

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

F. Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) (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 proposed rule would not result in such an expenditure, a written statement is not required.

G. Paperwork Reduction Act

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

H. E.O. 13132 (Federalism)

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

FMCSA has determined that this proposed rule 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. Therefore, this proposed rule does not have sufficient federalism implications to warrant the preparation of a Federalism Impact Statement.

I. Privacy

The Consolidated Appropriations Act, 2005,⁶ requires the Agency to assess the privacy impact of a regulation that will affect the privacy of individuals. This NPRM would 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 2002,⁷ requires Federal agencies to conduct a PIA 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 proposed 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 rulemaking 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 proposed rule does not have Tribal implications under E.O. 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.

K. National Environmental Policy Act of 1969

FMCSA analyzed this proposed rule pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*). This action would likely fall under a published categorical exclusion and thus be excluded from further analysis and documentation in an environmental assessment or environmental impact statement under FMCSA Order 5610.1 (69 FR 9680), Appendix 2. Specifically, paragraphs (6)(b), which covers regulations that are

⁶ Public Law 108–447, 118 Stat. 2809, 3268, note following 5 U.S.C. 552a (Dec. 4, 2014).

⁷ Public Law 107–347, sec. 208, 116 Stat. 2899, 2921 (Dec. 17, 2002).

procedural or technical in nature, and (6)(z)(1), which covers the minimum qualifications for persons who drive CMVs. The Agency also believes this proposed rule, if finalized, would not have a reasonably foreseeable significant effect on the quality of the human environment. The public is invited to comment on the impact of the proposed Agency action.

L. Rulemaking Summary

In accordance with 5 U.S.C. 553(b)(4), a summary of this proposed rule may be found at [regulations.gov](https://www.regulations.gov), under the docket number.

List of Subjects in 49 CFR Part 391

Motor carriers, Reporting and recordkeeping requirements, Safety, Transportation.

Accordingly, FMCSA proposes to amend 49 CFR part 391 to read as follows:

PART 391—QUALIFICATIONS OF DRIVERS AND LONGER COMBINATION VEHICLE (LCV) DRIVER INSTRUCTORS

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

Authority: 49 U.S.C. 504, 508, 31133, 31136, 31149, 31502; sec. 4007(b), Pub. L. 102–240, 105 Stat. 1914, 2152; sec. 114, Pub. L. 103–311, 108 Stat. 1673, 1677; sec. 215, Pub. L. 106–159, 113 Stat. 1748, 1767; sec. 32934, Pub. L. 112–141, 126 Stat. 405, 830; secs. 5403 and 5524, Pub. L. 114–94, 129 Stat. 1312, 1548, 1560; sec. 2, Pub. L. 115–105, 131 Stat. 2263; and 49 CFR 1.87.

§ 391.64 [Removed and Reserved]

■ 2. Remove and reserve § 391.64. Issued under authority delegated in 49 CFR 1.87.

Sue Lawless,

Assistant Administrator.

[FR Doc. 2025–09707 Filed 5–27–25; 4:15 pm]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Part 392

[Docket No. FMCSA–2021–0050]

RIN 2126–AC39

Railroad Grade Crossings; Stopping Required: Exception for Railroad Grade Crossing Equipped With Active Warning Device Not in Activated State

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: FMCSA proposes to amend the regulations related to driving a commercial motor vehicle (CMV) at railroad grade crossings. Currently, drivers of certain CMVs (e.g., buses transporting passengers and CMVs transporting certain hazardous materials) are required to stop before crossing a railroad track unless an exception applies, such as when the crossing is controlled by a functioning highway traffic signal transmitting a green indication. The Agency proposes to add a similar exception for a railroad grade crossing equipped with an active warning device that is not in an activated state (e.g., flashing lights or crossing gates down, indicating the arrival of a train).

DATES: Comments must be received on or before July 29, 2025.

ADDRESSES: You may submit comments identified by Docket Number FMCSA–2021–0050 using any of the following methods:

- *Federal eRulemaking Portal:* Go to <https://www.regulations.gov/docket/FMCSA-2021-0050/document>. Follow the online instructions for submitting comments.
- *Mail:* Dockets Operations, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Ground Floor, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* Dockets Operations, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Ground Floor, Washington, DC 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.
- *Fax:* (202) 493–2251.

