14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

Issued in Washington, DC.

Robert C. Lauby,

Associate Administrator for Railroad Safety, Chief Safety Officer.

[FR Doc. 2015–25461 Filed 10–6–15; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Parts 393 and 396

[Docket No. FMCSA–2015–0176]

RIN 2126–AB81

Parts and Accessories Necessary for Safe Operation; Inspection, Repair, and Maintenance; General Amendments

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: FMCSA proposes to amend the regulations for ''Parts and Accessories Necessary for Safe Operation,'' and ''Inspection, Repair and Maintenance,'' of the Federal Motor Carrier Safety Regulations (FMCSRs) in response to several petitions for rulemaking from the Commercial Vehicle Safety Alliance (CVSA) and the American Trucking Associations (ATA), and two safety recommendations from the National Transportation Safety Board (NTSB). Specifically, the Agency proposes to add a definition of ''major tread groove;'' revise the rear license plate lamp requirement to provide an exception for truck tractors registered in States that do not require tractors to have a rear license plate; provide specific requirements regarding when violations or defects noted on a roadside inspection report need to be corrected; amend Appendix G to the FMCSRs, ''Minimum Periodic Inspection Standards,'' to include provisions for the inspection of antilock braking systems (ABS), automatic brake adjusters, and brake adjustment indicators, speed-restricted tires, and motorcoach passenger seat mounting anchorages; and amend the periodic inspection rules to eliminate the option for motor carriers to use a violation—free roadside inspection report as proof of completing a comprehensive inspection at least once every 12 months. In addition, the Agency proposes to eliminate introductory text from Appendix G to the FMCSRs because the discussion of the differences between the North American Standard Inspection out-of-service criteria and FMCSA's periodic inspection criteria is unnecessary.

DATES: You must submit comments on or before December 7, 2015.

ADDRESSES: You may submit comments identified by docket number FMCSA–2015–0176 using any one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.
- *Hand delivery:* Same as mail address above, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.
- *Fax:* 202–493–2251.

To avoid duplication, please use only one of these four methods. See the ''Public Participation and Request for Comments'' heading under the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions about this proposed rule, call or email Mr. Mike Huntley, Vehicle and Roadside Operations Division, Office of Bus and Truck Standards and Operations, Federal Motor Carrier Safety Administration, telephone: 202–366–5370; *michael.huntley@dot.gov*. If you have questions about viewing or submitting material to the docket, call Ms. Barbara Hairston, Program Manager, Docket Services, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Executive Summary

FMCSA is responsible for regulations to ensure that all commercial motor vehicles (CMVs) are systematically inspected, repaired, and maintained and that all parts and accessories necessary for the safe operation of CMVs are in safe and proper operating condition at all times. In response to several petitions for rulemaking from CVSA and ATA and two safety recommendations from the NTSB, FMCSA proposes to amend various provisions in parts 393 and 396 of the FMCSRs. The proposed amendments generally do not involve the establishment of new or more stringent requirements, but instead clarify existing requirements to increase consistency of enforcement activities.

Specifically, the Agency proposes to (1) add a definition of ''major tread groove'' in § 393.5; (2) delete the requirement in Table 1 of § 393.11 for truck tractors to have a rear license plate light when State law does not require the vehicle to have a rear license plate; (3) clarify § 396.9 regarding when violations or defects noted on a roadside inspection report need to be corrected; (4) amend Appendix G to the FMCSRs, ''Minimum Periodic Inspection Standards,'' to include provisions for the inspection of (a) ABS, automatic brake adjusters, and brake adjustment indicators, (b) speed-restricted tires, and (c) motorcoach passenger seat mounting anchorages; (5) amend § 396.17(f) to eliminate references to roadside inspections; and (6) amend § 396.19(b) regarding inspector qualifications as a result of the amendments to § 396.17(f) described above. In addition, the Agency proposes to eliminate as unnecessary a portion of Appendix G to the FMCSRs that describes the differences between the out-of-service criteria and FMCSA's annual inspection.

The Agency believes the potential economic impact of these changes is negligible because the proposed amendments generally do not involve new or more stringent requirements, but a clarification of existing requirements.

Public Participation and Request for Comments

FMCSA encourages you to participate in this rulemaking by submitting comments and related materials.

Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (FMCSA–2015–0176), indicate the heading of the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so the Agency can contact you if it has questions regarding your submission.

To submit your comment online, go to *www.regulations.gov*, type the docket number, ''FMCSA–2015–0176'' in the ''Keyword'' box, and click ''Search.'' When the new screen appears, click the ''Comment Now!'' button and type your comment into the text box in the following screen. Choose whether you are submitting your comment as an

individual or on behalf of a third party, and click ''Submit.''

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

FMCSA will consider all comments and material received during the comment period and may change this proposed rule based on your comments. FMCSA may issue a final rule at any time after the close of the comment period.

Viewing Comments and Documents

To view comments and as well as any documents mentioned in this preamble as being available in the docket, go to *www.regulations.gov*, insert the docket number, ''FMCSA–2015–0176'' in the ''Keyword'' box, and click ''Search.'' Next, click the ''Open Docket Folder'' button and choose the document listed to review. If you do not have access to the Internet, you may view the docket online by visiting the Docket Services in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.

Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov*, as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy*.

Legal Basis for the Rulemaking

This rulemaking is based on the authority of the Motor Carrier Act of 1935 [1935 Act] and the Motor Carrier Safety Act of 1984 [1984 Act].

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 NPRM would amend the FMCSRs to respond to several petitions for rulemaking. The adoption and enforcement of such rules is specifically authorized by the 1935 Act. This proposed rulemaking rests squarely on that authority.

The 1984 Act provides concurrent authority to regulate drivers, motor carriers, and vehicle equipment. It requires the Secretary to ''prescribe regulations on commercial motor vehicle safety.'' The regulations shall prescribe minimum safety standards for CMVs. At a minimum, 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) that 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 FMCSRs) or 49 U.S.C. chapters 51 or 313 (49 U.S.C. 31136(a)).

This proposed rule concerns (1) parts and accessories necessary for the safe operation of CMVs, and (2) the inspection, repair, and maintenance of CMVs. It is based primarily on section 31136(a)(1) and (2), and secondarily on section 31136(a)(4). This rulemaking would ensure that CMVs are maintained, equipped, loaded, and operated safely by requiring certain vehicle components, systems, and equipment to meet minimum standards such that the mechanical condition of the vehicle is not likely to cause a crash or breakdown. Section 31136(a)(3) is not applicable because this rulemaking does not deal with driver qualification standards. Because the amendments proposed by this rule are primarily technical changes that clarify existing requirements and improve enforcement consistency, FMCSA believes they will be welcomed by motor carriers and drivers alike and that coercion to violate them will not be an issue.

