

Banking Supervision and Regulation at the Board, or the Director's delegate.

(2) *Request for additional information.* The Board may, at any time, request additional information that it believes is necessary to complete the registration.

(3) *Complete filing.* A registration by a securities holding company is considered to be filed on the date that all information required on the appropriate form is received.

(b) *Effective date of registration.*

(1) *In general.* A registration filed by a securities holding company under paragraph (a) of this section is effective on the 45th calendar day after the date that a complete filing is received by the responsible Reserve Bank.

(2) *Earlier notification that a registration is effective.* The Board may notify a securities holding company that its registration to become a supervised securities holding company is effective prior to the 45th calendar day after the date that a complete filing is received by the responsible Reserve Bank. Such a notification must be in writing.

(3)(i) Upon an effective registration and except as otherwise provided by order of the Board, a supervised securities holding company shall be treated, and shall be subject to supervision and regulation by the Board, as if it were a bank holding company, or as otherwise appropriate to protect the safety and soundness of the supervised securities holding company and address the risks posed by such company to financial stability.

(ii) The provisions of section 4 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) do not apply to a supervised securities holding company.

By order of the Board of Governors of the Federal Reserve System, August 29, 2011.

**Jennifer J. Johnson,**  
*Secretary of the Board.*

[FR Doc. 2011-22469 Filed 9-1-11; 8:45 am]

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## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

#### 44 CFR Part 67

[Docket ID FEMA-2011-0002; Internal Agency Docket No. FEMA-B-1212]

### Proposed Flood Elevation Determinations

#### Correction

In proposed rule document 2011-20866 beginning on page 50960 in the

issue of Wednesday, August 17, 2011, make the following correction:

#### § 67.4 [Corrected]

On page 50962, in the eleventh line below the column titles at the top of the page, "Unincorporated Areas of Craven County" should read "Unincorporated Areas of Jones County".

[FR Doc. C1-2011-20866 Filed 9-1-11; 8:45 am]

BILLING CODE 1505-01-D

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

#### 49 CFR Chapter III

[Docket No. FMCSA-2010-0257]

RIN 2126-AB28

### Parts and Accessories Necessary for Safe Operation: Brakes; Adjustment Limits

**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 revise the requirements regarding clamp and rotochamber brake actuator readjustment limits in the Federal Motor Carrier Safety Regulations (FMCSRs). The purpose of this notice of proposed rulemaking (NPRM) is to amend the readjustment limits, clarify their application, and correct an error in cross-referencing a Federal Motor Vehicle Safety Standard (FMVSS). This proposal responds to a petition for rulemaking from the Commercial Vehicle Safety Alliance (CVSA).

**DATES:** Send your comments on or before November 1, 2011.

**ADDRESSES:** You may submit comments identified by Docket ID Number FMCSA-2010-0257 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:** Ms. Deborah M. Freund, Vehicle and Roadside Operations Division, Office of Bus and Truck Standards and Operations (MC-PSV), Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590-0001; [deborah.freund@dot.gov](mailto:deborah.freund@dot.gov); telephone (202) 366-5370.

#### SUPPLEMENTARY INFORMATION:

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### 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-2010-0257), 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-2010-0257" 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://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-2010-0257" 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. ET, Monday through Friday, except Federal holidays.

#### C. Privacy Act

Anyone is able to search the electronic form for all 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 the U.S. Department of Transportation's (DOT) Privacy Act system of records notice for DOT Federal Docket Management System (FDMS) in the **Federal Register** published on January 17, 2008 (73 FR 3316) at <http://edocket.access.gpo.gov/2008/pdf/E8-785.pdf>.

#### II. Abbreviations

ATA American Trucking Associations.  
 CMV commercial motor vehicle.  
 CVSA Commercial Vehicle Safety Alliance.  
 DOT U.S. Department of Transportation.  
 FHWA Federal Highway Administration.  
 FMCSRs Federal Motor Carrier Safety Regulations.  
 FMVSSs Federal Motor Vehicle Safety Standards.  
 NHTSA National Highway Traffic Safety Administration.  
 NPRM Notice of Proposed Rulemaking.  
 OOS out of service.