FOR FURTHER INFORMATION CONTACT: Ms. Melissa Williams, Hazardous Materials Division, Office of Enforcement and Compliance, Federal Motor Carrier Safety Administration, 1200 New Jersey Ave. SE, Washington, DC 20590–0001, (202) 366–4163, melissa.williams@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 NPRM as follows:

- I. Public Participation and Request for Comments
 - A. Submitting Comments
 - B. Viewing Comments and Documents
 - C. Privacy
 - D. Comments on the Information Collection

- II. Abbreviations
- III. Legal Basis
- IV. Background
- V. Discussion of Proposed Rulemaking
- VI. International Impacts
- VII. Section-by-Section Analysis
- VIII. Regulatory Analyses
 - A. E.O. 12866 (Regulatory Planning and Review), E.O. 13563 (Improving Regulation and Regulatory Review), and DOT Regulatory Policies and Procedures
 - B. E.O. 14192 (Unleashing Prosperity Through Deregulation)
 - C. Advance Notice of Proposed Rulemaking
 - 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
 - L. Rulemaking Summary

I. Public Participation and Request for Comments

A. Submitting Comments

If you submit a comment, please include the docket number for this NPRM (FMCSA–2021–0050), indicate the specific section of this document to which your 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 FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to <https://www.regulations.gov/docket/FMCSA-2021-0050/document>, click on this NPRM, click “Comment,” and type your comment into the text box on the following screen.

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.

FMCSA will consider all comments and material received during the comment period.

Confidential Business Information (CBI)

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to the NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and

that is relevant or responsive to the NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission that constitutes CBI as “PROPIN” to indicate it contains proprietary information. FMCSA will treat such marked submissions as confidential under the Freedom of Information Act, and they will not be placed in the public docket of the NPRM. Submissions containing CBI should be sent to Brian Dahlin, Chief, Regulatory Evaluation Division, Office of Policy, FMCSA, 1200 New Jersey Avenue SE, Washington, DC 20590–0001 or via email at brian.g.dahlin@dot.gov. At this time, you need not send a duplicate hardcopy of your electronic CBI submissions to FMCSA headquarters. Any comments FMCSA receives not specifically designated as CBI will be placed in the public docket for this rulemaking.

B. Viewing Comments and Documents

To view any documents mentioned as being available in the docket, go to <https://www.regulations.gov/docket/FMCSA-2021-0050/document> and choose the document to review. To view comments, click this NPRM, then click “Browse Comments.” If you do not have access to the internet, you may view the docket online by visiting Dockets Operations on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 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.

C. Privacy

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its regulatory process. DOT posts these comments, including any personal information the commenter provides, to www.regulations.gov as described in the system of records notice DOT/ALL 14 (Federal Docket Management System (FDMS)), which can be reviewed at <https://www.transportation.gov/individuals/privacy/privacy-act-system-records-notices>. The comments are posted without edits and are searchable by the name of the submitter.

II. Abbreviations

ANPRM Advanced notice of proposed rulemaking
 DOT Department of Transportation
 FHWA Federal Highway Administration
 FMCSA Federal Motor Carrier Safety Administration

FMCSRs Federal Motor Carrier Safety Regulations
 FR Federal Register
 FRA Federal Railroad Administration
 HM Hazardous material
 ICC Interstate Commerce Commission
 NASS GES National Automotive Sampling System General Estimates System
 NHTSA National Highway Traffic Safety Administration
 NPRM Notice of proposed rulemaking
 OMB Office of Management and Budget
 PDO Property Damage Only
 PIA Privacy Impact Analysis
 PTA Privacy Threshold Assessment
 RFA Regulatory Flexibility Analysis
 UMRA Unfunded Mandates Reform Act of 1995
 U.S.C. United States Code

III. Legal Basis

This NPRM is based on the Motor Carrier Act of 1935 (1935 Act), 49 Stat. 543, as amended, and the Motor Carrier Safety Act of 1984 (1984 Act), Title II of Public Law 98–554, 98 Stat. 2832 (Oct. 30, 1984), as amended. The 1935 Act, as amended, provides that the Secretary of Transportation (the Secretary) 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 motor private carrier, when needed to promote safety of operation” (49 U.S.C. 31502(b)(1), (2)). This NPRM is directly related to safe motor carrier operations.

