

drums, and corrugated and solid fiberboard boxes).

(b)(1) Except as provided in paragraph (b)(2) of this clause, the Contractor shall affix passive RFID tags, at the case- and palletized-unit-load packaging levels, for shipments of items that—

(i) Are in any of the following classes of supply, as defined in DoD 4140.1-R, DoD Supply Chain Materiel Management Regulation, AP1.1.11:

(A) Subclass of Class I—Packaged operational rations.

(B) Class II—Clothing, individual equipment, tentage, organizational tool kits,

hand tools, and administrative and housekeeping supplies and equipment.

(C) Class III—Packaged petroleum, lubricants, oils, preservatives, chemicals, and additives.

(D) Class IV—Construction and barrier materials.

(E) Class VI—Personal demand items (non-military sales items).

(F) Subclass of Class VIII—Medical materials including pharmaceuticals, (excluding biologicals, and reagents—suppliers should limit the mixing of excluded and non-excluded materials).

(G) Class IX—Repair parts and components including kits, assemblies and subassemblies, repairable and consumable items required for maintenance support of all equipment, excluding medical-peculiar repair parts; and

(ii) Are being shipped to one of the locations listed at <http://www.acq.osd.mil/log/rfid/or> to—

(A) A location outside the contiguous United States when the shipment has been assigned Transportation Priority 1 or to—

(B) The following location(s) deemed necessary by the requiring activity:

| Contract line, subline, or exhibit line item number | Location name | City | State | DoDAAC |
|---|---------------|------|-------|--------|
|   |               |      |       |        |

(2) The following are excluded from the requirements of paragraph (b)(1) of this clause:

(i) Shipments of bulk commodities.

(ii) Shipments to locations other than Defense Distribution Depots when the contract includes the clause at FAR 52.213-1, Fast Payment Procedures.

(c) The Contractor shall—

(1) Ensure that the data encoded on each passive RFID tag are globally unique (i.e., the tag ID is never repeated across two or more RFID tags) and conforms to the requirements in paragraph (d) of this clause;

(2) Use passive tags that are readable; and

(3) Ensure that the passive tag is affixed at the appropriate location on the specific level of packaging, in accordance with MIL-STD-129 (Section 4.9.2) tag placement specifications.

(d) *Data syntax and standards.* The Contractor shall encode an approved RFID tag using the instructions provided in the EPC™ Tag Data Standards in effect at the time of contract award. The EPC™ Tag Data Standards are available at <http://www.epcglobalinc.org/standards/>.

(1) If the Contractor is an EPCglobal™ subscriber and possesses a unique EPC™ company prefix, the Contractor may use any of the identifiers and encoding instructions described in the most recent EPC™ Tag Data Standards document to encode tags.

(2) If the Contractor chooses to employ the DoD identifier, the Contractor shall use its previously assigned Commercial and Government Entity (CAGE) code and shall encode the tags in accordance with the tag identifier details located at [http://www.acq.osd.mil/log/rfid/tag\\_data.htm](http://www.acq.osd.mil/log/rfid/tag_data.htm). If the Contractor uses a third-party packaging house to encode its tags, the CAGE code of the third-party packaging house is acceptable.

(3) Regardless of the selected encoding scheme, the Contractor with which the Department holds the contract is responsible for ensuring that the tag ID encoded on each passive RFID tag is globally unique, per the requirements in paragraph (c)(1).

(e) *Advance shipment notice.* The Contractor shall use Wide Area Workflow (WAWF), as prescribed in DFARS 252.232-7003, Electronic Submission of Payment Requests, to electronically submit advance shipment notice(s) with the RFID tag ID(s) (specified in paragraph (d) of this clause) in advance of the shipment in accordance with the procedures at <https://wawf.eb.mil/>.