Before prescribing any such regulations, FMCSA must consider the ''costs and benefits'' of any proposal (49 U.S.C. 31136(c)(2)(A) and 31502(d)). As discussed in greater detail in the ''Regulatory Analyses'' section, FMCSA has determined that this proposed rule is not a significant regulatory action. The Agency believes the potential economic impact is negligible because the proposed amendments generally do not involve the adoption of new or more stringent requirements, but rather the clarification of existing requirements. As such, the costs of the rule would not approach the $100 million annual threshold for economic significance.

Background

The fundamental purpose of 49 CFR part 393, ''Parts and Accessories Necessary for Safe Operation,'' is to ensure that no employer operates a CMV or causes or permits it to be operated, unless it is equipped in accordance with the requirements and specifications of that part. However, nothing contained in part 393 may be construed to prohibit the use of additional equipment and accessories, not inconsistent with or prohibited by part 393, provided such equipment and accessories do not decrease the safety of operation of the motor vehicles on which they are used. Compliance with the rules concerning parts and accessories is necessary to ensure vehicles are equipped with the specified safety devices and equipment.

On August 15, 2005, FMCSA published a final rule amending part 393 of the FMCSRs to remove obsolete and redundant regulations; respond to several petitions for rulemaking; provide improved definitions of vehicle types, systems, and components; resolve inconsistencies between part 393 and the National Highway Traffic Safety Administration's (NHTSA) Federal Motor Vehicle Safety Standards (49 CFR part 571); and codify certain FMCSA regulatory guidance concerning the requirements of part 393 (70 FR 48008).

Since publication of the 2005 final rule, FMCSA has received petitions for rulemaking to amend part 393 from CVSA, requesting that § 393.5 be amended to include a definition of ''major tread groove,'' and from ATA, requesting that Table 1 to § 393.11 be amended to delete the requirement for operable rear license plate lights on truck tractors registered in States that do not require a rear license plate to be displayed. In addition, FMCSA received a separate petition from CVSA requesting that the Agency amend Appendix G to the FMCSRs, ''Minimum Periodic Inspection Standards,'' to include provisions for the inspection of ABS. Like the revisions made in the August 2005 final rule, the amendments requested by CVSA and ATA would simply clarify existing requirements.

Proper inspection, repair, and maintenance of CMVs are essential to the safety of motor carrier operations. The purpose of 49 CFR part 396, ''Inspection, Repair, and Maintenance,'' is to ensure that every motor carrier (1) systematically inspects, repairs, and

maintains all motor vehicles subject to its control to ensure that all parts and accessories are in safe and proper operating condition at all times, and (2) maintains records of these inspections, repairs, and maintenance. Generally, systematic means a regular or scheduled program to keep vehicles in a safe operating condition. Part 396 does not specify inspection, repair, or maintenance intervals because such intervals are fleet specific, and in some instances, vehicle specific. The inspection, repair, and maintenance intervals are to be determined by the motor carrier. The requirements in part 396 concerning driver pre- and post-trip inspections and periodic (annual) inspections are in addition to the systematic inspection, repair, and maintenance requirements.

FMCSA has also received several petitions from CVSA seeking amendments to part 396. First, while § 396.9(d)(2) requires violations or defects noted on roadside inspection reports to be ''corrected,'' CVSA requested that the Agency clarify *when* such vehicle and driver violations or defects must be corrected. Second, CVSA requested that the Agency remove the words ''or roadside'' from the existing regulatory language of § 396.17 to separate the roadside inspection program conducted by law enforcement officials from the periodic (annual) inspection requirements of § 396.17. Third, CVSA asked that § 396.19 be amended to delete the references to the ''random roadside inspection program.'' Finally, CVSA requested that FMCSA amend Appendix G to the FMCSRs by deleting the ''Comparison of Appendix G, and the new North American Uniform Driver-Vehicle Inspection Procedure (North American Commercial Vehicle Critical Safety Inspection Items and Out-of-Service Criteria.)'' As with the proposed amendments to part 393, the proposed revisions to part 396 merely clarify existing requirements.

In addition to the CVSA and ATA petitions for rulemaking, the NTSB issued two safety recommendations to FMCSA relating to Appendix G of the FMCSRs as a result of its investigation of an October 13, 2003, crash in Tallulah, Louisiana, involving a motorcoach and a tractor semitrailer combination. First, investigators discovered that the motorcoach had been equipped with speed-restricted tires. While the tires were designed for speeds not to exceed 55 mph, and to provide high-load capacity and durability for inner city transit-bus-type vehicles (which typically do not exceed speeds of 55 mph), the motorcoach was being operated on the interstate at speeds exceeding 55 mph at the time of the crash. The NTSB noted that if a speed-restricted tire is used in service above its rated speed for extended periods, a catastrophic failure can result. The NTSB concluded that because the CMV inspection criteria used by FMCSA and others do not address the identification and appropriate use of speed-restricted tires, they overlook an important vehicle safety factor and can result in CMVs intended for highway use being operated with tires not suited for highway speeds. The NTSB issued Safety Recommendation H–05–03 to FMCSA, recommending that the Agency revise Appendix G ''to include inspection criteria and specific language to address a tire's speed rating to ensure that it is appropriate for a vehicle's intended use.''

Second, investigators found that during the crash sequence, many passenger seats did not remain in their original positions because they had been improperly secured to the floor of the vehicle. The NTSB concluded that improperly secured motorcoach passenger seats are not likely to be identified during CMV inspections because no criteria or procedures are available for the inspection of motorcoach seating anchorage systems. The NTSB issued Safety Recommendation H–05–05 to FMCSA, recommending that the Agency (1) develop a method for inspecting motorcoach passenger seat mounting anchorages, and (2) revise Appendix G of the FMCSRs to require inspection of these anchorages.

Discussion of Proposed Rulemaking

Section 393.5, Definition of ''Major tread groove.'' Section 393.75 of the FMCSRs specifies the requirements for tires on CMVs operated in interstate commerce. Paragraph (b) states that ''Any tire on the front wheels of a bus, truck, or truck tractor shall have a tread groove pattern depth of at least 4/32 of an inch when measured at any point *on a major tread groove.* The measurements shall not be made where tie bars, humps, or fillets are located'' [emphasis added]. In addition, § 393.75(c) states that, ''Except as provided in paragraph (b) of this section, tires shall have a tread groove pattern depth of at least 2/32 of an inch when measured *in a major tread groove.* The measurement shall not be made where tie bars, humps or fillets are located'' [emphasis added].

In its petition, CVSA stated:

> The absence of a definition for what constitutes a major tread groove leads to confusion for both enforcement and industry. There are several grooves in a tire and not all of them are necessarily major tread grooves. Dependent on where the tire is worn and what the person understands to be a major tread groove is the important and costly decision on whether or not the tire is required to be replaced. A clear definition will reduce unnecessary disposal of tires due to improper tread depth measurements, as well as reduce improper violations/citations related to § 393.75.