The NPRM is also based on the authority of the 1984 Act, as amended, which is codified at 49 U.S.C. 31136(a) and provides broad concurrent authority to regulate drivers, motor carriers, and vehicle equipment. It requires the Secretary to “prescribe regulations on commercial motor vehicle safety,” including “minimum safety standards for commercial motor vehicles.” Section 31136(a) requires that: “At a minimum, the regulations shall ensure that—(1) commercial motor vehicles are maintained, equipped, loaded, and operated safely; (2) the responsibilities imposed on operators of commercial motor vehicles do not impair their ability to operate the vehicles safely; (3) the physical condition of operators of commercial motor vehicles is adequate to enable them to operate the vehicles safely . . . ; (4) the operation of commercial motor vehicles does not have a deleterious effect on the physical condition of the operators; and (5) an operator of a commercial motor vehicle is not coerced by a motor carrier, shipper, receiver, or transportation intermediary to operate a commercial motor vehicle in violation of a regulation promulgated under this

section . . .” (49 U.S.C. 31136(a)(1)–(5)). This NPRM is based on section 31136(a)(1) because it proposes amendments related to the safe operation of CMVs at railroad grade crossings, but does not implicate the driver-centered requirements of section 31136(a)(2) through (4), as it removes a driver responsibility (to stop at railroad grade crossings in certain circumstances), does not touch on operators’ physical condition, and makes a change that would not impact the physical condition of the operator. Because the proposed rule would provide another exception to the general requirement for buses and commercial motor vehicles transporting specified types of hazardous materials (HM) to stop at every grade crossing, the Agency believes the rule would be welcomed by the motor carrier industry, ensuring that drivers would not face a risk of coercion under section 31136(a)(5) to violate it. Before prescribing regulations under these authorities, FMCSA must consider their costs and benefits (49 U.S.C. 31136(c)(2)(A) and 31502(d)). These factors are addressed below.

IV. Background

Railroad Grade Crossings and CMVs

FMCSA was established within DOT on January 1, 2000, pursuant to the Motor Carrier Safety Improvement Act of 1999 (49 U.S.C. 113). The primary mission of FMCSA is to reduce crashes, injuries, and fatalities involving CMVs, e.g., large trucks and buses. The improvement of CMV safety at railroad grade crossings is part of that mission.

FMCSA has several regulations in 49 CFR part 392 related to how CMVs interact with railroad grade crossings that are intended to lower the potential for CMV and train collisions, including § 392.10, which generally requires buses transporting passengers and CMVs transporting specified HM to stop at railroad grade crossings.

The Federal Railroad Administration (FRA) defines the term *Highway-rail grade crossing* in 49 CFR 234.5 as “a location where a public highway, road, street, or private roadway, including associated sidewalks and pathways, crosses one or more railroad tracks at grade.” FMCSA did not define that term or the similar term “railroad grade crossing” when it established the requirements in § 392.10. It should be noted that, because of the way *highway* is defined in § 390.5T (which applies to all of subchapter B, unless specifically defined elsewhere), FMCSA’s regulations on railroad grade crossings do not apply to private roadways unless they are “open to public travel.”

There are approximately 243,000 railroad grade crossings in the United States.¹ FRA estimates that roughly 51 percent of public crossings, where the vast majority of traffic occurs, are equipped with “active” warning devices (such as automatic gates, bells, or flashing light signals to alert drivers of an approaching train), while 43 percent are equipped with “passive” warning signs and markings.²

V. Discussion of Proposed Rulemaking

FMCSA has several regulations in 49 CFR part 392 related to how CMVs interact with railroad grade crossings, including § 392.10, which generally requires buses carrying passengers and CMVs carrying specified HM to stop at railroad grade crossings. Specifically, § 392.10(a) requires drivers of buses carrying passengers and CMVs transporting certain types of HM to stop between 50 and 15 feet of a grade crossing, to look and listen for approaching trains, and, when safe, to cross the tracks without shifting gears.

