4) apply indirectly in the sense that the rule slightly changes the "responsibilities imposed on operators of commercial motor vehicles" under section 31136(a)(2) without altering their "ability to operate" the vehicles safely. Similarly, the rule slightly modifies the operation of commercial motor vehicles under certain circumstances, but in a way that "does not have a deleterious effect on the physical condition" of drivers, as required by section 31136(a)(4). In both of those cases, *i.e.*, paragraphs (a)(2) and (a)(4), the rule retains the requirement for the placement of warning devices other than liquid burning flares. However, 49 U.S.C. § 31136(a)(3) and (5) have no application to this final rule.

To ensure that commercial motor vehicles are "equipped" and "operated safely," as required by 49 U.S.C. § 31136(a)(1), FMCSA requires that vehicles stopped at

roadside for reasons other than normal traffic stops be made visible to on-coming traffic through the placement of specified warning devices at designated locations. “Liquid-burning flares” as specified in 49 CFR 392.22(b)(2)(i)-(ii) are the subject of this rulemaking. The technical requirements for these flares are specified in 49 CFR 393.95(j); their number are specified in 49 CFR 393.95(f)(2); their placement is specified in 49 CFR 392.22(b)(2)(i) and (ii); and certain limitations on their use are outlined in 49 CFR 393.95(g).

Because this type of flare is no longer used and for the reasons discussed below, FMCSA has determined that the provisions dealing with “liquid-burning flares” are not needed to ensure that commercial motor vehicles (CMVs) are “equipped” or “operated safely.”

IV. DISCUSSION OF PROPOSED RULEMAKING AND COMMENTS

A. Proposed Rulemaking

On May 30, 2025, FMCSA published in the *Federal Register* (Docket No. FMCSA-2025-0110, 90 FR 22919) an NPRM titled “Parts and Accessories Necessary for Safe Operation; Liquid-Burning Flares.” The NPRM proposed to amend the FMCSRs to remove references to liquid-burning flares from the warning device requirements. On June 5, 2025, FMCSA published in the *Federal Register* (90 FR 23868) a correction to address an incorrect docket number in the NPRM. On July 9, 2025, FMCSA published in the *Federal Register* (90 FR 30217) an additional correction to address an incorrect regulation identifier number in the NPRM and in the previous correction.

B. Comments and Responses

FMCSA solicited comments concerning the NPRM for 60 days ending July 29, 2025. By that date, six comments were received from the following parties: the American

Association of Motor Vehicle Administrators (AAMVA), the American Trucking Associations, the Owner-Operator Independent Drivers Association, Veolia North America, and two private citizens.

All the comments were supportive of the NPRM. AAMVA noted that there may be costs associated with this rulemaking, in combination with two other NPRMs that FMCSA proposed.¹ AAMVA stated that these regulatory changes would require changes to published safety information incorporated into six publications that convey Federal motor carrier safety requirements to commercial driver's license (CDL) applicants. AAMVA anticipates that there would be costs of up to \$20,000 to make the associated changes to these publications as a result of this rulemaking. The cost of up to \$20,000 for AAMVA to update its publications is considered de minimis, particularly since these changes can be incorporated during routine business updates. In addition, this cost estimate accounts for updates related to two other deregulatory actions,² effectively spreading the total cost across multiple rulemakings.

VI. 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.

VII. SECTION-BY-SECTION ANALYSIS

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

Section 392.22 Emergency signals; stopped commercial motor vehicles.

¹ The other rulemakings mentioned in AAMVA's comment were the "Parts and Accessories Necessary for Safe Operation: Spare Fuses" NPRM (Docket No. FMCSA-2025-0109, 90 FR 22946, May 30, 2025) and the "Railroad Grade Crossings; Stopping Required: Exception for Railroad Grade Crossing Equipped With Active Warning Device Not in Activated State" NPRM (Docket No. FMCSA-2021-0050, 90 FR 22914, May 30, 2025).

² Ibid.

FMCSA removes references to liquid-burning flares in paragraphs (b)(2)(i) and (ii).

Section 393.95 Emergency equipment on all power units.

FMCSA removes references to liquid-burning flares in paragraphs (f)(2), (g), and (j). Underwriters Laboratories, Inc., UL No. 912, Highway Emergency Signals, Fourth Edition, July 30, 1979, is referenced in the amendatory text of this document but has already been approved for paragraph (j). No changes are proposed to the material incorporated by reference.

VIII. 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, as supplemented by E.O. 13563, and has not reviewed it under that E.O.