CVSA contacted ATA's Technology & Maintenance Council (TMC) S.2 Tire & Wheel Study Group Task Force and asked them to (1) review the regulatory language in § 393.75(b) and (c), and (2) develop a definition for ''major tread groove.'' The TMC Task Force recommended that a major tread groove be defined as ''The space between two adjacent tread ribs or lugs on a tire that contains a tread wear indicator or wear bar. (In most cases, the locations of tread wear indicators are designated on the upper sidewall/shoulder of the tire on original tread tires.)''

CVSA contends that it ''is imperative that measurements for tire wear are taken in consistent locations to help promote uniformity and consistency in both enforcement and maintenance.'' The proposed definition of ''major tread groove'' was submitted to, reviewed, and approved by CVSA's Vehicle Committee (consisting of enforcement, government, and industry representatives) prior to the development and submission of the petition for rulemaking to FMCSA. The petition requests that § 393.5 be amended to include the TMC Task Force's suggested definition of ''major tread groove.''

FMCSA agrees that uniformity and consistency in enforcement and maintenance are critical. By including a definition of ''major tread groove'' in § 393.5—a term that is currently included in the regulatory text of § 393.75(b) and (c), but not specifically defined—the Agency expects increased consistency in the application and citation of § 393.75 during roadside inspections.

FMCSA proposes to amend § 393.5 to include a definition for ''major tread groove'' that is consistent with the definition as proposed by the TMC Task Force. In addition, the following illustration will be added to § 393.75, where the arrows indicate the location of tread wear indicators or a wear bars signifying a major tread groove:

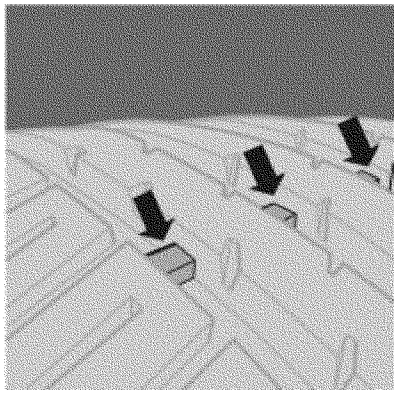

Table 1 to § 393.11, License Plate Lights. Federal Motor Vehicle Safety Standard (FMVSS) No. 108, ''*Lamps, reflective devices, and associated equipment,*'' requires all newly-manufactured passenger cars, multipurpose passenger vehicles (MPVs), trucks, and buses to be equipped with a single white license plate light, located at the rear, to illuminate the license plate from the top or sides. The light must be steady burning, and must be activated when the headlamps are activated in a steady burning state or when the parking lamps on passenger cars and MPVs, trucks, and buses are activated. Similarly, § 393.11(a)(1) of the FMCSRs requires all CMVs operated in interstate commerce and manufactured on or after December 25, 1968, to meet at least the minimum applicable requirements of FMVSS No. 108 in effect at the time of manufacture of the vehicle. Footnote 11 to Table 1 of § 393.11 requires that the license plate light ''be illuminated when tractor headlamps are illuminated.''

In its petition, ATA states:

> The purpose of the rear license plate lamp is ''to illuminate the license plate from the top or sides.'' ATA believes that if there is no license plate, there is no need and therefore should be no regulatory requirement for a functioning rear license plate lamp. As simple and commonsensical as this seems, roadside inspectors in some [States] have issued citations to motor carriers when the rear license plate holder is empty and the tractor license plate lamp is either missing or not working. In surveying the 50 U.S. states and the District of Columbia, ATA found that 35 states and the District require only one license plate on a tractor, and it is to be placed on the front. Only 14 states require two license plates, one each on the front and back of the tractor. Therefore, the change we are seeking in the application of the regulation would apply to a significant number of commercial trucks with state-issued plates . . . These changes to the existing regulatory requirements to exempt commercial vehicles with no rear license plates will not adversely impact safety and will help eliminate further unnecessary enforcement actions by roadside inspectors.

ATA's petition requests that FMCSA amend the license plate lamp requirement in Table 1 to § 393.11 to read ''At rear license plate to illuminate the plate from the top or sides, *except that no license plate lamp is required where state law does not require a license plate to be present.*''

As noted in both FMVSS No. 108 and the FMCSRs, the only function of the rear license plate lamp is to illuminate the rear license plate. FMCSA agrees with ATA that if a truck tractor is not required to display a rear license plate, then there is no corresponding safety need for a functioning rear license plate light. Uniformity and consistency in enforcement are critical.

FMCSA proposes to amend Footnote 11 to Table 1 of § 393.11 to indicate that no rear license plate lamp is required on truck tractors registered in States that do not require tractors to display a rear license plate.''

Appendix G to the FMCSRs—ABS. Section 210 of the Motor Carrier Safety Act of 1984 required the Secretary of Transportation to establish standards for the annual (*i.e.,* periodic) or more frequent inspection of all CMVs engaged in interstate or foreign commerce. In response, the Federal Highway Administration (FHWA) published a final rule on December 7, 1988, adopting § 396.17, which requires all CMVs to be inspected at least once every 12 months (53 FR 49402, as amended on December 8, 1989 (54 FR 50722)). In establishing specific criteria for the newly required annual inspection, FHWA looked to inspection criteria that had been developed based on the specifications in part 393, notably (1) the CVSA vehicle out-of-service criteria and (2) the vehicle portion of the FHWA National Uniform Driver-Vehicle Inspection Procedure (NUD–VIP). FHWA decided to use the vehicle portion of the NUD–VIP as the criteria for successful completion of the annual inspection, and in the December 1988 rule, established Appendix G to the FMCSRs as the minimum periodic inspection standards for § 396.17. FHWA noted that utilization of the NUD–VIP would (1) provide the necessary inspection-related pass/fail criteria for the periodic inspection at a more stringent level than the vehicle out-of-service criteria, and (2) provide the proper level of Federal oversight in establishing and revising the criteria.

NHTSA did not require medium and heavy vehicles to be equipped with an ABS to improve lateral stability and steering control during braking until 1995, when it published a final rule amending FMVSS No. 105, ''Hydraulic Brake Systems,'' and FMVSS No. 121, ''Air Brake Systems'' (60 FR 13216, March 10, 1995). In addition to requiring ABS on medium and heavy vehicles, the 1995 rule also required all powered vehicles to be equipped with an in-cab lamp to indicate ABS malfunctions. Truck tractors and other trucks equipped to tow air-braked trailers are required to have two separate in-cab lamps: One indicating malfunctions in the towing vehicle ABS and the other in the trailer ABS.