SAE Society of Automotive Engineers.

#### III. Legal Basis for the Rulemaking

Appendix G, Minimum Periodic Inspection Standards, was added to the FMCSRs in 1988 (53 FR 49411, Dec. 7, 1988). Under the inspection standards of Appendix G, all items required to be inspected must be in proper adjustment, must not be defective, and must function properly before a commercial motor vehicle (CMV) is placed in service. Appendix G includes, among many other things, brake adjustment (readjustment) limits. Paragraph 1.a.(5) of this appendix currently reads:

Readjustment limits. The maximum stroke at which brakes should be readjusted is given below. Any brake 1/4" or more past the readjustment limit or any two brakes less than 1/4" beyond the readjustment limit shall be cause for rejection. Stroke shall be measured with engine off and reservoir pressure of 80 to 90 psi with brakes fully applied.

The figures in the rightmost column of each of the three tables following paragraph 1.a.(5) indicate the maximum stroke at which brakes should be readjusted.

Subsequently, in June 1991, the Society of Automotive Engineers (SAE) developed International Recommended Practice J1817 (SAE J1817) to provide a marking system that distinguishes long-stroke from standard-stroke air brake actuators, rotochambers, and their components. It defines "rated stroke" as the minimum design stroke of a brake actuator.

The 2001 revision of SAE J1817 includes tables listing recommended values for minimum rated stroke and maximum readjustment stroke for clamp band/sealed design standard-stroke brake actuators (Table 1A), clamp band/sealed design long-stroke brake actuators (Table 1B), and rotochamber designs (Table 1C). Table 1B is further broken down to include three classes of long-stroke actuators. The classes are defined according to the range of difference between the maximum readjustment stroke and the standard rated stroke. In most but not all cases, the maximum readjustment stroke is 80 percent of the minimum rated stroke. The differences are greatest for the smaller sizes of brake chambers.

In 1997, the Federal Highway Administration (FHWA), FMCSA's predecessor agency within the U.S. Department of Transportation (DOT), published in the **Federal Register** an NPRM titled "Parts and Accessories Necessary for Safe Operation; General Amendments" (62 FR 18169, Apr. 14, 1997). This NPRM proposed to amend 49 CFR part 393 by removing obsolete

and redundant regulations; responding to several petitions for rulemaking; providing improved definitions of vehicle types, systems, and components; resolving inconsistencies between part 393 and 49 CFR part 571 (FMVSSs); and codifying certain regulatory guidance regarding the requirements of part 393. Generally, the amendments did not establish new or more stringent requirements but clarified existing requirements.

As part of that NPRM, FHWA proposed to add a new § 393.47(e) to the FMCSRs to specify the maximum permissible stroke for different types (sizes) of brake chambers and incorporate by reference SAE J1817, Long-Stroke Air-Brake Actuator Marking (June 1991). The NPRM proposed to require that the maximum values for pushrod travel for clamp- and rotochamber-type actuators must be less than 80 percent of the rated strokes listed in SAE J1817, or 80 percent of the rated stroke marked on the brake chamber by the chamber manufacturer, or the readjustment limit marked on the brake chamber by the chamber manufacturer. For types 16 and 20 long-stroke clamp-type brake actuators, the NPRM proposed that the pushrod travel must be less than 51 mm (2 in.), or 80 percent of the rated stroke marked on the brake chamber by the chamber manufacturer, or the readjustment limit marked on the brake chamber by the chamber manufacturer. The NPRM did not propose to revise the Appendix G brake readjustment-limits tables.

FMCSA published the final rule on August 15, 2005 (70 FR 48007). The Agency revised § 393.47(e) as proposed, except that it incorporated by reference the July 2001 revision of SAE J1817 rather than the June 1991 edition. The preamble to the final rule did not indicate whether the Agency received comments on the decision to incorporate the July 2001 revision.

