discussed among NAB's staff and other parties, will be helpful to the Commission's inquiry. Furthermore, NAB asserts, the issues raised by the Notice, and the NAB's position on them, will be major subjects of its Joint Board of Directors meeting scheduled June 27–30, 1998.

3. We will grant the requested extension. Although the Commission has a policy of not routinely granting extensions of time for filing comments in rulemaking proceedings [2] this proceeding raises a number of complex issues concerning the nature, dimension, and competitiveness of the several markets in which the subject rules operate. A well-documented record will best conduce to an informed decision as to which of the Commission's broadcast ownership rules are no longer necessary in the public interest as a result of competition. Additionally: (1) The National Association of Broadcasters represents many of the parties that will most directly be affected by any actions we take in this proceeding; (2) it has shown good cause why a sixty-day extension will enable it to provide more well-informed comments; and (3) no party will be prejudiced by this extension. Rather, all may make good use of this added time to prepare and present well-supported comments on these important issues.

4. This action is taken pursuant to the authority found in Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(r), and sections 204(b), 0.283, and 1.45 of the Commission's Rules.

Federal Communications Commission.

Roy J. Stewart,

Chief, Mass Media Bureau.

[FR Doc. 98–12668 Filed 5–13–98; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Part 393

[FHWA Docket No. FHWA–97–3201]

RIN 2125–AE15

Parts and Accessories Necessary for Safe Operation; Rear Impact Guards and Rear Impact Protection

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of proposed rulemaking (NPRM); request for comments.

SUMMARY: The FHWA is proposing to amend the Federal Motor Carrier Safety Regulations (FMCSRs) to require that certain trailers and semitrailers with a gross vehicle weight rating (GVWR) of 4,536 kilograms (kg) (10,000 pounds) or more, and manufactured on or after January 26, 1998, be equipped with rear impact guards that meet the requirements of Federal Motor Vehicle Safety Standard (FMVSS) No. 223. The rear impact guards would be installed to ensure that the trailer or semitrailer meets the rear impact protection requirements of FMVSS No. 224. This rulemaking is intended to ensure that the rear impact protection requirements of the FMCSRs are consistent with the FMVSSs and to improve the safety of operation of commercial motor vehicles (CMVs) by reducing the incidence of passenger compartment intrusion during underride accidents in which the passenger vehicle strikes the rear of the trailer. With regard to trailers manufactured before January 26, 1998, the FHWA is not proposing that motor carriers be required to retrofit a rear impact guard that conforms to FMVSS No. 223. However, motor carriers operating these trailers would be required to continue complying with the FHWA's current requirements for rear impact guards and rear impact protection.

DATES: Comments must be received on or before July 13, 1998.

ADDRESSES: Submit written, signed comments to the docket number that appears in the heading of this document to the Docket Clerk, U.S. DOT Dockets, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590–0001. All comments received will be available for examination at the above address from 10 a.m. to 5 p.m., et., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped envelope or postcard.

FOR FURTHER INFORMATION CONTACT: Mr. Larry W. Minor, Office of Motor Carrier Research and Standards, (202) 366–4009, or Mr. Charles Medalen, Office of the Chief Counsel, (202) 366–1354, Federal Highway Administration, Department of Transportation, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

Internet users can access all comments received by the U.S. DOT Dockets, Room PL–401, by using the universal resource locator (URL): http://dms.dot.gov. It is available 24 hours each day, 365 days each year. Please follow the instructions online for more information and help.

An electronic copy of this document may be downloaded using a modem and suitable communications software from the **Federal Register** Electronic Bulletin Board Service at (202) 512–1661. Internet users may reach the **Federal Register**'s home page at: http://www.nara.gov/nara/fedreg and the Government Printing Office's database at: http://www.access.gpo.gov/su__docs.

Background

On January 24, 1996 (61 FR 2003), the National Highway Traffic Safety Administration (NHTSA) published a final rule creating Federal Motor Vehicle Safety Standards (FMVSSs) Nos. 223, Rear Impact Guards, and 224, Rear Impact Protection. The requirements apply to trailers manufactured on or after January 26, 1997.