Part 393 of the FMCSRs was amended in 1998 to require carriers to maintain ABS installed on truck tractors, single unit trucks, buses, trailers, and converter dollies (63 FR 24454, May 4, 1998). Although the final rule clearly placed on interstate motor carriers the responsibility to maintain the ABS in operable condition at all times, it did not add provisions regarding the periodic inspection of the ABS/ABS malfunction indicator to the minimum periodic inspection standards in Appendix G. This means that a vehicle could pass the periodic inspection with an inoperable ABS/ABS malfunction indicator. However, the operation of the vehicle with the inoperable ABS/ABS malfunction indicator would be a violation of the FMCSRs and would preclude the vehicle from receiving a roadside inspection decal.

In its petition, CVSA requested that the Agency amend Appendix G to include specific language regarding the inspection of the ABS system/malfunction indicator during periodic/annual inspections. CVSA stated:

> While we realize that 49 CFR part 393—Parts and Accessories Necessary for Safe Operation has requirements relating to ABS in § 393.55, periodic inspections are typically conducted using Appendix G as a guide (and not Part 393) and as such, ABS operational status is frequently neglected since it is not part of Appendix G. Furthermore, many versions of the preprinted forms used by personnel who conduct periodic inspections do not mention or list ABS as an inspection item.
>
> The failure of some motor carriers to check ABS as a part of their preventative maintenance programs is found by roadside inspectors while conducting random roadside inspections. Inspectors are frequently finding commercial motor vehicles with missing or inoperative ABS malfunction indicators or indicators that are constantly illuminated indicating a fault in the ABS. A study was conducted by the Battelle Memorial Institute for FMCSA to assess the status of the ABS warning system on in-service air-braked commercial vehicles. Data from approximately 1,000 CMVs were collected in California, Ohio, Pennsylvania, and Washington, by enforcement personnel who had been specifically trained to inspect the ABS warning lamp. With an ABS lamp check problem defined as falling into one of

three categories; no lamp, lamp inoperative, or lamp on (thus indicating an active ABS system fault), a snapshot of this aspect of the CMV population was created. Results indicated that about one in six power units manufactured after March 1, 1997 showed some problem with their ABS warning lamp system. One in three trailers manufactured after March 1, 1998 showed a problem. Furthermore, the study indicated that ABS problems increased with vehicle age so the percentages would likely be higher if the study was repeated today since there are now older vehicles on the road with ABS.

FMCSA agrees that the failure of a motor carrier to properly maintain an important safety technology such as ABS should result in the vehicle failing the periodic inspection. And although CVSA did not mention automatic brake adjusters and brake adjustment indicators in its petition, FMCSA believes these brake components should also be included in Appendix G to ensure that vehicles cannot pass the periodic inspection without this important safety equipment. FMCSA amended 49 CFR part 393 on September 6, 1995 (60 FR 46245) to require that interstate motor carriers maintain these devices, but as with the ABS final rule, the Agency did not include automatic brake adjusters and brake adjustment indicators in Appendix G.

ABS and automatic brake adjusters and brake adjustment indicator requirements have been included in part 393 for approximately 20 years. Therefore, FMCSA believes that it is reasonable to assume that the vast majority of motor carriers currently include a review of these devices and systems in their annual inspection programs despite the fact that there are no explicit requirements in Appendix G to do so. As such, the Agency believes that amending Appendix G to include a review of ABS and automatic brake adjusters and brake adjustment indicators simply maintains consistency between part 393 and Appendix G, and will result in a de minimis added burden to motor carriers.

Section 396.9, Inspection of motor vehicles and intermodal equipment in operation. Section 396.9 of the FMCSRs authorizes special agents of FMCSA, as defined in Appendix B to the FMCSRs, to enter upon and perform inspections of a motor carrier's vehicles in operation, *i.e.,* to perform roadside inspections. Drivers receiving reports from such inspections are required to provide a copy of the report to the motor carrier or intermodal equipment provider (1) upon his/her arrival at the next terminal or facility, or (2) immediately via mail, fax, or other means if the driver is not scheduled to arrive at a terminal or at a facility of the intermodal equipment provider within 24 hours. Section 396.9(d)(2) requires that ''Motor carriers and intermodal equipment providers shall examine the report. Violations or defects noted thereon shall be corrected. Repairs of items of intermodal equipment placed out-of-service are also to be documented in the maintenance records for such equipment.'' However, § 396.9(d)(2) does not expressly state *when* such violations or defects need to be remedied.

CVSA asked FMCSA to amend § 396.9(d)(2) to specifically require that violations or defects noted in a roadside inspection report ''be corrected prior to redispatching the driver and/or vehicle.'' In support of its petition, CVSA stated:

> Upon review of the North American Standard Level I Inspection (Part ''A''—Driver) training materials, it was noted that the regulatory language ''prior to redispatch'' does not currently exist in the Federal Motor Carrier Safety Regulations (FMCSRs). The language has been used exclusively in the North American Standard Out-of-Service Criteria (OOSC) and in the Appendix since the early beginnings of the North American Standard Inspection Program. By adding the regulatory language, it will provide enforcement and industry with a clear understanding of the regulatory intent of when vehicle and driver violations or defects must be corrected.

Every driver is required to prepare a driver vehicle inspection report (DVIR) in writing at the completion of each day's work on each that he or she vehicle operated that lists ''any defect or deficiency discovered by *or reported to the driver* which would affect the safety of operation of the vehicle or result in its mechanical breakdown'' (§ 396.11(a)(2) [emphasis added]). Any defects or violations noted during a roadside inspection conducted during that work day, and documented in a report provided to the driver by an inspection official, must be included in the DVIR prepared by the driver at the end of the work day. In addition, § 396.11(a)(3) specifies that prior to requiring or permitting a driver to operate a vehicle, every motor carrier or its agent shall (1) repair any defect or deficiency listed on the DVIR which would be likely to affect the safety of operation of the vehicle (§ 396.11(a)(3)(i)), and (2) certify on the original DVIR that all defects or deficiencies have been repaired or that repair is unnecessary before the vehicle is operated again (§ 396.11(a)(3)(ii)).

Section 396.11(a)(3) makes it clear that all defects and deficiencies discovered by or reported to a driver—including those identified during a roadside inspection conducted under the authority of § 396.9—must be corrected (or a certification provided stating that repair is unnecessary) before a vehicle is operated each day. However, the Agency agrees that the language of § 396.9(d)(2) is not as explicit as it could be, and could lead to uncertainty and/or inconsistency in both the enforcement community and the motor carrier industry regarding when violations and defects noted on roadside inspection reports need to be corrected.