#### IV. Background

On April 16, 2007, CVSA petitioned the Agency to revise § 393.47(e). CVSA stated that, although the readjustment (or brake actuator stroke) limits of SAE J1817 are consistent with those listed in Appendix G and CVSA's North American Standard Out-of-Service (OOS) Criteria, § 393.47(e) "specifies readjustment (stroke) limits based on 80 percent of the rated (full) strokes listed in SAE J1817." Relying on this criterion introduces discrepancies between § 393.47(e) and SAE J1817. Although the readjustment limits listed in SAE J1817 agree with those in Appendix G and the OOS Criteria, they differ, for some brake chambers, from the "80 percent of rated

stroke” specified in § 393.47(e). Consequently, “[t]he enforcement and/or noting of § 393.47(e) violations by cross-referencing the regulation to 80% of SAE J1817—*Long Stroke Air-Brake Actuator Marking, July, 2001* is proving problematic for inspectors and industry.”

CVSA also pointed out that § 393.47(e) considers a brake with the stroke at the readjustment limit to be out of adjustment. In contrast, both Appendix G and the OOS Criteria state that the brake travel must *exceed* the readjustment limit for the brake to be considered out of adjustment. The petitioners added that the values in both Appendix G and the OOS Criteria were established consistent with brake manufacturers’ recommendations. Although the CVSA subsequently updated the OOS Criteria to include several types of long-stroke clamp-type brake chambers, FMCSA has not similarly revised the Appendix G values.

In addition, CVSA requested that FMCSA revise § 393.53, Automatic brake adjusters and brake adjustment indicators, to include references to the FMVSSs applicable to trailers. Sections 393.53(b) and (c) would be revised so that the FMVSS citations read, “49 CFR 571.121, S5.1.8 or S5.2.2.”

On June 10, 2008, CVSA amended its April 2007 petition to correct the text of the table subheadings for clamp-type and rotochamber-type chamber data in the original petition and to add tables for Bendix DD-3 and bolt-type brake chamber data. The amended petition changed the table subheadings “Brake Chamber Pushrod Stroke Limit” and “RC Actuate Pushrod Stroke Limit” to read “Brake Adjustment Limit” and “Rotochamber Type Brake Chamber Data,” respectively.

FMCSA has placed copies of CVSA’s 2007 petition and 2008 correction in the docket for this rulemaking.

## V. CVSA’s Petition

This NPRM is based on the authority of the Motor Carrier Act of 1935 (1935 Act) and the Motor Carrier Safety Act of 1984 (the 1984 Act), both of which provide broad discretion to the Secretary of Transportation (Secretary) in implementing their provisions.

The 1935 Act provides that 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 [49 U.S.C. 31502(b)(1)], 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 [§ 31502(b)(2)]. The 2005 final rule amending part 393 of the FMCSRs (Parts and Accessories Necessary for Safe Operation, 70 FR 48007, Aug. 15, 2005) and these proposed amendments are based on the Secretary’s authority to regulate the safety and standards of equipment of for-hire and private carriers.

The 1984 Act gives the Secretary concurrent authority to regulate drivers, motor carriers, and vehicle equipment. Codified in 49 U.S.C. 31136(a), section 206(a) of the Act requires the Secretary to publish regulations on commercial motor vehicle (CMV) safety. Specifically, the Act sets forth minimum safety standards to ensure that (1) CMVs are maintained, equipped, loaded, and operated safely [§ 31136(a)(1)]; (2) the responsibilities imposed on operators of CMVs do not impair their ability to operate the vehicles safely [§ 31136(a)(2)]; (3) the physical condition of CMV operators is adequate to enable them to operate the vehicles safely \* \* \* [§ 31136(a)(3)]; and (4) the operation of CMVs does not have a deleterious effect on the physical condition of the operators [§ 31136(a)(4)].