The first standard, FMVSS No. 223 (49 CFR 571.223), specifies performance requirements that rear impact guards must meet before they can be installed on new trailers and semitrailers. It specifies strength requirements for the impact guards as well as test procedures that manufacturers and the NHTSA will use to determine compliance with the standard. The standard also requires the guard manufacturer to permanently label the impact guard to certify that the device meets the requirements and to provide instructions on the proper installation of the guard.

The second standard, FMVSS No. 224 (49 CFR 571.224), requires that most new trailers and semitrailers with a gross vehicle weight rating (GVWR) of 4,536 kg (10,000 pounds) or more be equipped with a rear impact guard meeting FMVSS No. 223. Requirements for the location of the guard relative to the rear end and sides of the trailer are also specified in the vehicle standard. In addition, the vehicle standard requires that the guard be mounted on the trailer or semitrailer in accordance with the instructions of the guard manufacturer.

History of Current FHWA Requirements

The first Federal requirements concerning heavy vehicle rear underride protection were issued in 1952 by the Bureau of Motor Carriers of the Interstate Commerce Commission (ICC) (presently the Office of Motor Carriers of the Federal Highway Administration). The regulation, which is still in effect (49 CFR 393.86), requires heavy trucks, trailers, and semitrailers to be equipped with a rear-end protection device

[2] 47 CFR 1.46.

designed to help prevent underride. The rule requires that the ground clearance of the underride guard be no more than 760 mm (30 inches) when the vehicle is empty. The rule also requires that the underride guard be located no more than 610 mm (24 inches) forward of the rear of the vehicle and that it extend laterally to within 460 mm (18 inches) of each side. The underride device is required to be ''substantially constructed and firmly attached.''

The language that the ICC adopted was based upon the recommendations of the Bumper Heights Committee of the Society of Automotive Engineers (SAE). On January 2, 1947, the Director of the Bureau of Motor Carriers sent a letter to the SAE requesting that the Bumper Heights Committee consider expanding its work on passenger car bumpers to include recommendations for rear bumpers on heavy vehicles. The SAE provided a report entitled ''Recommendations Covering Rear Bumpers on Trucks and Trailers,'' in September 1947. A copy of the report is included in the docket file.

NHTSA and FHWA Efforts To Develop Improved Underride Regulations

Efforts to improve the Federal requirements for rear underride protection started in the late 1960's. On October 14, 1967, the FHWA's National Highway Safety Bureau (NHSB, the predecessor of the NHTSA) issued an advance notice of proposed rulemaking (ANPRM) requesting comments on possible amendments to the Federal Motor Vehicle Safety Standards (32 FR 14278).

On March 19, 1969, the NHSB issued a notice of proposed rulemaking on rear underride protection devices (34 FR 5383). The proposal would have applied to all new trucks and trailers (except pole trailers) with a GVWR greater than 4,536 kgs (10,000 pounds). The maximum ground clearance for the underride protection would have been 457 mm (18 inches). The proposal also included a static strength test that would have required that the device deflect no more than 381 mm (15 inches) forward of the rearmost part of the vehicle when a force of 333,600 Newtons (75,000 pounds) was applied.

In 1970, the NHSB (acting as a regulatory agency within the Department of Transportation but independent of the FHWA) issued a supplemental notice of proposed rulemaking (SNPRM) in response to comments to the 1969 NPRM (35 FR 12956, August 14, 1970). The commenters had expressed concern about operational problems that would be created if the ground clearance for the rear underride guard could not exceed 457 mm (18 inches). Commenters also expressed concerns about the test procedures. Although the NHSB did not increase the ground clearance for the underride guard, the agency proposed reducing the test force requirements from 333,600 Newtons (75,000 pounds) to 222,400 Newtons (50,000 pounds).

The NHTSA (successor to the NHSB pursuant to the Highway Safety Act of 1970) terminated the rulemaking on rear underride on June 18, 1971 (36 FR 11750). The NHTSA stated that ''[b]ased upon the information received in response to the notices and evaluations of cost and accident data, the Administration has concluded that, at the present time, the safety benefits achievable in terms of lives and injuries saved would not be commensurate with the cost of implementing the proposed requirements.''

