



# Commercial Vehicle Safety Alliance

Improving uniformity in commercial motor vehicle safety and enforcement

---

March 1, 2021

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

**RE: Docket Number: FMCSA-2019-0211**  
***Parts and Accessories Necessary for Safe Operation; Rear Impact Guards and Rear Impact Protection***

The Commercial Vehicle Safety Alliance (CVSA) respectfully submits the following comments regarding the Federal Motor Carrier Safety Administration's (FMCSA) notice of proposed rulemaking (NPRM) to add rear impact guards to Title 49 Code of Federal Regulations (CFR) Appendix G to Subchapter B of Chapter III—Minimum Periodic Inspection Standards and to update the Federal Motor Carrier Safety Regulations (FMCSRs) related to the labeling requirements for rear impact guards, docket number FMCSA-2019-0211.

CVSA is a nonprofit association comprised of local, state, provincial, territorial and federal commercial motor vehicle safety officials and industry representatives. The Alliance aims to achieve uniformity, compatibility and reciprocity of commercial motor vehicle inspections and enforcement by certified inspectors dedicated to driver and vehicle safety. Our mission is to improve commercial motor vehicle safety and uniformity throughout Canada, Mexico and the United States, by providing guidance and education to enforcement, industry and policy makers.

CVSA commends FMCSA for proposing to add rear impact guards to Title 49 CFR Appendix G to Subchapter B of Chapter III—Minimum Periodic Inspection Standards. Including rear impact guards and rear end protection in the periodic annual inspection requirements in Appendix G will call additional attention to this critical safety component and help ensure that each vehicle is inspected at least once a year, improving compliance, and helping to prevent fatalities and injuries when rear-end collisions occur. Furthermore, including rear impact guards and rear end protection in the periodic annual inspection standards will harmonize U.S. regulations with those in Canada and Mexico, which include rear impact guards and rear end protection as part of their annual inspection programs.

In addition to adding rear impact guards to Appendix G, the NPRM seeks to change the labeling requirements for rear impact guards by changing the location the labels are permitted to be located. Instead of making this change, FMCSA should remove the labeling requirement all together. As CVSA detailed in the attached petition, including the labeling requirement in the FMCSRs does not improve safety and creates a maintenance standard that motor carriers cannot uphold. While CVSA understands the intent is to provide verification that the rear impact guard in use, and that was installed on the vehicle, meets the Federal Motor Vehicle Safety Standard (FMVSS) manufacturing requirements, the enforcement of the corresponding FMCSR results in violations of rear impact guards that otherwise meet all the physical requirements of the FMVSS and have no negative impact on safety. The purpose

of the certification label is to confirm that the component met the FMVSS manufacturing requirements at the time of production and does not pertain to the maintenance of the component once it is in operation. As a result, motor carriers are unable to obtain new certification labels from the original trailer manufacturer after the trailer is in use because manufacturers can no longer guarantee the rear impact guard meets the FMVSS *manufacturing* standard. The FMCSRs establish the standards for how motor carriers must maintain their vehicles, not how the vehicle must be manufactured. In other instances, such as the requirements for tire tread, steering wheel free play and air suspension, the FMCSRs provide for some wear or degradation of the component from the manufacturing standard outlined in the FMVSS before it is considered a violation. The same should be the case with rear impact guard labels so that there is not a regulatory maintenance requirement when there are no reasonable options to comply if the label is missing or illegible. It is not reasonable to hold motor carriers to a manufacturing standard as part of the maintenance standards outlined in the FMCSRs, especially as there is no effective way for motor carriers to meet the standard after market. CVSA encourages the agency to remove the label requirement from the FMCSRs.

Additionally, to improve international harmonization, FMCSA should look at the Canadian inspection requirements in the Canadian Council of Motor Transport Administrators' National Safety Code 11B and take this opportunity to align the FMCSRs with the standard, where possible.

Finally, CVSA agrees with FMCSA's determination that related changes to CVSA's Out-of-Service Criteria (OOSC) is outside the scope of the NPRM. The OOSC is developed and maintained by CVSA and is not a part of the FMCSRs.

CVSA works to closely monitor, evaluate, and identify potentially unsafe transportation processes and procedures as well as to help facilitate and implement best practices for enhancing safety on our highways. Commercial motor vehicle safety continues to be a challenge and we need the involvement of all affected parties to help us better understand these issues and put into place practical solutions. We appreciate the agency's commitment to safety and stakeholder involvement.