The proposed rule would provide improved guidance concerning CMV brake adjustment limits. The proposed maximum pushrod travel for brake actuators would enhance the braking performance of the vehicle, consistent with § 31136(a)(1). The rule does not address the responsibilities or physical condition of drivers addressed by § 31136(a)(2) and (3), respectively, and deals with § 31136(a)(4) only to the extent that a safer vehicle is less likely to have a deleterious effect on the physical condition of a driver. Before prescribing any such regulations, however, FMCSA must consider the “costs and benefits” of any proposal (49 U.S.C. 31136(c)(2)(A) and 31502(d)).

## VI. Agency Analysis

SAE J1817, “Long-Stroke Air-Brake Actuator Marking,” describes a marking system to distinguish long-stroke from standard-stroke air brake actuators, rotochambers, and components. Long-stroke air brake actuators are designed to provide longer pushrod stroke capabilities than standard-stroke actuators. Because some of these chambers are nearly identical in exterior appearance to the standard chambers, a unique marking system is needed for the purpose of identification by mechanics, inspectors, and others in the field. This marking helps ensure that both types of actuators are serviced correctly and brakes are adjusted properly. This is important because long-stroke actuator

components from different actuator manufacturers are not interchangeable, nor are they interchangeable with standard actuator components.

In addition to providing discrete marking requirements for differentiating long-stroke from standard-stroke actuators, SAE J1817 includes tables that specify the rated stroke and the maximum readjustment stroke for various types of air brake actuators. Tables 1A and 1B provide data for standard-stroke and long-stroke clamp-type brake chambers, respectively, and Table 1C provides data for rotochamber designs.

Section 393.47(e) of the FMCSRs, as amended in the August 2005 final rule, outlines three options for determining brake actuator readjustment limits for clamp- and rotochamber-type actuators. The pushrod travel for these actuators must be:

(1) Less than 80 percent of the rated stroke listed in Tables 1A, 1B, or 1C of SAE J1817; or

(2) Less than 80 percent of the rated stroke marked on the brake chamber by its manufacturer; or

(3) Less than the readjustment limit marked on the chamber by the chamber manufacturer.

As CVSA’s petition notes, while § 393.47(e) specifies that readjustment (stroke) limits may be based on 80 percent of the rated (full) strokes listed in SAE J1817, relying on this criterion may introduce discrepancies between § 393.47(e) and SAE J1817. Although in some cases, the readjustment limits listed in SAE J1817 are 80 percent of the rated stroke for a given actuator, deviations exist. Where the readjustment limit listed in SAE J1817 for a given actuator differs from a value equal to 80 percent of the rated stroke, the difference generally is small. In some cases, however, the deviations can be considered more significant (*i.e.*, close to, or greater than,  $\frac{1}{8}$  inch).<sup>1</sup> The differences vary according to the type (size) of brake chamber. Using the “80 percent of rated stroke” criterion in § 393.47(e) may produce a value that is either more stringent or less stringent than the value specified in SAE J1817. The differences, however, are only a fraction of an inch.

CVSA recommends incorporation of a set of tables into § 393.47(e)—similar to the tables that already exist in (a) SAE J1817, (b) the CVSA OOS Criteria, and (c) Appendix G to the FMCSRs—that, if included, would eliminate the discrepancies resulting from application of the “80 percent” criterion currently

<sup>1</sup> Brake stroke is measured in increments of  $\frac{1}{8}$  inch.

permitted under § 393.47(e) as discussed above. Inclusion of these tables would eliminate confusion in the enforcement community and the industry by providing explicit values for the actuator readjustment limits.