(End of clause)

[FR Doc. 2011-3759 Filed 2-18-11; 8:45 am]

**BILLING CODE 5001-08-P**

**DEPARTMENT OF TRANSPORTATION**

**Federal Motor Carrier Safety Administration**

**49 CFR Part 393**

**[Docket No. FMCSA-2010-0271]**

**RIN-2126-AB30**

**Parts and Accessories Necessary for Safe Operation; Saddle-Mount Braking Requirements**

**AGENCY:** Federal Motor Carrier Safety Administration, DOT.

**ACTION:** Notice of proposed rulemaking; request for comments.

**SUMMARY:** The Federal Motor Carrier Safety Administration (FMCSA) proposes to amend the Federal Motor Carrier Safety Regulations (FMCSRs) by eliminating the requirement for operational brakes on the last saddle-mounted truck or tractor in a triple saddle-mount combination, except when a full mount is present. This is in response to a petition for rulemaking from the Automobile Carriers Conference (ACC) of the American Trucking Associations. Currently, the

FMCSRs require operational brakes on any wheel of a saddle-mounted vehicle that is in contact with the roadway. ACC contends that this requirement degrades the braking performance of these combinations because the lightly loaded axle of the last vehicle tends to lock up under heavy braking, and submitted test results supporting this position.

**DATES:** Send your comments on or before April 25, 2011.

**ADDRESSES:** You may submit comments identified by Docket ID Number FMCSA-2010-0271 by any of the following methods:

*Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the online instructions for submitting comments.

*Mail:* Docket Management Facility: U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building, Ground Floor, Room W12-140, Washington, DC 20590-0001.

*Hand Delivery or Courier:* West Building, Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., between 9 a.m. and 5 p.m. ET, Monday through Friday except Federal holidays. *Fax:* 202-493-2251.

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

**FOR FURTHER INFORMATION CONTACT:** Mr. Brian J. Routhier, Vehicle and Roadside Operations Division, Federal Motor Carrier Safety Administration, 202-366-1225, or [brian.routhier@dot.gov](mailto:brian.routhier@dot.gov), 1200 New Jersey Avenue, SE., Washington, DC 20590-0001. Office hours are from 9 a.m. to 5 p.m. ET, Monday through Friday, except Federal holidays.

**SUPPLEMENTARY INFORMATION:****Table of Contents for Preamble**

- I. Public Participation and Request for Comments
  - A. Submitting Comments
  - B. Viewing Comments and Documents
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- II. Legal Basis for the Rulemaking
- III. Background
- IV. Agency Analysis
- V. Discussion of Proposed Rule
- VI. Regulatory Analyses

**I. Public Participation and Request for Comments**

FMCSA encourages you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you provide.

**A. Submitting Comments**

If you submit a comment, please include the docket number for this rulemaking (FMCSA–2010–0271), indicate 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 e-mail address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov> and click on the “Submit a Comment” box, which will then become highlighted in blue. In the “Document Type” drop-down menu, select “Proposed Rules,” insert “FMCSA 2010–0271” in the “Keyword” box, and click “Search.” When the new screen appears, click on “Submit a Comment” in the “Actions” column. 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.

**B. Viewing Comments and Documents**

To view comments, as well as documents mentioned in this preamble, available in the docket, go to [http://](http://www.regulations.gov)

[www.regulations.gov](http://www.regulations.gov) and click on the “Read Comments” box in the upper right-hand side of the screen. Then, in the “Keyword” box, insert “FMCSA–2010–0271” and click “Search.” Next, click the “Open Docket Folder” in the “Actions” column. Finally, in the “Title” column, click on the document you would like to review. If you do not have access to the Internet, you may view the docket online by visiting the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m. Monday through Friday, except Federal holidays.

**C. Privacy Act**

Anyone may search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT’s complete Privacy Act Statement in the **Federal Register** notice published on April 11, 2000 (65 FR 19476).

**II. Legal Basis for the Rulemaking**

This notice of proposed rulemaking (NPRM) is based on the authority of the Motor Carrier Act of 1935 and the Motor Carrier Safety Act of 1984.