In response to a petition for rulemaking from the Insurance Institute for Highway Safety (IIHS) and a March 16, 1977, hearing before the Senate Committee on Commerce, Science, and Transportation on auto-truck crash safety, the NHTSA and the FHWA jointly issued an ANPRM requesting information on possible revisions to 49 CFR 571 and 49 CFR 393.86 (42 FR 43414, August 29, 1977). The notice stated:

> [I]t is the conclusion of the Department of Transportation that the present requirements should be reexamined because the problem of rear underride accidents remains, and it is likely to become more severe as automobiles become smaller and are used in greater numbers. Improved rear end protection devices on heavy motor vehicles that may contribute substantially to saving lives and preventing injuries may be possible without incurring either unacceptable costs or unacceptable restrictions on operations.

The notice also indicated that the FHWA was starting a research program to ''establish the level of rear underride protection needed to reduce injuries and fatalities in a variety of realistic accident situations.'' The goals of the research program were described:

> This will be an attempt to develop a number of rear underride designs to determine the desired level of performance, giving due consideration to cost, weight, and operational problems. Results of this contract effort will be used in determining what form any amendments to FMCSR Section 393.86 and FMVSS Part 571 should take.

The FHWA and the NHTSA worked together in developing a rear underride research program and initiated two separate studies. The FHWA contracted with the Texas Transportation Institute (TTI) of Texas A&M University to develop low-cost underride guards that would be practical and effective in preventing underride. The NHTSA contracted with Dynamic Sciences, Inc. (DSI) to develop compliance test procedures for the guards. These joint contract efforts were intended to generate sufficient data to support a rule applicable to vehicles with a GVWR greater than 4,536 kg (10,000 pounds).

The research contracts focused on preventing excessive underride primarily through the use of a rigid guard having a low ground clearance. This approach was similar to that followed by IIHS in a test program conducted in 1976. The tests performed by TTI and DSI demonstrated what the IIHS program had shown earlier: Excessive underride could be prevented with rigid guards. However, the tests also indicated that rigid guards increase the deceleration forces experienced by passenger car occupants during a crash and therefore increase the risk of injury due to hazards other than underride.

Restrained anthropomorphic test devices (commonly referred to as test dummies) placed in passenger cars that were crashed into the rigid guards at speeds of 56.3 km/hr (35 mph) or more experienced injury responses (forces detected by sensors in the test dummies) that were outside of the ranges allowed under FMVSS No. 208, Occupant Crash Protection. This was significant because the accident statistics available at that time indicated that most accidents in which a passenger car collided with a heavy vehicle rear end were survivable. The data further indicated that a majority of the fatalities that occurred took place in accidents that did not involve excessive underride.

Dynamic Sciences, Inc. also tested production underride devices that were typical of the guards in use at the time. The guards were not able to prevent small cars from excessively underriding test trailers at collision speeds above 48.3 km/hr (30 mph). In these tests, the dummies experienced injury responses that were above the limits of FMVSS No. 208. When small cars were crashed into the guards, the guards did not fail (i.e., did not permanently deform). In tests of large cars at collision speeds of 48.3 km/hr (30 mph), underride was excessive in offset collisions but not when the collision was centric. Occupant injury responses were within the allowable limits of FMVSS No. 208 and none of the guards failed. Occupant injury responses were also within the permissible limits of FMVSS No. 208 when the large cars were crashed into the guard at 64.4 km/hr (40 mph). However, the underride was excessive

and the guards were permanently deformed.

In addition, the TTI program tested a hydraulic energy-absorbing guard manufactured by Quinton-Hazell Automotive Ltd. (Quinton-Hazell). The Quinton-Hazell device was very effective at preventing excessive underride, reducing occupant injury responses, and reducing damage to the colliding vehicle.

The TTI also conducted two tests in which passenger vehicles were crashed into a van-type trailer that had no guard but whose adjustable rear wheels were set in the rearmost position. The purpose of these tests was to determine the effectiveness of rear tandems as a means for preventing underride. The tests demonstrated that the rear wheels, when placed at the extreme rear of the truck or trailer, prevent excessive underride at approximately 56.3 km/hr (35 mph). Further, the restrained dummies used in these tests experienced injury responses that were within the allowable limits of FMVSS No. 208.