In reviewing the tables in SAE J1817, FMCSA confirmed that the specified readjustment limits for certain actuators are not equal to 80 percent of the corresponding rated stroke for those actuators.<sup>2</sup> For example, the readjustment limit for a T-30-L3 chamber (common on new trucks) is listed at 2.5 inches in SAE J1817 and the CVSA OOS Criteria (Appendix G has not been updated to include long-stroke chambers), yet under the requirements of § 393.47(e), 80 percent of its rated stroke of 3.0 inches (as provided in SAE J1817) is 2.4 inches, a difference of slightly less than an eighth of an inch. In another example, for a standard T-36 chamber (common on transit buses), SAE J1817, the CVSA OOS Criteria, and Appendix G all list the readjustment limit as 2.25 inches—but under the requirements of § 393.47(e), 80 percent of the rated stroke of 3.0 inches (as provided in SAE J1817) is 2.4 inches, a difference of slightly more than an eighth of an inch. In the first example, the § 393.47(e) criterion is more stringent; in the second it is less stringent. But in both cases the differences are only a small fraction of an inch.

Even though the discrepancies are minimal, they are confusing to the enforcement community and the industry. Accordingly, for the reasons discussed above, FMCSA proposes to amend § 393.47(e) as recommended by CVSA.

FMCSA does not, however, agree with CVSA's recommendation to limit out-of-adjustment findings to cases where the brake travel exceeds the readjustment limit. An s-cam brake that is *at* the readjustment limit when it is cold will be *beyond* the readjustment limit when it gets hot. FMCSA believes that vehicles should not be dispatched with brakes *at* the readjustment limit, because those brakes will be found to be beyond the adjustment limit—and out of compliance with the regulations—if evaluated during a roadside inspection after the brakes have become hot due to operational use. Based on these fundamental performance characteristics of s-cam brakes, the August 2005 final rule included a provision in § 393.47(e) that requires

brake stroke to be “less than” the readjustment limit(s), as opposed to the Appendix G provision under which brakes “at” the adjustment limit are in compliance with the FMCSRs. This difference reflects roadside inspection tolerances. Roadside inspectors typically refrain from citing a brake adjustment violation until the brake is *beyond* the adjustment limit. Further, under the 20 percent rule for brake violations in the OOS Criteria, roadside inspectors do not remove a CMV from service unless 20 percent of the vehicle's brakes are out of adjustment. The Agency believes, however, that it is appropriate to require *motor carriers* to take action under the requirements of § 393.47 when a brake is *at* the adjustment limit. This position is consistent with findings from a 1995 study concerning the accuracy with which brake adjustment can be measured<sup>3</sup> performed by the University of Michigan Transportation Research Institute for FHWA's Office of Motor Carrier Safety. To avoid confusion in the enforcement community and the industry, this NPRM proposes to amend Appendix G to make its requirements consistent with those of § 393.47(e) adopted in the August 2005 rule.

#### VII. Discussion of the Proposed Rule

This NPRM proposes to revise and expand the readjustment-limits tables as recommended by CVSA, and includes these revised tables in § 393.47(e) and Appendix G. The revised tables cover readjustment limits not only for clamp-, bolt-, and rotochamber-type brake chambers but also for Bendix DD-3 chambers. The table for clamp-type brake chambers also differentiates between adjustment limits for more sizes of standard-stroke and long-stroke chambers.

The NPRM also proposes to eliminate the cross-reference to SAE J1817 in § 393.47(e). Inclusion of the new tables in § 393.47(e) would provide explicit readjustment limits for each type of actuator, eliminating the need for the cross-reference.

FMCSA notes that the SAE Truck and Bus Brake Actuator Committee has initiated work on a new SAE Recommended Practice, J2899, which would describe the physical characteristics of air brake actuators that allow the correct brake readjustment limits to be determined. The new recommended practice would also define the maximum readjustment

limits based on the rated stroke and type (size) of the chamber. The committee voted to develop this new J-specification to identify maximum readjustment limits independently of SAE J1817 and focus the latter on actuator long-stroke marking requirements. As the committee noted, limiting SAE J1817 to the topic defined within its scope will facilitate maintenance of the standard. This project was initiated in May 2009, and it is not known when the new recommended practice will be published.

The proposed rule would adopt CVSA's suggestion to replace the heading “Maximum stroke at which brakes should be readjusted” with the term “Brake Adjustment Limit.” The proposed wording is more concise and direct.