The Motor Carrier Act of 1935 provides that “The 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 motor private carrier, when needed to promote safety of operation” [49 U.S.C. 31502(b)].

The braking amendments proposed deal directly with the “safety of operation and equipment of \* \* \* a motor carrier” [49 U.S.C. 31502(b)(1)] and “standards of equipment of \* \* \* a motor private carrier” [49 U.S.C. 31502(b)(2)]. The proposal, adoption, and enforcement of such rules were authorized by the Motor Carrier Act of 1935. This proposal rests squarely on that authority.

The Motor Carrier Safety Act of 1984 (the 1984 Act) provides concurrent authority to regulate drivers, motor carriers, and vehicle equipment. It requires the Secretary of Transportation to “prescribe regulations on commercial motor vehicle safety. The regulations shall prescribe minimum safety standards for commercial motor vehicles.” Although this authority is

very broad, the Act also includes specific requirements: “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 \* \* \*; and (4) the operation of commercial motor vehicles does not have a deleterious effect on the physical condition of the operators” [49 U.S.C. 31136(a)].

This proposal is based on the authority of the 1984 Act and addresses the specific mandates of 49 U.S.C. 31136(a)(1). Neither § 31136(a)(2), which deals almost entirely with the operational demands placed on drivers, nor § 31136(a)(3), which addresses driver physical qualification standards, is covered by this rulemaking. Section 31136(a)(4) deals with the effect of driving on driver health, a subject this proposal addresses indirectly; brake lockup on saddle-mount combinations, which the NPRM is intended to prevent, might under some circumstances cause the driver to lose control of the commercial motor vehicle.

Before prescribing any regulations, FMCSA must also consider their “costs and benefits” [49 U.S.C. 31136(c)(2)(A) and 31502(d)]. Those factors are discussed in the Regulatory Analyses section of this proposal.

**III. Background**

ACC of the American Trucking Associations represents motor carriers that transport motor vehicles ranging from automobiles to Class 8 trucks. ACC states that its members transport more than 96 percent of all trucks moved by the saddle-mount method.

On January 16, 2007, ACC submitted a petition for rulemaking requesting that the requirements for operational brakes on the last saddle-mounted truck (the fourth truck) in a triple saddle-mount combination be eliminated. ACC contends that this requirement actually degrades the braking performance of these combinations because the lightly loaded axle of the last vehicle tends to lock up under heavy braking, potentially increasing stopping distance.

Stopping distances are specified in the vehicle brake performance table at § 393.52(d) of title 49, Code of Federal Regulations, which requires many combination vehicles, including triple saddle-mounts, to be able to stop within 40 feet or less from an initial speed of 20 mph. The FMCSRs do not specify

minimum stopping distances from higher speeds. They do, however, specify performance requirements for the emergency brakes, after the service braking system has failed. Under the § 393.52(d) emergency braking requirements, triple saddle-mounts must be able to stop within 90 feet or less from a speed of 20 mph. Further, § 393.71(a)(3) currently requires operational brakes on any wheel of a saddle-mounted vehicle that is in contact with the highway.

Based on the results of braking tests performed on various triple saddle-mount combinations, as described below, ACC requested that FMCSA make two regulatory changes: (1) Amend § 393.71(a)(3) to eliminate the requirement for operational brakes on the last saddle-mounted truck in a triple saddle-mount combination; and (2) amend § 393.71(c)(4) to require that a triple saddle-mount with any vehicle full-mounted on it have effective brakes acting on those wheels in contact with the roadway.