The NHTSA issued an NPRM on January 8, 1981 (46 FR 2136). The proposed standard would have required large trucks and trailers to be equipped with an underride guard that met specified strength requirements and prescribed requirements concerning the configuration of the impact guard. The proposed standard differed from the FHWA's regulation in three ways. First, the NHTSA's proposal included objective strength requirements for the guard. Second, the proposed configuration requirements would have resulted in the guard having a lower ground clearance and being closer to the rear of the vehicle. Third, the NHTSA's proposed impact guard would have been wider (i.e., closer to the sides of the vehicle).

Based upon comments received in response to the 1981 NPRM and the results of the TTI and DSI studies, the NHTSA published a supplemental notice of proposed rulemaking (SNPRM) (57 FR 252, January 3, 1992). Instead of a vehicle-based safety standard as proposed in 1981, the NHTSA proposed separate standards for the impact guard as an item of motor vehicle equipment and for the vehicle. The equipment standard would specify the strength requirements that the guard would have to meet when attached to a rigid test fixture rather than the vehicle. The vehicle standard would require vehicle manufacturers to install a guard meeting the equipment standard, and to certify that the trailer has an impact guard installed at the required location.

The NHTSA's Vehicle Research and Test Center (VRTC) initiated a program to develop and evaluate the effectiveness of a rear impact guard design that would meet the proposed requirements. The VRTC developed a static test fixture and fabricated an impact guard design that met, but did not exceed, the minimum requirements. A number of additional guards were fabricated and tested to evaluate the repeatability of the design.

In addition, a rigid simulated trailer was developed to mount the guard for dynamic testing. Two sub-compact and two compact vehicle models were selected for crash testing to evaluate the effectiveness of the guard design in preventing rear underride injuries. Tests were conducted using the simulated trailer and an actual tractor trailer. A crash test was also performed with a rigid guard configuration for comparison with the results of the design. The researchers concluded that:

1. The currently proposed maximum guard height of 22 inches appeared to adequately engage the structures of all 4 vehicles tested [Honda Civic, Ford Tempo, General Motors Saturn, and Chevrolet Corsica]. The test vehicles were all high sales volume sub-compact and compact models with a low frontal profile.

a. The guards contacted each vehicle just above the bumper, engaging hood and fenders, engine, and upper suspension support structures.

b. The air bag restraints of all 4 vehicles deployed early enough to provide protection for the unbelted driver dummy.

2. For the test conducted, the 22 inch guard height prevented occupant compartment intrusion as long as the attachment at the guard/trailer interface was sufficiently strong. In one test (the first Saturn test), the guard attachment hardware failed. In the first test with the production trailer, the trailer sub-frame rails to which the guard was attached also failed. In each case, the mounting hardware was changed and all subsequent tests produced no interface failure or occupant compartment intrusion by the rear end of the trailer.

3. There is a trade-off between energy absorption, which reduces occupant accelerations by allowing the guard to give, and limiting underride, which reduces the possibility of passenger compartment intrusion. It is possible to significantly increase the strength of the guard, without exceeding the NHTSA's Occupant Crash Protection criteria [FMVSS No. 208 (49 CFR 571.208) Occupant Crash Protection].

The Corsica test with the ''minimally compliant'' guard design resulted in a clearance of 0.2 inches between the rear of the trailer and the forward-most part of the windshield after the collision, and low test dummy injury responses. A rigid guard test for the same vehicle resulted in 32.2 inches of clearance to the windshield. Dummy injury responses increased with one chest response just over 60 g's [60 times gravitational acceleration, 9.825 m/sec^2 (32.2 feet/sec^2)], but in general response levels were similar to that seen in [FMVSS No. 208 compliance] tests.

A copy of the NHTSA's report, ''Heavy Truck Rear Underride Protection,'' DOT HS 808–081, June 1993, has been placed in the docket file.

On January 24, 1996, the NHTSA issued a final rule establishing new safety standards for rear impact guards and rear impact protection (61 FR 2004). The rule applies to certain trailers manufactured on or after January 26, 1998. One of the major differences between the final rule and the SNPRM is the addition of a requirement for energy absorption. The SNPRM would have permitted fairly rigid guards because it did not require the guard to yield in response to force. The preamble to the final rule indicated that rigid guards may stop the passenger vehicles too quickly, causing occupant deaths and injuries.

The NHTSA also changed some of the impact guard configuration requirements to allow rounded guard ends. To account for high rear overhang on trailers such as automobile transporters, the NHTSA changed the definition of the vertical zone to be considered when determining the trailer's rear extremity. The location of the guard is based upon the location of the rear extremity.