As discussed in the Agency Analysis section, FMCSA proposes changes to paragraph 1.a.(5) of Appendix G, “Brake System, Service Brakes,” to be consistent with the § 393.47(e) requirement that pushrod travel be less than the values specified in the accompanying tables. For actuator types not listed in these tables, the pushrod stroke must be less than 80 percent of the rated stroke marked on the actuator by the actuator manufacturer, or less than the readjustment limit marked on the actuator by the actuator manufacturer.

Lastly, the Agency would revise § 393.53 in response to CVSA's request. Although the introductory text of each paragraph clearly states that it is applicable to “each commercial motor vehicle,” § 393.53(b) and (c) omit a cross-reference to the FMVSSs applicable to trailers (S.5.2.2). The proposed rule adds this cross-reference to eliminate potential confusion.

#### VIII. Regulatory Analyses

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

This proposed rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. FMCSA expects the economic impact of this NPRM to be minimal. The proposal affects the conditions under which motor carriers are cited for out-of-adjustment brakes during roadside inspections and CMVs are placed OOS for such violations. Each brake adjustment violation cited during a roadside inspection must be addressed

<sup>2</sup> Whereas SAE J1817 provides values for (1) rated stroke and (2) corresponding readjustment limits, the CVSA OOS Criteria and Appendix G provide only readjustment limits.

<sup>3</sup> “Evaluation of Brake Adjustment Criteria for Heavy Trucks,” FHWA-MC-94-016, March 1995. A copy of the report is in the docket referenced at the beginning of this notice.

by the carrier, and each OOS order results in time lost for the carrier and driver because the vehicle may not be operated until the OOS defects have been corrected. Consequently, a decrease in OOS orders can be considered a benefit of these proposed amendments to the readjustment limits, while any increase in violations and OOS orders would be a cost. With respect to the safety impact of OOS orders for brake adjustment violations, more such orders on vehicles with defects may produce a safety benefit by reducing crashes. Neither the petitioners nor the Agency, however, are able to estimate whether the number of brake-adjustment violations resulting from this proposal would increase or decrease by a significant amount. It should be noted, however, that FMCSA requires motor carriers to maintain their vehicles in safe and proper operating condition at all times and to have a systematic inspection, repair, and maintenance program to avoid dispatching CMVs with safety defects and deficiencies (*see, e.g.*, 49 CFR 396.3(a)(1) and 398.7). Therefore, the potential costs of this NPRM relate only to carrying out the maintenance task (*e.g.*, readjusting the brakes or replacing an inoperable slack adjuster) at the inspection location rather than at one of the carrier's usual maintenance locations.

From 2000 to 2009, the annual number of Level I and Level V roadside inspections of CMVs—the only inspection levels that include brake stroke measurement—ranged from about 0.94 to 1.25 million, and the percentage of inspections resulting in the CMV being placed OOS for brake violations of all kinds ranged from a high of 17 percent to a low of 12.2 percent. Roughly half of these violations concerned out-of-adjustment brakes, but the Agency believes that the changes in this proposal would have relatively little impact on this ratio. By proposing to: (1) Remove from § 393.47(e) the cross-reference to the readjustment-limits tables in SAE J1817 and the requirement that pushrod travel be less than 80 percent of the rated stroke listed in those tables, (2) incorporate into § 393.47(e) a set of tables (duplicating those in Appendix G) providing explicit readjustment limits, and (3) require that pushrod travel be less than the values specified in those tables, the NPRM would eliminate certain discrepancies between the brake adjustment values derived using the “80 percent of rated stroke” criterion under § 393.47(e) and the values specified in the SAE J1817 tables. In addition, these changes would

make § 393.47(e) consistent with Appendix G, eliminating confusion in the enforcement community and the industry.