ACC presented brake performance results from tests conducted by Radlinski & Associates, Inc. [RAI] (now known as Link-Radlinski, Inc.) in 1996 and 2002 in East Liberty, Ohio, on behalf of the National Automobile Transporters Association (NATA), as well as supporting tests RAI conducted for ATC Leasing Company (ATC) in 2003. RAI tested a total of 24 triple saddle-mount combinations in the two tests conducted for NATA and two additional combinations in the ATC test. Braking tests were conducted on various saddle-mount combinations, with overall lengths ranging from 53 to 96.9 feet, total weights ranging from 37,580 to 79,380 pounds, and with and without antilock braking systems (ABS) on the lead unit. Some of the combinations tested exceeded 75 feet in length—the Federal overall length limit then in effect for triple saddle-mount combinations—since the RAI tests were conducted in part to support increases in the overall length limits for saddle-mount combinations. An overview of the tests and corresponding results from RAI is presented below, and a copy of each test report is available in the docket referenced at the beginning of this document.

#### *1996 Test: "Braking and Offtracking Tests on Longer Saddle-mount Driveaway Combinations"*<sup>1</sup>

Stopping distance tests on five triple saddle-mount vehicle combinations

<sup>1</sup>Radlinski & Associates, Inc., Vehicle Systems Consultants (August 1996). "Braking and Offtracking Tests on Longer Saddle-mount

were conducted at speeds of 20, 40, and 55 mph. Three runs were made at each speed, and the results were averaged. In the 20 mph stops, the driver was instructed to apply full braking force, but at higher speeds he was told to make a "best effort," or modulated application, to avoid wheel lockup and skidding. Combinations were tested both with all brakes operational and with the brakes on the rearmost axle disconnected.

All five vehicle combinations, both with and without the rearmost axle brakes connected, met the § 393.52(d) requirement that combinations be able to stop within 40 feet or less from 20 mph. Further, in all tests completed at 40 and 55 mph, stopping distance was reduced when the rearmost axle brakes were disabled. An exception was noted in which a vehicle stopped 1 foot shorter with all brakes operational than with rearmost axle brakes disconnected (164 feet versus 165 feet, respectively), but RAI did not consider the difference (less than 1 percent) significant given the variability in the data.

#### *2002 Test: "Accident Avoidance Performance of More Productive Saddle-mount Driveaway Combinations"*<sup>2</sup>

Stopping distance tests on 19 triple saddle-mount vehicle combinations were conducted from a speed of 20 mph, with a reported average of two or three test runs per combination vehicle. In addition, emergency brake tests were performed that require combination vehicles to be able to stop from 20 mph within 90 feet or less. Three types of failures were introduced: front brake circuit failure in the towing vehicle, rear brake circuit failure in the towing vehicle, and a failed towing line (*i.e.*, the brakes on the towed unit were not operational).

All 19 triple saddle-mount combinations were tested with the rearmost axle brakes connected, and 12 were tested with the rearmost axle brakes disabled. In the latter group, all of the units met the § 393.52(d) stopping distance requirement of a maximum of 40 feet from 20 mph. Five units were then tested for stopping distances from both 40 and 55 mph. In all but one case, stopping distance was reduced significantly with the brakes on the rearmost unit disabled. The exception involved a 4 percent increase in stopping distance with the brakes on the last axle disconnected—a difference RAI

Driveaway Combinations." Test conducted for the National Automobile Transporters Association.

<sup>2</sup>Radlinski & Associates, Inc., Vehicle Systems Consultants (January 2002). "Accident Avoidance Performance of More Productive Saddle-mount Driveaway Combinations."

did not consider significant given the variability in the data.

In the emergency braking tests, 12 combinations were tested in each of two failure scenarios: failed front brakes and failed rear brakes. Two of the units were also tested with a third failure mode of a failed towing control line. All of the vehicles were able to stop within much shorter distances than the 90-foot maximum specified in § 393.52(d).

#### *2003 Test: "Braking Performance of Saddle-mount Driveaway Combinations"*<sup>3</sup>

Stopping distance tests were conducted on one triple saddle-mount combination vehicle from 20, 40, and 55 mph.<sup>4</sup> Three runs were made at each speed, and the results were averaged. In the 20 mph stops, the driver was instructed to apply full braking force, but at the higher speeds he was directed to make a "best effort," or modulated application, to avoid wheel lockup and skidding. The combination was tested with all brakes operational, and also with the brakes on the rearmost axle in the combination disconnected.