On January 26, 1998, the NHTSA issued a final rule responding to petitions for reconsideration of the 1996 final rule, and making technical amendments to the rear impact guard requirements (63 FR 3654). The 1998 final rule clarified the applicability of the energy-absorption requirements with regard to cargo tank motor vehicles, as defined in 49 CFR 171.8, excluded pulpwood trailers from the rear impact protection requirements (a definition of pulpwood trailer was added to § 571.224), and revised the definition of special purpose vehicle.

Discussion of the FHWA Proposal

To ensure that the safety benefits intended by the NHTSA rulemaking are achieved, the FHWA is proposing to amend § 393.86 to establish a requirement that certain trailers manufactured on or after January 26, 1998, and operated in interstate commerce, be equipped to comply with FMVSS Nos. 223 and 224. This action is necessary because the FMVSSs are applicable only to vehicle and vehicle component manufacturers. In the absence of an amendment to the FMCSRs, there would be no Federal

requirement that motor carriers maintain their trailers to conform to the rear impact protection requirements of FMVSS No. 224, or repair damaged rear impact guards. Motor carriers could also replace rear impact guards with devices that failed to comply with the NHTSA requirements.

Paragraph (a) of § 393.86 would provide a general statement of the applicability of the new rear impact guard requirements and cross reference FMVSS Nos. 223 and 224. Paragraph (a) would also identify the types of trailers (which would be defined in § 393.5) that are exempted from the new rear impact guard requirements. Paragraphs (b) through (e) would specify the following requirements, respectively: The minimum width for the impact guard; the maximum ground clearance; the maximum distance from the rear of the vehicle to the rear surface of the impact guard; and the cross-sectional vertical height of the horizontal member of the guard. Paragraph (f) would specify the certification and labeling requirements. The agency is proposing to include detailed requirements in § 393.86(b) through (f) to help motor carriers quickly determine if the underride device on a newly manufactured trailer meets the NHTSA's requirements, and to assist State agencies responsible for enforcing motor carrier safety regulations.

The existing requirements (for all commercial motor vehicles manufactured after December 31, 1952, except trailers or semitrailers manufactured on or after January 26, 1998) would be covered under paragraphs (g) through (i). Paragraph (g) would specify the minimum dimensions for the rear impact guard as installed on the motor vehicle. Paragraph (h) would specify that the impact guard must be substantially constructed and attached by bolts, welding, or other comparable means. Paragraph (h) differs from the current attachment requirements in that the phrase ''firmly attached'' would be replaced with ''attached by means of bolts, welding, or other comparable means'' to make the regulations easier to understand and enforce.

The current language contained in paragraph (e) would be revised and included in a new paragraph (i). The FHWA would specify that low chassis vehicles, special purpose vehicles, and wheels-back vehicles which are constructed and maintained so that the body, chassis, or other parts of the vehicle provide rear end protection comparable to an impact guard(s) conforming to the requirements of paragraph (g) of § 393.86 shall be considered in compliance with the requirements.

Retrofitting

The FHWA is not proposing a retrofitting requirement for improved rear impact protection on trailers and semitrailers manufactured before January 26, 1998. There is insufficient accident, cost, and research data to support such a proposal at this time. The types of data required to justify a retrofitting requirement would be much more detailed than the information analyzed by the NHTSA.

Section 393.86(g) does not specify minimum strength requirements, or energy absorption capabilities, nor does it prohibit the use of impact guards that have a ground clearance less than 762 mm (30 inches), and impact guards that are closer than 61 cm (24 inches) to the rear and 45.7 cm (18 inches) to the sides of the vehicle. In addition, the existing standard allows impact guards to be constructed of more than one section provided the distance between the sections does not exceed 610 mm (24 inches). As a result, manufacturers have used a number of rear impact guard designs to satisfy the FHWA's requirements.

To develop a sound technical basis for a retrofitting proposal, the FHWA would have to establish criteria for determining which of the older impact guard designs should be considered acceptable, and which ones should be replaced. The FHWA would then have to estimate the total number of guards that would have to be replaced or modified, the total cost for replacing or modifying those guards (including lost revenues while the trailer was being retrofitted), and the benefits in lives saved and injuries prevented if a certain number of vehicles were retrofitted. This is particularly difficult because some rear impact guards currently in use may meet or exceed the NHTSA's strength requirements but fail to meet dimensional or energy absorption requirements. Others may meet the dimensional requirements but fall short of the minimum strength requirements.