Exceptions for the stopping requirement are found at § 392.10(b). The exceptions are situations in which vehicles required to stop under § 392.10(a) need not stop. These exceptions include: (1) a streetcar crossing or a railroad switching spur; (2) a grade crossing when directed to proceed by a police officer or flagman; (3) a “grade crossing controlled by a functioning highway traffic signal transmitting a green indication, which, under local law, permits the commercial motor vehicle to proceed across the railroad tracks without slowing or stopping”; (4) an abandoned grade crossing marked as such; or (5) an industrial or spur line grade crossing marked with an “Exempt” sign. It should be noted that the exception under § 392.10(b)(3) is limited to traffic signals “transmitting a green indication,” a requirement that corresponds to very few railroad grade crossings currently installed in this country. Railroad grade crossings equipped with active warning devices generally use a flashing red light to indicate a train is approaching. Motorists are required by local traffic laws to stop when the flashing red light is activated. However, when the flashing red light is not activated, local traffic laws allow motorist to proceed through the crossing without stopping.

FMCSA proposes to add an exception to § 392.10(b) for railroad grade crossings equipped with an active warning device. The exception would

¹ Agency communication with FRA.

² Agency communication with FRA.

allow CMVs subject to § 392.10(a) to proceed if the device is not activated. A crossing is in an activated state when, for example, the lights on the warning device are flashing or the crossing gates (if equipped) are in the down position to warn the driver that one or more trains are arriving. FMCSA believes it would be appropriate to permit a CMV to proceed through an active warning device equipped railroad grade crossing without stopping where the warning device is not in activated state, because local law allows vehicles to proceed across the railroad tracks without slowing or stopping. An active warning device exception would therefore be similar to existing exceptions for a police officer or flagman directing traffic to proceed or for a highway traffic signal transmitting a green signal which, under local law, permits vehicles to proceed without slowing or stopping as described in § 392.10(b), paragraphs (2) and (3).

The NPRM would mainly affect drivers of buses carrying passengers and CMVs transporting certain types of HM currently required to stop at crossings unless there is an exception allowing it to proceed. This would add an additional exception and therefore reduce the number of required stops for these CMVs. The number of stops avoided is impossible to estimate. There are no data on the number of times buses and CMVs transporting specified types of HM encounter grade crossings. In any case, that number would fluctuate with economic demand for bus service and hazardous materials transportation. The Agency requests comment on sources of information and data that could be used to quantify the benefits of this rulemaking.

The Agency also requests comment on whether § 392.11 Railroad grade crossings; slowing down required could be eliminated to further streamline the regulations without impacting safety.

VI. International Impacts

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

VII. Section-by-Section Analysis

This section-by-section analysis describes the proposed changes in numerical order.

Section 392.10 Railroad Grade Crossings; Stopping Required

FMCSA proposes to add paragraph (b)(6), which would allow drivers of

certain CMVs to proceed across a railroad grade crossing equipped with an active warning device that is not in an activated state, which, under local law, permits all vehicles including CMVs to proceed across the railroad tracks without slowing or stopping.

VIII. Regulatory Analyses

A. Executive Order (E.O.) 12866 (Regulatory Planning and Review), E.O. 13563 (Improving Regulation and Regulatory Review), and DOT Regulatory Policies and Procedures

FMCSA has considered the impact of this NPRM under E.O. 12866 (58 FR 51735, Oct. 4, 1993), Regulatory Planning and Review, E.O. 13563 (76 FR 3821, Jan. 21, 2011), Improving Regulation and Regulatory Review, and DOT Regulatory Policies and Procedures. The Office of Information and Regulatory Affairs within the Office of Management and Budget (OMB) determined that this NPRM is not a significant regulatory action under section 3(f) of E.O. 12866, as supplemented by E.O. 13563, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. Accordingly, OMB has not reviewed it under that E.O.

Stopping at railroad grade crossings, as required by § 392.10(a) for buses carrying passengers and CMVs transporting certain types of HM, generally prevents crashes between those vehicles and trains. However, the requirement for buses and CMVs transporting certain kinds of HM to stop at railroad grade crossings, especially on high-speed divided highways, is a potential crash risk because stopping is not expected by drivers of other motor vehicles, making buses and CMVs transporting certain kinds of HM vulnerable to rear-end crashes while slowing or stopping.