While CVSA suggested inclusion of language that would require violations or defects to be corrected ''prior to redispatching the driver and/or vehicle,'' the Agency believes that use of the term ''redispatching'' could be troublesome in some operations, for example in long-haul, multi-day cross country trips where a vehicle may be ''dispatched'' only at the trip's point of origin. On such trips, a driver is required under § 396.11 to ensure—at the beginning of each day—that any defects or deficiencies discovered by or reported to the driver on the previous day have been satisfactorily addressed according to § 396.11(a)(3)(i) and (ii). FMCSA is concerned that amending § 396.9(d)(2) using CVSA's recommended ''prior to redispatch'' language could improperly imply that repairs are not required each day on multi-day trips where the vehicle is not ''redispatched'' every day.

Instead, to clarify the intent of § 396.9(d)(2) as discussed above, FMCSA proposes to amend that section by including a specific cross reference to § 396.11(a)(3).

The Motor Carrier Safety Act of 1990 required that violations found during inspections funded under the Motor Carrier Safety Assistance Program (MCSAP) be corrected in a timely manner, and that States participating in the MCSAP adopt a verification program to ensure that CMVs and operators thereof found in violation of safety requirements have subsequently been brought into compliance. [Sec. 15(d), Pub. L. 101–500, Nov. 3, 1990, 104 Stat. 1219]. Section 396.9(d)(3) requires motor carriers and intermodal equipment providers, within 15 days, to (1) certify that all violations noted have been corrected by completing the ''Signature of Carrier/Intermodal Equipment Provider Official, Title, and Date Signed'' portions of the roadside inspection form, (2) return the completed roadside inspection form to the issuing agency, and (3) retain a copy of the completed form for 12 months from the date of the inspection.

In a final rule implementing revisions to the MCSAP published on September 8, 1992, the FHWA noted that the ATA had asked ''that carriers be given more time to return inspection reports and file a report at the terminal where the vehicle is maintained.'' Specifically, the ATA requested that the carrier be allowed 60 days to file a copy of each roadside inspection report. FHWA declined to adopt ATA's request, stating ''Currently, § 396.9 allows 15 days for the motor carrier to certify correction of defects found in inspections. The FHWA believes that this is sufficient time and, moreover, that these reports on safety violations found on trucks and buses operating on the highways require immediate attention and follow-up by the motor carrier'' (57 FR 40946, 40951, Sept. 8, 1992). FMCSA requests comments regarding whether the existing 15-day requirement in § 396.9(d)(3) remains appropriate, or whether a different time period should be considered.

Section 396.17, Periodic Inspection. Section 396.17(f) states that ''Vehicles passing roadside or periodic inspections performed under the auspices of any State government or equivalent jurisdiction or the FMCSA, meeting the minimum standards contained in appendix G of this subchapter, will be considered to have met the requirements of an annual inspection for a period of 12 months commencing from the last day of the month in which the inspection was performed. If a vehicle is subject to a mandatory State inspection program, as provided in § 396.23(b)(1), a roadside inspection may only be considered equivalent if it complies with the requirements of that program.''

In its petition, CVSA recommended that § 396.17(f) be amended by removing the words ''roadside or'' from the current regulatory language. CVSA stated:

> It is our strong belief that the roadside inspection program and the annual/periodic inspection program need to be decoupled from each other. The roadside inspection program and the North American Standard Out-of-Service Criteria (OOSC) are not equivalent to a ''government mandated maintenance standard'' for annual or periodic inspections. The North American Standard Inspection Program and North American Standard Out-of-Service Criteria have been in place for more than two decades and were never intended to serve this purpose . . .
>
> The roadside inspection is the ''last line of defense'' for highway safety. When a driver or vehicle is placed out of service during a roadside inspection it is indicative that the motor carrier likely has a failing or defective preventative maintenance and/or driver trip inspection program . . .
>
> Far too many drivers, roadside inspectors, mechanics, company safety professionals and owner operators reference the OOSC as the ''DOT'' standard. In our judgment it is a mistake and a misuse of the intent of the OOSC. The OOSC serves as a uniform set of guidelines for law enforcement officials when determining whether a driver and/or vehicle are an imminent hazard. The Policy Statement under Part II of the OOSC states ''These criteria are neither suited nor intended to serve as vehicle maintenance or performance standards.''

FMCSA emphasizes that under the existing regulatory language, only roadside inspections *''meeting the minimum standards contained in appendix G''* may be considered to be equivalent to a periodic/annual inspection. This distinction was clearly and extensively discussed in the December 1988 FHWA final rule discussed earlier that established the periodic/annual inspection requirements of § 396.17. In that rule, FHWA stated:

> As noted in the NPRM, the commenters pointed out the differences between random critical element roadside inspections and what they perceived as the intent of § 210 of the [1984] Act. They indicated that a random roadside inspection was basically concerned with ensuring that the vehicle did not pose an imminent danger on the roadway. The focus is on checking the more critical components such as brakes, headlights, brake lights, and steering and suspension systems. In contrast, a periodic inspection should be more concerned with the general overall safety condition of the vehicle, including those parts, which if defective, worn, or missing do not pose an immediate danger but nevertheless should be corrected as soon as possible. *Therefore, the rule requires that roadside inspections meet the minimum standards contained in Appendix G in order to meet the periodic inspection requirements . . .*
>
> The current inspection standards associated with the CVSA or NUD–VIP focus on random roadside inspections and examine certain key components of a vehicle to detect those defects most often identified as causing or contributing to the severity of commercial motor vehicle accidents. The CVSA or NUD–VIP standards, by their very nature, do not require disassembly of parts to effect a thorough inspection. *The FHWA believes that the criteria on which to judge whether or not the vehicle passes the [periodic] inspection should be more thorough than that used during roadside inspections . . .*
>
> Vehicles subjected to random roadside vehicle checks *which inspect vehicles using the criteria included in Appendix G* will be considered to have met the requirements of this rule if they pass the inspection. Note that the current CVSA out-of-service criteria, while very similar to that contained in Appendix G, are not identical. *The fact that a vehicle is subjected to and passes roadside inspection (e.g., receiving a CVSA decal) does not necessarily satisfy the requirements of the periodic inspection under this rule. In order to meet the requirements for a periodic inspection, the inspection must be performed using, as a minimum, the criteria contained in Appendix G of this subchapter* [emphasis added in all].

FMCSA emphasizes that the purpose of the periodic inspection rule was to have motor carriers take full responsibility for having a qualified mechanic do a thorough inspection of the vehicles the carrier controls. FMCSA does not believe it is appropriate to continue to allow carriers relief from this responsibility by using a roadside inspection conducted by enforcement officials. Motor carriers are responsible for having the means of ensuring the completion of a periodic inspection irrespective of whether a roadside inspection is performed and this rulemaking would require them to do so at least once every 12 months, irrespective of whether a roadside inspection is performed during that period.