Although substituting the readjustment-limits tables for the cross-reference to SAE J1817 in § 393.47(e) would resolve discrepancies that the cross-reference introduced, these differences are in many cases quite small. The differences vary according to the type (size) of brake chamber. Using the “80 percent of rated stroke” criterion may produce a value that is either more stringent or less stringent than the value specified in SAE J1817. For these reasons, FMCSA anticipates that certain brake adjustments that comply with the current rule would be out of compliance with the proposed standard—while the reverse could just as often be true. On the other hand, the proposed Appendix G amendment mirroring the proposed § 393.47(e) requirement that pushrod travel be less than the values specified in the readjustment-limits tables would have no effect on the rate of OOS violations for brake adjustment—because roadside inspection procedures do not reference the readjustment limits in Appendix G.

In summary, although FMCSA is unable to estimate the net economic and safety impacts of the changes proposed in this NPRM, these impacts clearly would be minimal.

#### *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. FMCSA estimates that the economic impact of this rule would be minimal. 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 \$141.3 million (which is the value of \$100 million in 2010 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 action under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. The Agency 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 rulemaking would preempt 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. The Agency 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, published in the **Federal Register** on March 1, 2004 (69 FR 9680), that this proposed action does not have any effect on the quality of the environment.

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," such as the amended brake inspection standards proposed in this rulemaking. A Categorical Exclusion determination is available for inspection or copying in the *Regulations.gov* Web site listed under ADDRESSES.

FMCSA also analyzed this proposal under section 176(c) of the Clean Air Act (CAA), as amended (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. The Agency has 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 is revised to read as follows:

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

2. In § 393.7, remove paragraph (b)(15) and redesignate paragraphs (b)(16) through (b)(22) as paragraphs (b)(15) through (b)(21), respectively.

3. Amend § 393.47 by revising paragraph (e) to read as follows:

**§ 393.47 Brake actuators, slack adjusters, linings/pads, and drums/rotors.**

\* \* \* \* \*

(e) *Clamp, Bendix DD-3, bolt-type, and rotochamber brake actuator readjustment limits.* The pushrod travel for clamp- and rotochamber-type actuators must be less than the values specified in the following tables:

**CLAMP-TYPE BRAKE CHAMBERS**

Type	Outside diameter	Brake adjustment limit: Standard stroke chamber	Brake adjustment limit: Long stroke chamber
6 .....	4½ in. (114 mm) .....	1¼ in. (32 mm).	
9 .....	5¼ in. (133 mm) .....	1⅜ in. (35 mm).	
12 .....	5½ in. (145 mm) .....	1⅝ in. (35 mm) .....	1¾ in. (45 mm)
16 .....	6⅜ in. (162 mm) .....	1¾ in. (45 mm) .....	2 in. (51 mm)
20 .....	6⅝ in. (172 mm) .....	1¾ in. (45 mm) .....	2 in. (51 mm)
24 .....	7⅞ in. (184 mm) .....	1¾ in. (45 mm) .....	2 ½ in. (64 mm)*
30 .....	8⅝ in. (206 mm) .....	2 in. (51 mm) .....	2 in. (51 mm)
36 .....	9 in. (229 mm) .....	2¼ in. (57 mm).	2 ½ in. (64 mm)**

\* For type 20 chambers with a 3-inch (76 mm) rated stroke.  
 \*\* For type 24 chambers with a 3-inch (76 mm) rated stroke.

**BENDIX DD-3 BRAKE CHAMBERS**

Type	Outside diameter	Brake adjustment limit
30 ....	8⅝ in. (206 mm)	2¼ in. (57 mm)

**ROTOCHAMBER-TYPE BRAKE CHAMBERS**

Type	Outside diameter	Brake adjustment limit
9 .....	4⅞ in. (109 mm).	1½ in. (38 mm)
12 ....	4⅞ in. (122 mm).	1½ in. (38 mm)
16 ....	5⅞ in. (138 mm).	2 in. (51 mm)
20 ....	5⅞ in. (151 mm).	2 in. (51 mm)
24 ....	6⅞ in. (163 mm).	2 in. (51 mm)
30 ....	7⅞ in. (180 mm).	2¼ in. (57 mm)
36 ....	7⅞ in. (194 mm)	2¾ in. (70 mm)
50 ....	8⅞ in. (226 mm)	3 in. (76 mm)