If you have further questions or comments, please do not hesitate to contact me by phone at 301-830-6149 or by email at [collinm@cvsa.org](mailto:collinm@cvsa.org).

Respectfully,



Collin B. Mooney, MPA, CAE  
Executive Director  
Commercial Vehicle Safety Alliance



# Commercial Vehicle Safety Alliance

Improving uniformity in commercial motor vehicle safety and enforcement

---

March 12, 2019

The Honorable Raymond P. Martinez  
Administrator  
Federal Motor Carrier Safety Administration  
1200 New Jersey Avenue, SE  
6th Floor, West Building  
Washington, DC 20590-9898

**RE: Petition for Rulemaking – Remove Title 49 CFR § 393.86(a)(6) Certification and Labeling Requirements for Rear Impact Protection Guards**

Dear Administrator Martinez,

Pursuant to Title 49 Code of Federal Regulations (CFR) § 389.31, the Commercial Vehicle Safety Alliance (CVSA) is petitioning the Federal Motor Carrier Safety Administration (FMCSA) to amend § 393.86, Rear impact guards and rear end protection, by removing § 393.86(a)(6) Certification and Labeling Requirements for Rear Impact Protection Guards from the Federal Motor Carrier Safety Regulations (FMCSRs).

CVSA is a nonprofit association comprised of local, state, provincial, territorial and federal commercial motor vehicle safety officials and industry representatives. The Alliance aims to achieve uniformity, compatibility and reciprocity of commercial motor vehicle inspections and enforcement by certified inspectors dedicated to driver and vehicle safety. Our mission is to improve commercial motor vehicle safety and uniformity throughout Canada, Mexico and the United States, by providing guidance and education to enforcement, industry and policy makers.

### **Justification**

§ 393.86(a)(6) of the FMCSRs requires that rear impact guards on commercial motor vehicles have a label certifying that they meet the Federal Motor Vehicle Safety Standards (FMVSS) requirements for rear impact guards. While CVSA understands the intent is to provide verification that the rear impact guard in use meets the FMVSS manufacturing requirements, the enforcement of this regulatory requirement is resulting in the citation of rear impact guards that otherwise meet the physical requirements and have no negative impact on safety. The purpose of the certification label is to confirm that the component met the FMVSS manufacturing requirements at the time of production and does not pertain to the maintenance of the component once it is in operation.

Rear impact guard certification labels frequently wear, fade or are removed during repair. When this happens, motor carriers are unable to obtain new certification labels from the original trailer manufacturer because they can no longer guarantee that the rear impact guard meets the FMVSS manufacturing standard. This results in motor carriers being cited for rear impact guard violations when the rear impact guard meets all other requirements of § 393.86. Further, since carriers are unable to acquire new certification labels from the original equipment manufacturer, there are no reasonable options to meet the certification requirement outlined in § 393.86(a)(6), which undermines the integrity of the roadside inspection program. The removal of the certification label requirement outlined in § 393.86(a)(6) would eliminate confusion and inconsistency in enforcement, which benefits both the motor carrier industry and the enforcement community while not negatively impacting safety as the physical components of the guard will still be inspected to the same standard during a roadside inspection and violations of the condition of the guard will be cited under the appropriate § 393.86 subsection.

CVSA is also petitioning the National Highway Traffic Safety Administration to remove the certification labeling requirement outlined in § 571.223 S5.3 of the FMVSS. If that petition is granted, removal of the certification labeling requirement in § 393.86(a)(6) will ensure that the FMCSRs are aligned with the FMVSS.

The Alliance works to closely monitor, evaluate and identify potentially unsafe transportation processes and procedures as well as to help facilitate and implement best practices for enhancing safety on our highways. Commercial motor vehicle safety continues to be a challenge and we need the involvement of all affected parties to help us better understand these issues and put into place practical solutions. We appreciate the agency's commitment to safety and stakeholder involvement.

If you have further questions or comments, please do not hesitate to contact me by phone at 301-830-6149 or by email at [collinm@cvsa.org](mailto:collinm@cvsa.org).

Respectfully,

A handwritten signature in black ink, appearing to read 'Collin B. Mooney'.

Collin B. Mooney, MPA, CAE  
Executive Director  
Commercial Vehicle Safety Alliance