The triple saddle-mount combination, both with and without the rearmost unit braked, was able to stop shorter than the 20 mph service brake stopping distance criterion of 40 feet or less in § 393.52(d). Additionally, in all but one test conducted at 40 and 55 mph, stopping distance was reduced when the rearmost axle brakes were disabled.

#### **IV. Agency Analysis**

These test results demonstrate that triple saddle-mount driveaway combinations (1) are able to meet the performance requirements of § 393.52(d) at various combinations of vehicle weight and length with the brakes disconnected on the rearmost towed units (fourth truck), and (2) at higher speeds, perform better when there are no brakes on the rearmost towed unit. Because the rearmost unit (fourth truck) axle weight is less than half the axle weight on the other towed units, connecting the brakes on the rearmost axle increases the likelihood of premature wheel lockup and loss of control due to skidding, and limits the maximum deceleration of the overall combination. Without brakes on the rearmost unit, the driver can apply the brakes harder on the lead unit and the forward towed units, achieving a higher deceleration. Disconnecting the brakes

<sup>3</sup>Radlinski & Associates, Inc. Vehicle Systems Consultants (May 2003). "Braking Performance of Saddle-mount Driveaway Combinations." Test conducted for ATC Leasing Company.

<sup>4</sup>The 2003 test also included a double saddle-mount configuration.

on the rearmost unit also reduces the total volume of air that must be delivered to the towed vehicles, which in turn reduces brake application time and stopping distance.

In addition, ACC's request to amend the braking requirements for triple saddle-mount combinations is based on the same considerations FMCSA cited in a final rule that permits motor carriers to disconnect the service brakes on unladen converter dollies manufactured on or after March 1, 1998.<sup>5</sup> (70 FR 48008, Aug. 15, 2005). The axle weight of an unladen dolly is so low that the wheels lock up under hard braking. To ensure stability and control, which are especially critical during emergency braking, it is better to disconnect the dolly's brakes. Based on testing performed in 1990 at the National Highway Traffic Safety Administration's Vehicle Research and Test Center, FMCSA stated in its final rule:

Stability and control during braking is an important consideration in determining braking requirements for commercial motor vehicles. While stopping distances for a bobtail tractor towing an unladen converter dolly could be improved in some situations by requiring operable dolly brakes, they could be significantly degraded in others. When consideration is given to the possibility of the converter dolly swinging out as a result of wheel lock up, the FMCSA believes the FMCSRs should be amended to include an exception to the requirement for operable brakes on unladen converter dollies.

The last unit in a saddle-mount combination has higher axle weights than a converter dolly but behaves in much the same way—*i.e.*, the axle in contact with the road locks up under heavy braking, reducing controllability and increasing the stopping distance of the vehicle.

As noted previously, ACC requested FMCSA to address this brake-performance issue by amending both §§ 393.71(a)(3) and 393.71(c)(4). The latter provision requires that if a motor vehicle towed by means of a double saddle-mount has any vehicle full-mounted on it, the saddle-mounted vehicle must at all times while so loaded have effective brakes acting on those wheels that are in contact with the roadway. But § 393.71(c)(4) does not

currently apply to *triple* saddle-mount combinations having a full-mounted vehicle. In this situation, the weight on the rearmost axle will be increased, so the brakes on the rearmost unit need to be connected to ensure adequate braking capability—unlike the circumstances described earlier in which the lightly loaded rear axle tends to skid and lose control due to premature wheel lockup.

#### V. Discussion of Proposed Rule

Given the potential for increased brake performance efficiencies demonstrated in the test results submitted by ACC, FMCSA agrees that eliminating the requirement for operational brakes on the last (or fourth) saddle-mounted truck or tractor in a triple saddle-mount combination would likely produce safety benefits. We also agree that when one or more vehicles are full-mounted on a triple saddle-mount combination, the FMCSRs should continue to require operative brakes on all wheels in contact with the roadway.