This final rule removes obsolete language that is no longer relevant. FMCSA does not expect that regulated entities will change their behavior as a result of this rule, and therefore the final rule will not result in impacts to regulated entities other than removing unnecessary language from the CFR. FMCSA does not have data with which to estimate the total cost savings that will result from this final rule but expects the savings to be de minimis. This action streamlines rule familiarization by eliminating a source of confusion

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

for stakeholders, particularly new entrants, regarding the use of these obsolete warning devices.

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 the Office of Management and Budget (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.

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 Executive Office of the President, Office of Management and Budget, *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.

This final rulemaking removes obsolete regulatory text that is no longer impacting regulated entities. Removal of the obsolete text will neither impose net costs nor impact benefits. 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

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

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) (UMRA) 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 (64 FR 43255, Aug. 10, 1999), Federalism, 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.

The E-Government Act of 2002,⁹ 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 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 rule does not have Tribal implications under E.O. 13175 (65 FR 67249, Nov. 9, 2000), 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

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

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

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 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 5610.1D¹⁰, Subpart B, subsection (e). Specifically, paragraph (e)(6)(bb) covers regulations pertaining to vehicle operation safety standards, equipment approval, and/or equipment carriage requirements.

List of Subjects

49 CFR Part 392

Alcohol abuse, Drug abuse, Highway safety, Motor carriers.

49 CFR Part 393

Highway safety, Motor carriers, Motor vehicle safety.

Accordingly, FMCSA amends 49 CFR parts 392 and 393 to read as follows:

PART 392—DRIVING OF COMMERCIAL MOTOR VEHICLES

1. The authority citation for part 392 continues to read as follows:

Authority: 49 U.S.C. 504, 13902, 31136, 31151, 31502; Section 112 of Pub. L. 103-311, 108 Stat. 1673, 1676 (1994), as amended by sec. 32509 of Pub. L. 112-141, 126 Stat. 405-805 (2012); and 49 CFR 1.87.

2. Amend § 392.22 by revising paragraphs (b)(2)(i) and (ii) to read as follows:

§ 392.22 Emergency signals; stopped commercial motor vehicles.

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

* * * * *

(b) * * *

(2) * * *

(i) *Fusees*. The driver of a commercial motor vehicle equipped with only fusees shall place a lighted fusee at each of the locations specified in paragraph (b)(1) of this section. There shall be at least one lighted fusee at each of the prescribed locations, as long as the commercial motor vehicle is stopped. Before the stopped commercial motor vehicle is moved, the driver shall extinguish and remove each fusee.

(ii) *Daylight hours*. Except as provided in paragraph (b)(2)(iii) of this section, during the period lighted lamps are not required, three bidirectional reflective triangles or three lighted fusees shall be placed as specified in paragraph (b)(1) of this section within a time of 10 minutes. In the event the driver elects to use only fusees in lieu of bidirectional reflective triangles or red flags, the driver must ensure that at least one fusee remains lighted at each of the prescribed locations as long as the commercial motor vehicle is stopped or parked.

* * * * *

PART 393— PARTS AND ACCESSORIES NECESSARY FOR SAFE OPERATION

3. 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.

4. Amend § 393.95 by revising paragraphs (f)(2), (g), and (j) to read as follows:

§ 393.95 Emergency equipment on all power units.

* * * * *

(f) * * *

(2) At least 6 fusees. The vehicle must have as many additional fusees as are necessary to satisfy the requirements of § 392.22 of this chapter.

* * * * *

(g) *Restrictions on the use of flame-producing devices.* Fusees or any other signal produced by a flame shall not be carried on any commercial motor vehicle transporting Division 1.1, 1.2, 1.3 (explosives) hazardous materials; any cargo tank motor vehicle used for the transportation of Division 2.1 (flammable gas) or Class 3 (flammable liquid) hazardous materials whether loaded or empty; or any commercial motor vehicle using compressed gas as a motor fuel.

* * * * *

(j) *Requirements for fusees.* Each fusee shall be capable of burning for 30 minutes. Fusees shall conform to the requirements of Underwriters Laboratories, Inc., UL No. 912, Highway Emergency Signals, Fourth Edition, July 30, 1979, (with an amendment dated November 9, 1981). (See § 393.7 for information on the incorporation by reference and availability of this document.) Each fusee shall be marked with the UL symbol in accordance with the requirements of UL 912.

* * * * *

Issued under authority delegated in 49 CFR 1.87.

Derek Barrs,
Administrator.

[FR Doc. 2026-03261 Filed: 2/18/2026 8:45 am; Publication Date: 2/19/2026]