With this NPRM, FMCSA is pursuing a more streamlined and risk-informed regulatory approach that is performance-based and focuses on desired, measurable outcomes, rather than the current prescriptive regulation of § 392.10. The amendments to § 392.10 would allow the CMVs listed in that section to proceed through an active-warning device-equipped crossing without slowing or stopping where the warning device is not in activated state, which, under local law, permits all vehicles including CMVs to proceed across the railroad tracks without slowing or stopping.

This proposed rule would primarily affect drivers of buses carrying passengers and CMVs transporting certain types of HM, who are currently

required by § 392.10 to stop at virtually all grade crossings. Removal of the mandatory stop requirement for such buses and CMVs transporting certain types of HM could result in cost savings if these drivers are able to avoid unnecessary stops and thus improve efficiency of operation. FMCSA is unable to estimate any cost savings that could result from this rulemaking as there are no data on the number of times buses and CMVs transporting certain types of HM encounter grade crossings.

With this proposed rulemaking, FMCSA is pursuing a more streamlined and risk-informed regulatory approach that is performance-based and focuses on desired, measurable outcomes, rather than the current prescriptive regulatory requirements. Further, it acknowledges increased adoption and technological advances made in active traffic control devices at railroad grade crossings since the promulgation of the prescriptive stopping requirement in 1938. This proposed rule would not result in any new costs but could result in cost savings for those drivers that would no longer be required to stop at railroad grade crossings by allowing for a continuous flow of traffic at railroad grade crossings.

Further, the proposed changes could also potentially mitigate rear-end crash risk for buses and CMVs transporting certain types of HM by allowing for a predictable and flow of traffic at railroad grade crossings.

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.”³

Implementation guidance for E.O. 14192 issued by OMB (Memorandum M–25–20, March 26, 2025) defines two different types of E.O. 14192 actions: an E.O. 14192 deregulatory action, and an E.O. 14192 regulatory action.⁴

An E.O. 14192 deregulatory action is defined as “an action that has been finalized and has total costs less than zero.” This proposed rulemaking is expected to have total costs less than zero as drivers of buses and CMVs transporting certain types of HM would

³ Executive Office of the President. *Executive Order 14192 of January 31, 2025. Unleashing Prosperity Through Deregulation*. 90 FR 9065–9067. Feb. 6, 2025.

⁴ 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. March 26, 2025.

be allowed to operate their vehicles more efficiently, and therefore would be considered an E.O. 14192 deregulatory action upon issuance of a final rule. The cost savings of this rulemaking could not be quantified.

C. Advance Notice of Proposed Rulemaking

Under 49 U.S.C. 31136(g), FMCSA is required to publish an advance notice of proposed rulemaking (ANPRM) or proceed with a negotiated rulemaking, if a proposed safety rule “under this part”⁵ is likely to lead to the promulgation of a major rule.⁶ As this proposed rule is not likely to result in the promulgation of a major rule, the Agency is not required to issue an ANPRM or to proceed with a negotiated rulemaking.

D. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) (RFA), 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* comprises small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000 (5 U.S.C. 601(6)). Accordingly, DOT policy requires an analysis of the impact of all regulations on small entities, and mandates that agencies strive to lessen any adverse effects on these businesses. No regulatory flexibility analysis is required, however, if the head of an Agency or an appropriate designee certifies that the rulemaking will not have a significant economic impact on a substantial number of small entities.

This proposed rule would impact drivers. Drivers are not considered small entities because they do not meet the definition of a small entity in Section 601 of the RFA. Specifically, drivers are considered neither a small business

under Section 601(3) of the RFA, nor are they considered a small organization under Section 601(4) of the RFA. Therefore, this proposed rule would not impact a substantial number of small entities.

This proposed rule could result in cost savings to drivers, but FMCSA does not anticipate the cost savings to be significant. Consequently, I certify that the proposed action would 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. 104–121, 110 Stat. 857), FMCSA wants to assist small entities in understanding this proposed rule so 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 person listed under **FOR FURTHER INFORMATION CONTACT**.

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

F. Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) (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 rulemaking would not result in such an

expenditure, a written statement is not required.

G. Paperwork Reduction Act

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

FMCSA has determined that this proposed rule 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. Therefore, this proposed 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 NPRM would 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 would collect, maintain, or disseminate information as a result of this rulemaking. 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 proposed rulemaking 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.

⁸Public Law 108–447, 118 Stat. 2809, 3268, note following 5 U.S.C. 552a (Dec. 4, 2014).