The FHWA does not have test data or engineering analyses concerning the performance capabilities of any of the rear impact guard designs currently in use. The ICC did not have authority to regulate vehicle and component manufacturers when it issued the first rear underride protection requirements in 1952 and, consequently, had no authority to compel manufacturers to provide technical data on their products. Also, the initial FMVSSs issued by the FHWA did not include rear impact protection requirements. Therefore, the agency did not have access to this information during the relatively short period of time (between 1966 and 1970, when the NHTSA was established) in which vehicle and component manufacturers were regulated by the FHWA. Because of the lack of technical data concerning the performance capabilities of underride devices currently in use, the agency cannot prepare an accurate estimate of the costs and benefits associated with a retrofitting requirement.

The FHWA specifically requests comments from any interested party with data relevant to the costs and benefits of retrofitting.

Applicability to Canadian and Mexican Vehicles

The FHWA is not proposing an exemption for CMVs operated in the United States by Canada- and Mexico-based motor carriers. Although the Federal governments of Canada and Mexico have not indicated whether they intend to require rear impact guards (which meet the NHTSA standard) on newly manufactured trailers operating in their countries, the FHWA believes that it is appropriate to require such guards on foreign-based trailers manufactured on or after the effective date of the NHTSA requirements if those vehicles are operated within the United States.

Vehicles operated in the United States by Canada- and Mexico-based motor carriers are required to comply with the existing rear underride device requirements. The proposed revision of § 393.86 would require that trailers and semitrailers manufactured on or after January 26, 1998, and operated by foreign-based motor carriers meet the NHTSA standards. The FHWA specifically requests comments from Canada- and Mexico-based motor carriers and original equipment manufacturers that sell trailers and semitrailers for the Canadian and Mexican markets.

Rulemaking Analyses and Notices

All comments received before the close of business on the comment closing date indicated above will be considered and will be available for examination in the docket at the above address. Comments received after the comment closing date will be filed in the public docket and will be considered to the extent practicable, but the FHWA may adopt a final rule at any time after the close of the comment period. In addition to late comments, the FHWA will also continue to file, in the public docket, relevant information that becomes available after the

comment closing date. Interested persons should continue to examine the public docket for new material.

Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

The FHWA has determined that this action is not a significant regulatory action within the meaning of Executive Order 12866. This rule would, if adopted, require that certain trailers and semitrailers manufactured on or after January 26, 1998, be equipped with rear impact protection devices meeting the requirements of FMVSS No. 223 and installed on trailers in accordance with FMVSS 224. Motor carriers would be responsible for maintaining the underride protection devices on these trailers. It is anticipated that the economic impact of this proposed requirement would be minimal because the NHTSA requires trailer manufacturers to equip new trailers and semitrailers with rear impact guards and the FHWA's rulemaking would only require motor carriers to maintain the improved underride protection devices. It is expected that the costs of repairing damaged underride devices would be the only economic burden placed upon motor carriers and that this burden generally would not exceed the costs of properly repairing underride devices on trailers manufactured prior to the effective date of the NHTSA's requirements. Accordingly, a full regulatory evaluation is not required. For the purposes of the Department of Transportation's regulatory policies and procedures, however, the proposed rule would be significant because of the substantial public interest in the prevention of rear-underride accidents involving commercial motor vehicles.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (5 U.S.C. 601–612), the FHWA has evaluated the effects of this proposed rule on small entities. This rule would modify the rear impact protection standards for trailers in the Federal Motor Carrier Safety Regulations (FMCSRs) to make them consistent with the manufacturing standards in the FMVSS No. 224, which requires the installation of rear impact protection devices conforming to FMVSS No. 223 on certain newly-manufactured semitrailers and trailers. The FHWA believes that maintenance costs of the rear impact protection devices required under the new FMVSSs will be minimal. Therefore, the FHWA hereby certifies that this action would not have a significant economic impact on a substantial number of small entities.