For the reasons explained above, FMCSA proposes to amend § 396.17(f) to remove the words ''roadside or'' from the current regulatory text as suggested by CVSA in its petition. This proposed amendment would eliminate any uncertainties and make clear that a roadside inspection is not equivalent to the periodic/annual inspection required under § 396.17, even if it is conducted in accordance with the provisions of Appendix G.

In addition, CVSA requested that FMCSA remove the section at the end of Appendix G titled ''*Comparison of Appendix G, and the new North American Uniform Driver-Vehicle Inspection Procedure (North American Commercial Vehicle Critical Safety Inspection Items and Out-Of-Service Criteria*). In light of the proposed amendments to § 396.17(f) described above, and to further decrease the possibility of confusion regarding differing requirements of the roadside inspection program and the periodic/annual inspection program, FMCSA proposes to delete the section as suggested by CVSA.

Section 396.19, Inspector Qualifications. Section 396.19 of the FMCSRs prescribes the minimum qualifications for individuals performing periodic/annual inspections under § 396.17(d). Specifically, § 396.19(b) states that ''Motor carriers and intermodal equipment providers must retain evidence of that individual's qualifications under this section. They must retain this evidence for the period during which that individual is performing annual motor vehicle

inspections for the motor carrier or intermodal equipment provider, and for one year thereafter. However, motor carriers and intermodal equipment providers do not have to maintain documentation of inspector qualifications for those inspections performed either as part of a State periodic inspection program or at the roadside as part of a random roadside inspection program.''

Consistent with the proposed amendments to § 396.17 discussed above, CVSA's petition recommended that FMCSA delete the language regarding ''a random roadside inspection program'' in § 396.19(b).

FMCSA agrees and proposes to amend § 396.19(b) as suggested by CVSA.

NTSB Recommendations, Speed-restricted tires and motorcoach seat anchorage strength in Appendix G.

Speed-restricted tires. After investigating a 2003 motorcoach crash, NTSB recommended that the Agency revise Appendix G ''to include inspection criteria and specific language to address a tire's speed rating to ensure that it is appropriate for a vehicle's intended use.''

FMVSS No. 119, ''*New pneumatic tires for motor vehicles with a GVWR [Gross Vehicle Weight Rating] of more than 4,536 kilograms (10,000 pounds) and motorcycles*,'' requires certain information to be marked on the tire sidewall. S6.5(d) of the standard requires that each tire's maximum load rating for single and dual applications and the corresponding inflation pressure be labeled on the sidewall, which provides information to the vehicle operator to ensure proper selection and use of tires.

However, a tire's maximum speed rating is not required to be labeled on the sidewall, except for tires that are speed-restricted to 90 km/h (55 mph) or below.[1] For speed-restricted tires, S6.5(e) of the standard requires that the label on the sidewall be as follows: ''Max Speed __km/h (__mph).'' [2] For tires that are not speed-restricted, inspection officials have no way to determine from the sidewall labeling the design maximum speed capability of the tire for the specified maximum load rating and corresponding inflation pressure.

FMCSA agrees that speed-restricted tires should not be used on CMVs operating on highways in excess of 55 mph for extended periods of time. However, the adoption of a requirement regarding a tire's speed rating in Appendix G, as recommended by the NTSB in Safety Recommendation H–05–03, absent a regulatory requirement for tires to be so marked, would result in inconsistent enforcement. As an alternative, FMCSA proposes to add language to section 10 of Appendix G that will prohibit the use of speed-restricted tires on CMVs subject to the FMCSRs unless the use of such tires is specifically designated by the motor carrier.

Motorcoach seat anchorage strength. Investigators found that during the Tallulah crash sequence, many passenger seats did not remain securely attached to the floor. The NTSB recommended that the Agency (1) develop a method for inspecting motorcoach passenger seat mounting anchorages, and (2) revise Appendix G of the FMCSRs to require inspection of these anchorages.

Section 393.93(a)(3) requires buses manufactured on or after January 1, 1972, to conform to the requirements of FMVSS No. 207, ''*Seating systems.*'' FMVSS No. 207 establishes requirements for seats, their attachment assemblies, and their installation to minimize the possibility of their failure by forces acting on them as a result of vehicle impact. For most vehicles required by FMVSS No. 208, ''*Occupant crash protection*,'' to have seat belts, the seat belt anchorages must be certified to the strength requirements of FMVSS No. 210, ''*Seat belt assembly anchorages*,'' and the seats must be certified to FMVSS No. 207. Part of the FMVSS No. 207 requirements tests the forward strength of the seat attachment to the vehicle replicating the load that would be applied through the seat center of gravity by inertia in a 20 g vehicle deceleration.

However, FMVSS No. 207 specifically exempts (at S.4.2) all bus passenger seats, including motorcoaches, except for small school bus passenger seats. As such, there are no performance standards in place in the FMVSSs specifically for motorcoach seat anchorages. Following its investigation of the Tallulah crash, NTSB issued Safety Recommendation H–05–01 to NHTSA to ''develop performance standards for passenger seat anchorages in motorcoaches.''

On November 25, 2013, NHTSA published a final rule requiring lap/shoulder belts to be installed for each passenger seating position on (1) all over-the-road buses [3] manufactured on or after November 28, 2016, and (2) all buses other than over-the-road buses manufactured on or after November 28, 2016, with a GVWR greater than 26,000 pounds, with certain exclusions (78 FR 70416). This rule requires the seat belt anchorages, both torso and lap, on passenger seats to be integrated into the seat structure, and these seat belt anchorages to meet the performance requirements of FMVSS No. 210. Testing performed by NHTSA demonstrated that the FMVSS No. 210 requirement ensures that restraints integrated into seats are tested adequately and that the seat attachment is robust. Thus, NHTSA determined that additional FMVSS No. 207 requirements for motorcoach passenger seats are not needed. In consideration of the above, NTSB reclassified Safety Recommendation H–05–01 as ''Closed—Acceptable Alternative Action'' on July 22, 2014.

As noted in the NTSB's report following the Tallulah crash, ''Many different seating system designs are used in motorcoaches operating in the United States; each manufacturer uses its own hardware and anchorage designs . . .'' The NTSB also noted that it had examined the issue of motorcoach seat anchorage failure in six previous crash investigations. The NTSB stated ''Several different seat anchorage system designs were used in the motorcoaches involved in these accidents. Even when properly installed and maintained, some seat anchorage systems failed, while others did not, even in similar accident scenarios.''

Given the wide range of seat anchorage designs, coupled with the lack of testing requirements specifically for seat anchorage strength in the FMVSSs, it is not practicable for FMCSA to develop a detailed methodology for the inspection of motorcoach passenger seat mounting anchorages. However, FMCSA proposes to add a new section to Appendix G that will require an examination of motorcoach seats during the conduct of a periodic inspection in accordance with § 396.17 to ensure that they are securely attached to the vehicle structure.