As ACC requested, this proposed rule would amend § 393.71(a)(3) to except the last truck or tractor in a triple saddle-mount configuration from the requirement to have brakes acting on all wheels in contact with the roadway. Further, the proposal would apply to any truck tractor being towed as the last truck in a triple saddle-mount configuration, regardless of whether it is equipped with ABS (as required by § 393.55(c) for truck tractors manufactured on or after March 1, 1997). Although § 393.55(c) excepts truck tractors engaged in driveaway-towaway operations from the requirement to have ABS, the exception is moot for truck tractors built on or after March 1, 1997. In saddle-mount towing configurations, these truck tractors have only an air line connection between each vehicle, so no power is available to operate the antilock sensors and control modules in the towed vehicles. The Agency recommends, therefore, that the rearmost axle brakes in a triple saddle-mount configuration be disconnected even if equipped with ABS.

This proposal also would broaden the applicability of § 393.71(c)(4) to include motor vehicles towed by means of a triple saddle-mount configuration. Under the proposed regulation, if a motor vehicle towed by means of either a double or triple saddle-mount has any vehicle full-mounted on it, the saddle-mounted vehicle would be required at all times to have effective brakes acting on those wheels in contact with the roadway.

In addition, the proposed rule would revise § 393.42 to read, "Any combination of motor vehicles with one or two saddle-mounts." This effectively excepts triple saddle-mount combinations in driveaway-towaway operations from the requirement to have brakes acting on all wheels. These proposed changes are consistent with the Agency's mission of increasing highway safety.

#### VI. Regulatory Analyses

##### *Executive Order 12866 (Regulatory Planning and Review)*

This proposed rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Agency does not believe implementing this proposed rule would create new costs or cause an adverse economic impact on the industry or the public. Therefore, a full regulatory evaluation is unnecessary.

FMCSA anticipates that this rule could result in several benefits, chief among them the increased safety performance of triple saddle-mount combination CMVs. By improving the braking performance of these CMVs, the proposed rule could reduce the number of crashes in which they are involved. This improved braking ability would also increase the mechanical integrity of these CMVs, providing an ancillary safety benefit.

Tests conducted by Radlinski & Associates, Inc. (now known as Link-Radlinski, Inc.) in 1996, 2002, and 2003, discussed in the Background section of this document, support the argument that disconnecting the rearmost axle brakes of triple saddle-mount combination CMVs improves their braking performance. FMCSA does not have quantifiable data, however, that would allow for an estimation of the number of CMV crashes this change in practice would prevent, and cannot quantify this potential benefit.

This proposed rule would also reduce regulatory burden on motor carriers by eliminating the requirement to connect the rearmost axle brakes on triple saddle-mount CMVs. As with any proposed elimination of an existing regulation, reducing regulatory burden on motor carriers has the potential to lower associated compliance costs. These cost savings are, however, likely to be modest because the proposed rule simply amends a practice that is not particularly laborious or time-consuming.

<sup>5</sup> FMCSA noted that with NHTSA's March 10, 1995, final rule on ABS (60 FR 13216), the long-term need for this exception for unladen converter dollies will diminish. An ABS-equipped converter dolly will not have the stability and control problems observed with unladen converter dollies not equipped with ABS. Therefore, converter dollies manufactured on or after March 1, 1998, the effective date of the NHTSA requirement for ABS on converter dollies, are not covered by the exception.

In addition, FMCSA does not expect that this proposed rule would impose costs upon affected motor carriers, because the elimination of the current requirement would not require motor carriers to purchase new equipment, parts, or accessories or to modify or alter existing equipment or vehicles.

#### *Regulatory Flexibility Act*

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires Federal agencies to determine whether proposed rules could have a significant economic impact on a substantial number of small entities. The Agency's economic assessment demonstrates that the proposed rule will yield minor benefits while imposing no new costs. Consequently, I certify that this proposed action would not have a significant economic impact on a substantial number of small entities.