Executive Order 12612 (Federalism Assessment)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Executive Order 12372 (Intergovernmental Review)

Catalog of Domestic Assistance Program Number 20.217, Motor Carrier Safety. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this program.

Unfunded Mandates Reform Act

This proposal would 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, or $100 million or more in any one year.

Paperwork Reduction Act

This document does not contain information collection requirements for the purposes of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq*).

National Environmental Policy Act

The agency has analyzed this rulemaking for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and has determined that this action would not have any effect on the quality of the environment.

Regulation Identification Number

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

List of Subjects in 49 CFR Part 393

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

Issued on: April 28, 1998.

Kenneth R. Wykle,

Administrator, Federal Highway Administration.

In consideration of the foregoing, the FHWA 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: Section 1041(b) of Pub. L. 102–240, 105 Stat. 1914, 1993 (1991); 49 U.S.C. 31136 and 31502; 49 CFR 1.48.

2. Section 393.5 is amended by adding the definitions of ''low chassis vehicle,'' ''special purpose vehicle,'' and ''wheels back vehicle,'' and by revising the definitions of ''pulpwood trailer,'' ''rear extremity,'' and ''side extremities'' (now ''side extremity'') to read as follows:

§ 393.5 Definitions.

* * * * *

Low chassis vehicle. A trailer or semitrailer having a chassis which extends behind the rearmost point of the rearmost tires and a lower rear surface that meets the guard width, height, and rear surface requirements of § 571.224. For vehicles not subject to the requirements of § 571.224 on the date of manufacture, the configuration requirements of § 393.86(g) may be used.

* * * * *

Pulpwood trailer. A trailer or semitrailer that is designed exclusively for harvesting logs or pulpwood and constructed with a skeletal frame with no means for attachment of a solid bed, body, or container.

Rear extremity. The rearmost point on a vehicle that falls above a horizontal plane located 560 mm (22 inches) above the ground and below a horizontal plane located 1,900 mm (75 inches) above the ground when the vehicle is stopped on level ground; unloaded; its fuel tanks are full; the tires (and air suspension, if so equipped) are inflated in accordance with the manufacturer's recommendations; and the vehicle's cargo doors, tailgate, or other permanent structures are positioned as they normally are when the vehicle is in motion. Nonstructural protrusions such as taillamps, rubber bumpers, hinges and latches are excluded from the determination of the rearmost point.

* * * * *

Side extremity. The outermost point on a side of the vehicle that is above a horizontal plane located 560 mm (22 inches) above the ground, below a

horizontal plane located 1,900 mm (75 inches) above the ground, and between a transverse vertical plane tangent to the rear extremity of the vehicle and a transverse vertical plane located 305 mm (12 inches) forward of that plane when the vehicle is unloaded; its fuel tanks are full; and the tires (and air suspension, if so equipped) are inflated in accordance with the manufacturer's recommendations. Non-structural protrusions such as taillights, hinges and latches are excluded from the determination of the outermost point.

* * * * *

Special purpose vehicle. A trailer or semitrailer having work-performing equipment that, while the vehicle is in transit, resides in or moves through the area that could be occupied by the horizontal member of the rear impact guard, as defined by the guard width, height and rear surface requirements of § 571.224 (paragraphs S5.1.1 through S5.1.3).

* * * * *

Wheels back vehicle. A trailer or semitrailer whose rearmost axle is permanently fixed and is located such that the rearmost surface of the tires (of the size recommended by the vehicle manufacturer for the rear axle) is not more than 305 mm (12 inches) forward of the transverse vertical plane tangent to the rear extremity of the vehicle.

3. Section 393.86 is revised to read as follows:

§ 393.86 Rear impact guards and rear end protection.

(a) *General requirements for trailers and semitrailers manufactured on or after January 26, 1998.* Each trailer and semitrailer with a gross vehicle weight rating of 4,536 kg (10,000 pounds) or more, and manufactured on or after January 26, 1998, must be equipped with a rear impact guard that meets the requirements of Federal Motor Vehicle Safety Standard No. 223 (49 CFR 571.223) in effect at the time the vehicle was manufactured. When the rear impact guard is installed on the trailer or semitrailer, the vehicle must, at a minimum, meet the requirements of FMVSS No. 224 (49 CFR 571.224) in effect at the time the vehicle was manufactured. Trailers and semitrailers subject to this paragraph must meet the requirements of paragraphs (b) through (f) of this section. The requirements of paragraphs (a) through (f) do not apply to pole trailers (as defined in § 390.5); pulpwood trailers, low chassis trailers, special purpose trailers, wheels back trailers (as defined in § 393.5); and trailers towed in driveaway-towaway operations (as defined in § 390.5).