Amendments to Existing Regulatory Guidance

If the proposed regulatory amendments are adopted, FMCSA will amend existing regulatory guidance

[1] NHTSA published an NPRM on September 29, 2010 proposing to upgrade FMVSS No. 119 (75 FR 60036) to require a maximum speed rating label for radial truck tires with load ranges F and above. No final rule has been published to date.

[2] With respect to the tires on the motorcoach in the Tallulah, LA crash, the NTSB Highway Accident Report notes ''The restricted speed information was embossed on each tire's outer sidewall and was clearly visible.''

[3] The final rule defines over-the-road bus as ''A bus characterized by an elevated passenger deck located over a baggage compartment, except a school bus.''

questions/answers as necessary to maintain consistency with the amended regulatory language.

Regulatory Analyses

Executive Order 12866 (Regulatory Planning and Review and DOT Regulatory Policies and Procedures as Supplemented by E.O. 13563)

FMCSA has determined that this proposed rule is not a significant regulatory action within the meaning of Executive Order (E.O.) 12866, as supplemented by E.O. 13563 (76 FR 3821, January 21, 2011), or within the meaning of DOT regulatory policies and procedures (DOT Order 2100.5 dated May 22, 1980; 44 FR 11034, February 2, 1979). The Agency believes the potential economic impact is nominal because the proposed amendments generally do not involve the adoption of new or more stringent requirements, but rather the clarification of existing requirements. As such, the costs of the rule would not approach the $100 million annual threshold for economic significance. Moreover, the Agency does not expect the rule to generate substantial congressional or public interest. This proposed rule therefore has not been formally reviewed by the Office of Management and Budget (OMB).

Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires Federal agencies to consider the effects of their regulatory actions on small business and other small entities and to minimize any significant economic impact. The term ''small entities'' encompasses 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.[4] 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.

Under the Regulatory Flexibility Act, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA) (Title II, Pub. L. 104–121, 110 Stat. 857, March 29, 1996), the proposed rule is not expected to have a significant economic impact on a substantial number of small entities because the proposed amendments generally do not involve the adoption of new or more stringent requirements, but, instead, the clarification of existing requirements. Therefore, there is no disproportionate burden to small entities.

Consequently, I certify that the proposed action will not have a significant economic impact on a substantial number of small entities. FMCSA invites comment from members of the public who believe there will be a significant impact either on small businesses or on governmental jurisdictions with a population of less than 50,000.

Assistance for Small Entities

In accordance with section 213(a) of the SBREFA, FMCSA wants to assist small entities in understanding this proposed rule so that they can better evaluate its effects on themselves and participate in the rulemaking initiative. If the proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please consult the FMCSA point of contact, Mike Huntley, listed in the **FOR FURTHER INFORMATION CONTACT** section of the proposed rule.

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 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 ensuring the rights of small entities to regulatory enforcement fairness and an explicit policy against retaliation for exercising these rights.

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. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, taken together, or by the private sector of $155 million (which is the value equivalent of $100 million in 1995, adjusted for inflation to 2014 levels) or more in any 1 year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Paperwork Reduction Act

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Executive Order 13132 (Federalism)

A rule has implications for Federalism under Section 1(a) of Executive Order 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 proposal would not have substantial direct costs on or for States, nor would it limit the policymaking discretion of States. Nothing in this document preempts any State law or regulation.

Executive Order 12988 (Civil Justice Reform)

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Executive Order 13045 (Protection of Children)

E.O. 13045, Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, Apr. 23, 1997), requires agencies issuing ''economically significant'' rules, if the regulation also concerns an environmental health or safety risk that an agency has reason to believe may disproportionately affect children, to include an evaluation of the regulation's environmental health and safety effects on children. The Agency determined this proposed rule is not economically significant. Therefore, no analysis of the impacts on children is required. In any event, this regulatory action could not present an environmental or safety risk that would disproportionately affect children.

Executive Order 12630 (Taking of Private Property)

FMCSA reviewed this notice of proposed rulemaking in accordance with Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights, and has determined it will not effect a taking of private property or otherwise have taking implications.

Privacy

The Consolidated Appropriations Act, 2005 (Pub. L. 108–447, 118 Stat. 2809, 3268, 5 U.S.C. 552a note), requires the

[4] Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), see National Archives at *http://www.archives.gov/federal-register/laws/regulatory-flexibility/601.html.*

Agency to conduct a privacy impact assessment (PIA) of a regulation that will affect the privacy of individuals. This proposed rule does not require the collection of personally identifiable information (PII).

The E-Government Act of 2002, Public Law 107–347, section 208, 116 Stat. 2899, 2921 (Dec. 17, 2002), requires Federal agencies to conduct a privacy impact assessment for new or substantially changed technology that collects, maintains, or disseminates information in an identifiable form. No new or substantially changed technology would collect, maintain, or disseminate information as a result of this rule. Accordingly, FMCSA has not conducted a privacy impact assessment.

Executive Order 12372 (Intergovernmental Review)

The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this program.

Executive Order 13211 (Energy Supply, Distribution, or Use)

FMCSA has analyzed this proposed rule under E.O. 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. The Agency has determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' likely to have a significant adverse effect on the supply, distribution, or use of energy. Therefore, it does not require a Statement of Energy Effects under E.O. 13211.

Executive Order 13175 (Indian Tribal Governments)

This 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.

National Technology Transfer and Advancement Act

The National Technology Transfer and Advancement Act (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through OMB, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards (*e.g.,* specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) are standards that are developed or adopted by voluntary consensus standards bodies. This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment (National Environmental Policy Act, Clean Air Act, Environmental Justice)

FMCSA analyzed this NPRM for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and determined this action is categorically excluded from further analysis and documentation in an environmental assessment or environmental impact statement under FMCSA Order 5610.1 (69 FR 9680, March 1, 2004), Appendix 2, paragraphs 6(z)(aa) and 6(z)(bb). The Categorical Exclusion (CE) in paragraph 6(z)(aa) covers regulations requiring motor carriers, their officers, drivers, agents, representatives, and employees directly in control of CMVs to inspect, repair, and provide maintenance for every CMV used on a public road. The CE in paragraph 6(z)(bb) covers regulations concerning vehicle operation safety standards (*e.g.,* regulations requiring: Certain motor carriers to use approved equipment which is required to be installed such as an ignition cut-off switch, or carried on board, such as a fire extinguisher, and/or stricter blood alcohol concentration (BAC) standards for drivers, etc.), equipment approval, and/or equipment carriage requirements (*e.g.* fire extinguishers and flares). The CE determination is available for inspection or copying in the Regulations.gov Web site listed under **ADDRESSES**.