#### *Unfunded Mandates Reform Act of 1995*

This rulemaking does not impose an unfunded Federal mandate, as defined by the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1532 *et seq.*), that will result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of \$140.8 million (which is the value of \$100 million in 2009 after adjusting for inflation) or more in any 1 year.

#### *Executive Order 12988 (Civil Justice Reform)*

This proposed action 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)*

FMCSA analyzed this proposed action under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. We determined that this rulemaking does not pose an environmental risk to health or safety that may disproportionately affect children.

#### *Executive Order 12630 (Taking of Private Property)*

This rulemaking does not effect a taking of private property or otherwise have takings implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

#### *Executive Order 13132 (Federalism)*

A rulemaking has implications for Federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. FMCSA analyzed this proposed action in accordance with Executive Order 13132. The proposal would not have a substantial direct effect on States, nor would it limit the policymaking discretion of States. Nothing in this document preempts any State law or regulation.

#### *Executive Order 12372 (Intergovernmental Review)*

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

#### *Paperwork Reduction Act*

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that FMCSA consider the impact of paperwork and other information collection burdens imposed on the public. We determined that no new information collection requirements are associated with this proposed rule.

#### *National Environmental Policy Act*

FMCSA analyzed this NPRM for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and determined under our environmental procedures Order 5610.1, issued March 1, 2004 (69 FR 9680), that this proposed action has the potential to produce a very small benefit to the environment if any reduction in crashes is realized. Therefore, this NPRM is categorically excluded from further analysis and documentation in an environmental assessment or environmental impact statement under FMCSA Order 5610.1, paragraph 6(bb) of Appendix 2. The Categorical Exclusion under paragraph 6(bb) relates to regulations concerning vehicle operation safety standards that would apply to how these vehicles are operated. The Categorical Exclusion determination is available for inspection or copying in the *Regulations.gov* Web site listed under **ADDRESSES**.

We 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.

#### *Executive Order 13211 (Energy Effects)*

FMCSA analyzed this action under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We determined that it is not a "significant energy action" under that Executive Order because it is not economically significant and is not likely to have an adverse effect on the supply, distribution, or use of energy.

#### **List of Subjects in 49 CFR Part 393**

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

In consideration of the foregoing, FMCSA proposes to amend title 49, Code of Federal Regulations, subchapter B, chapter III, as follows:

#### **PART 393 [AMENDED]**

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

**Authority:** 49 U.S.C. 322, 31136, 31151, and 31502; Sec. 1041(b) of Pub. L. 102-240, 105 Stat. 1914, 1993 (1991); and 49 CFR 1.73.

2. Amend § 393.42 by revising paragraph (b)(2)(ii) to read as follows:

#### **§ 393.42 Brakes required on all wheels.**

\* \* \* \* \*

(b) \* \* \*

(2) \* \* \*

(ii) Any combination of motor vehicles utilizing one or two saddle-mounts.

\* \* \* \* \*

3. Amend § 393.71 by revising paragraphs (a)(3) and (c)(4) to read as follows:

#### **§ 393.71 Coupling Devices and towing methods, driveway-towaway operations.**

(a) \* \* \*

(3) When motor vehicles are towed by means of triple saddle-mounts, all but the final towed vehicle must have brakes acting on all wheels in contact with the roadway.

\* \* \* \* \*

(c) \* \* \*

(4) If a motor vehicle towed by means of a double or triple saddle-mount has any vehicle full-mounted on it, such saddle-mounted vehicle must at all times while so loaded have effective brakes acting on all wheels in contact with the roadway.

\* \* \* \* \*

Issued on: February 11, 2011.

**Anne S. Ferro,**  
*Administrator.*

[FR Doc. 2011-3911 Filed 2-18-11; 8:45 am]

**BILLING CODE 4910-EX-P**