⁹Public Law 107–347, sec. 208, 116 Stat. 2899, 2921 (Dec. 17, 2002).

⁵Part B of Subtitle VI of Title 49, United States Code, *i.e.*, 49 U.S.C. chapters 311–317.

⁶A *major rule* means any rule that the Office of Management and Budget 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)).

⁷Public Law 104–121, 110 Stat. 857 (Mar. 29, 1996).

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

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

K. National Environmental Policy Act of 1969

FMCSA analyzed this proposed rule pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*). The Agency believes this proposed rule, if finalized, would not have a reasonably foreseeable significant effect on the quality of the human environment. This action would likely fall under a published categorical exclusion and thus be excluded from further analysis and documentation in an environmental assessment or environmental impact statement under FMCSA Order 5610.1 (69 FR 9680), Appendix 2. Specifically, paragraphs (6)(bb) and (dd), which cover regulations pertaining to vehicle operation safety standards and regulations concerning rules of the road, traffic services, and marking of intelligent transportation systems, respectively. The public is invited to comment on the impact of the proposed Agency action.

L. Rulemaking Summary

As required by 5 U.S.C. 553(b)(4), a summary of this proposed rule can be found in the Abstract section of the Department's Unified Agenda entry for this rulemaking at <https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=202410&RIN=2126-AC39>.

List of Subjects in 49 CFR Part 392

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

Accordingly, FMCSA proposes to revise 49 CFR part 392 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 § 392.10 by adding paragraph (b)(6) to read as follows:

§ 392.10 Railroad grade crossings; stopping required.

* * * * *

(b) * * *
(6) A railroad grade crossing equipped with an active warning device that is not in an activated state (*e.g.*, flashing lights or crossing gates down, indicating the arrival of a train), which, under local law, permits the commercial motor vehicle to proceed across the railroad tracks without slowing or stopping.

Issued under authority delegated in 49 CFR 1.87.

Sue Lawless,

Assistant Administrator.

[FR Doc. 2025–09716 Filed 5–27–25; 4:15 pm]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Parts 392 and 393

[Docket No. FMCSA–2025–0111]

RIN 2126–AC85

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

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: FMCSA proposes to remove references to liquid-burning flares from the warning device requirements in the Federal Motor Carrier Safety Regulations (FMCSRs). This proposed revision would remove outdated language referring to warning devices that FMCSA believes are no longer used.

DATES: Comments must be received on or before July 29, 2025.

ADDRESSES: You may submit comments identified by Docket Number FMCSA–2025–0111 using any of the following methods:

- **Federal eRulemaking Portal:** Go to <https://www.regulations.gov/docket/FMCSA-2025-0111/document>. Follow the online instructions for submitting comments.

- **Mail:** Dockets Operations, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Ground Floor, Washington, DC 20590–0001.

- **Hand Delivery or Courier:** Dockets Operations, U.S. Department of Transportation, 1200 New Jersey

Avenue SE, West Building, Ground Floor, Washington, DC 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.

- **Fax:** (202) 493–2251.

FOR FURTHER INFORMATION CONTACT: Mr. David Sutula, Chief, Vehicle and Roadside Operations Division, FMCSA, 1200 New Jersey Avenue SE, Washington, DC 20590–0001; (202) 366–9209; 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 NPRM as follows:

- I. Public Participation and Request for Comments
 - A. Submitting Comments
 - B. Viewing Comments and Documents
 - C. Privacy
- II. Abbreviations
- III. Legal Basis
- IV. Background
- V. Discussion of Proposed Rulemaking
- VI. International Impacts
- VII. Section-by-Section Analysis
- VII. Regulatory Analyses
 - A. E.O. 12866 (Regulatory Planning and Review), E.O. 13563 (Improving Regulation and Regulatory Review), and DOT Regulatory Policies and Procedures
 - B. E.O. 14192 (Unleashing Prosperity Through Deregulation)
 - C. Advance Notice of Proposed Rulemaking
 - 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
 - L. Rulemaking Summary

I. Public Participation and Request for Comments

A. Submitting Comments

If you submit a comment, please include the docket number for this NPRM (FMCSA–2025–0111), indicate the specific section of this document to which your 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 FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to <https://www.regulations.gov/docket/>