FMCSA also analyzed this rule under the Clean Air Act, as amended (CAA), section 176(c) (42 U.S.C. 7401 *et seq.*), and implementing regulations promulgated by the Environmental Protection Agency. Approval of this action is exempt from the CAA's general conformity requirement since it does not affect direct or indirect emissions of criteria pollutants.

Under E.O. 12898 (Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations), each Federal agency must identify and address, as appropriate, ''disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations'' in the United States, its possessions, and territories. FMCSA has determined that this proposed rule would have no environmental justice effects, nor would its promulgation have any collective environmental impact.

List of Subjects

49 CFR Part 393

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

49 CFR Part 396

Highways and roads. Motor carriers, Motor vehicle equipment, Motor vehicle safety.

For the reasons stated above, FMCSA proposes to amend 49 CFR chapter III, subchapter B, 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, and 31502; sec. 1041(b) of Pub. L. 102–240, 105 Stat. 1914, 1993 (1991); and 49 CFR 1.87.

■ 2. Amend § 393.5 to add a definition for ''Major tread groove'' in alphabetical order to read as follows:

§ 393.5 Definitions.

* * * * *

Major tread groove is the space between two adjacent tread ribs or lugs on a tire that contains a tread wear indicator or wear bar. (In most cases, the locations of tread wear indicators are designated on the upper sidewall/shoulder of the tire on original tread tires.)

* * * * *

■ 3. In § 393.11, revise Footnote 11 of Table 1 to read as follows:

§ 393.11 Lamps and reflective devices.

* * * * *

Table 1 of § 393.11—Required Lamps and Reflectors on Commercial Motor Vehicles

* * * * *

Footnote—11 To be illuminated when tractor headlamps are illuminated. No rear license plate lamp is required on truck tractors registered in States that do not require tractors to display a rear license plate.

* * * * *

PART 396—INSPECTION, REPAIR, AND MAINTENANCE

■ 4. The authority citation for part 396 continues to read as follows:

Authority: 49 U.S.C. 504, 31133, 31136, 31151, and 31502; sec. 32934, Pub. L. 112–141, 126 Stat. 405, 830; and 49 CFR 1.87.

■ 5. Revise § 396.9(d)(2) to read as follows:

§ 396.9 Inspection of motor vehicles and intermodal equipment in operation.

* * * * *

(d) * * *

(2) Motor carriers and intermodal equipment providers shall examine the report. Violations or defects noted thereon shall be corrected in accordance with § 396.11(a)(3). Repairs of items of intermodal equipment placed out-of-service are also to be documented in the maintenance records for such equipment.

* * * * *

■ 6. Revise § 396.17(f) to read as follows:

§ 396.17 Periodic inspection.

* * * * *

(f) Vehicles passing periodic inspections performed under the auspices of any State government or equivalent jurisdiction or the FMCSA, meeting the minimum standards contained in appendix G of this subchapter, will be considered to have met the requirements of an annual inspection for a period of 12 months commencing from the last day of the month in which the inspection was performed.

* * * * *

■ 7. Revise § 396.19(b) to read as follows:

§ 396.19 Inspector qualifications.

* * * * *

(b) Motor carriers and intermodal equipment providers must retain evidence of that individual's qualifications under this section. They must retain this evidence for the period during which that individual is performing annual motor vehicle inspections for the motor carrier or intermodal equipment provider, and for one year thereafter. However, motor carriers and intermodal equipment providers do not have to maintain documentation of inspector qualifications for those inspections performed as part of a State periodic inspection program.

■ 8. Amend Appendix G to Subchapter B of Chapter III by:

■ a. Adding Section 1.l;

■ b. Revising Section 10.c;

■ c. Adding Section 14; and

■ d. Removing ''Comparison of Appendix G, and the New North American Uniform Driver Vehicle Inspection Procedure (North American Commercial Vehicle Critical Safety Inspection Items and Out-Of-Service Criteria)'', including the introductory text and paragraphs 1.—13.

The additions and revision read as follows:

Appendix G to Subchapter B of Chapter III—Minimum Periodic Inspection Standards

* * * * *

1. Brake System

* * * * *

l. Antilock Brake System [1]

(1) Missing ABS malfunction indicator components (bulb, wiring, etc.).

(2) ABS malfunction indicator that does not illuminate when power is first applied to the ABS controller (ECU).

(3) ABS malfunction indicator that stays illuminated while power is continuously applied to the ABS controller (ECU).

(4) Other missing or inoperative ABS components.

* * * * *

10. Tires

* * * * *

c. Installation of speed-restricted tires (unless specifically designated by motor carrier)

* * * * *

14. Motorcoach Seats

a. Any passenger seat that is not securely fastened to the vehicle structure.

Issued under the authority of delegation in 49 CFR 1.87 on: September 24, 2015.

T. F. Scott Darling, III,

Acting Administrator.

[FR Doc. 2015–24921 Filed 10–6–15; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 131108946–5860–01]

RIN 0648–BD76

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Dolphin and Wahoo Fishery Off the Atlantic States and Snapper-Grouper Fishery of the South Atlantic Region; Amendments 7/33

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

[1] This section is applicable to tractors with air brakes built on or after March 1, 1997, and all other vehicles with air brakes built on or after March 1, 1998. This section is also applicable to vehicles over 10,000 lbs. GVWR with hydraulic brakes built on or after March 1, 1999.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes regulations to implement Amendment 7 to the Fishery Management Plan (FMP) for the Dolphin and Wahoo Fishery off the Atlantic States (Dolphin and Wahoo FMP) and Amendment 33 to the FMP for the Snapper-Grouper Fishery of the South Atlantic Region (Snapper-Grouper FMP) (Amendments 7/33), as prepared and submitted by the South Atlantic Fishery Management Council (Council). If implemented, this rule would revise the landing fish intact provisions for vessels that lawfully harvest dolphin, wahoo, or snapper-grouper in or from Bahamian waters and return to the U.S. exclusive economic zone (EEZ). The U.S. EEZ as described in this proposed rule refers to the Atlantic EEZ for dolphin and wahoo and the South Atlantic EEZ for snapper-grouper species. The purpose of this proposed rule is to improve the consistency and enforceability of Federal regulations with regards to landing fish intact provisions for vessels transiting from Bahamian waters through the U.S. EEZ and to increase the social and economic benefits related to the recreational harvest of these species, in accordance with the requirements of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

DATES: Written comments must be received on or before November 6, 2015.

ADDRESSES: You may submit comments on the proposed rule, identified by ''NOAA–NMFS–2015–0047'' by any of the following methods:

• *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2015-0047,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.

• *Mail:* Submit written comments to Nikhil Mehta, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/