(b) *Impact guard width.* The outermost surfaces of the horizontal member of the guard must extend to within 100 mm (4 inches) of the side extremities of the vehicle. The outermost surface of the horizontal member shall not extend beyond the side extremity of the vehicle.

(c) *Guard height.* The vertical distance between the bottom edge of the horizontal member of the guard and the ground shall not exceed 560 mm (22 inches) at any point across the full width of the member. Guards with rounded corners may curve upward within 255 mm (10 inches) of the longitudinal vertical planes that are tangent to the side extremities of the vehicle.

(d) *Guard rear surface.* At any height 560 mm (22 inches) or more above the ground, the rearmost surface of the horizontal member of the guard must be within 305 mm (12 inches) of the rear extremity of the vehicle. This paragraph shall not be construed to prohibit the rear surface of the guard from extending beyond the rear extremity of the vehicle. Guards with rounded corners may curve forward within 255 mm (10 inches) of the side extremity.

(e) *Cross-sectional vertical height.* The horizontal member of each guard must have a cross sectional vertical height of at least 100 mm (3.94 inches) at any point across the guard width.

(f) *Certification and labeling requirements for rear impact protection guards.* Each rear impact guard used to satisfy the requirements of paragraph (a) of this section must be permanently marked or labeled as required by FMVSS No. 223 (49 CFR 571.223, S5.3). The label must be on the forward-facing surface of the horizontal member of the guard, 305 mm (12 inches) inboard of the right end of the guard. The certification label must contain the following information:

(1) The impact guard manufacturer's name and address;

(2) The statement ''Manufactured in _____'' (inserting the month and year that the guard was manufactured); and,

(3) The letters ''DOT'', constituting a certification by the guard manufacturer that the guard conforms to all requirements of FMVSS No. 223.

(g) *Requirements for motor vehicles manufactured after December 31, 1952 (except trailers or semitrailers manufactured on or after January 26, 1998).* Each motor vehicle manufactured after December 31, 1952, (except of truck tractors, pole trailers, or vehicles in driveaway-towaway operations) in which the vertical distance between the rear bottom edge of the body (or the chassis assembly if the chassis is the rearmost part of the vehicle) and the ground is greater than 76.2 cm (30 inches) when the motor vehicle is empty, shall be equipped with a rear impact guard(s). The rear impact guard(s) must be installed and maintained in such a manner that:

(1) The vertical distance between the bottom of the guard(s) and the ground does not exceed 76.2 cm (30 inches) when the motor vehicle is empty;

(2) The maximum distance between the closest points between guards, if more than one is used, does not exceed 61 cm (24 inches);

(3) The outermost surfaces of the horizontal member of the guard are no more than 45.7 cm (18 inches) from each side extremity of the motor vehicle;

(4) The impact guard(s) are no more than 61 cm (24 inches) forward of the rear extremity of the motor vehicle.

(h) *Construction and attachment.* The rear impact guard(s) must be substantially constructed and attached by means of bolts, welding, or other comparable means.

(i) *Vehicle components and structures that may be used to satisfy the requirements of paragraph (g) of this section.* Low chassis vehicles, special purpose vehicles, or wheels back vehicles constructed and maintained so that the body, chassis, or other parts of the vehicle provide the rear end protection comparable to impact guard(s) conforming to the requirements of paragraph (g) of this section shall be considered to be in compliance with those requirements.

[FR Doc. 98–12753 Filed 5–13–98; 8:45 am]
BILLING CODE 4910–22–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AE86

Endangered and Threatened Wildlife and Plants; Notice of Public Hearing on Proposed Endangered Status for Devils River Minnow (Dionda diaboli)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; notice of public hearing.

SUMMARY: The U.S. Fish and Wildlife Service (Service) gives notice that a public hearing will be held on the proposed determination of endangered status for the Devils River minnow (*Dionda diaboli*). This fish is found in