4. Amend § 393.53 by revising paragraphs (b) and (c) to read as follows:

**§ 393.53 Automatic brake adjusters and brake adjustment indicators.**

\* \* \* \* \*

(b) *Automatic brake adjusters (air brake systems).* Each commercial motor vehicle manufactured on or after October 20, 1994, and equipped with an air brake system must meet the automatic brake adjustment system requirements of Federal Motor Vehicle Safety Standard No. 121 (49 CFR 571.121, S5.1.8 or S5.2.2) applicable to the vehicle at the time it was manufactured.

(c) *Brake adjustment indicator (air brake systems).* On each commercial motor vehicle manufactured on or after October 20, 1994, and equipped with an air brake system which contains an external automatic adjustment mechanism and an exposed pushrod, the condition of service brake under-adjustment must be displayed by a brake adjustment indicator conforming to the requirements of Federal Motor

**BOLT-TYPE BRAKE CHAMBERS**

Type	Outside diameter	Brake adjustment limit
A .....	6⅝ in. (176 mm).	1⅜ in. (35 mm)
B .....	9⅝ in. (234 mm).	1¾ in. (45 mm)
C .....	8⅝ in. (205 mm).	1¾ in. (45 mm)
D .....	5¼ in. (133 mm)	1¼ in. (32 mm)
E .....	6⅝ in. (157 mm).	1⅝ in. (35 mm)
F .....	11 in. (279 mm) ..	2¼ in. (57 mm)
G .....	9⅞ in. (251 mm)	2 in. (51 mm)

For actuator types not listed in these tables, the pushrod stroke must be less than 80 percent of the rated stroke marked on the actuator by the actuator manufacturer, or less than the readjustment limit marked on the actuator by the actuator manufacturer.

\* \* \* \* \*

Vehicle Safety Standard No. 121 (49 CFR 571.121, S5.1.8 or S5.2.2) applicable to the vehicle at the time it was manufactured.

5. Amend Appendix G to Subchapter B by revising paragraph (1)(a)(5) to read as follows:

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

- \* \* \* \* \*
- (1) \* \* \*
- (a) \* \* \*
- (5) Readjustment limits. The maximum pushrod travel or stroke must be less than the

values given in the tables below and at § 393.47(e). Any brake ¼" or more past the readjustment limit, or any two brakes less than ¼" past the readjustment limit, will be rejected. Stroke must be measured with engine off and reservoir pressure of 80 to 90 psi with brakes fully applied.

**CLAMP-TYPE BRAKE CHAMBERS**

Type	Outside diameter	Brake adjustment limit: Standard stroke chamber	Brake adjustment limit: Long stroke chamber
6 .....	4½ in. (114 mm) .....	1¼ in. (32 mm).	
9 .....	5¼ in. (133 mm) .....	1⅜ in. (35 mm).	
12 .....	5½ in. (145 mm) .....	1⅝ in. (35 mm) .....	1¾ in. (45 mm)
16 .....	6⅜ in. (162 mm) .....	1¾ in. (45 mm) .....	2 in. (51 mm)
20 .....	6⅝ in. (172 mm) .....	1¾ in. (45 mm) .....	2 in. (51 mm); 2½ in. (64 mm) *
24 .....	7 in. (184 mm) .....	1¾ in. (45 mm) .....	2 in. (51 mm); 2½ in. (64 mm) **
30 .....	8 in. (206 mm) .....	2 in. (51 mm) .....	2½ in. (64 mm)
36 .....	9 in. (229 mm) .....	2½ in. (57 mm).	

\* For type 20 chambers with a 3-inch (76 mm) rated stroke.  
 \*\* For type 24 chambers with a 3-inch (76 mm) rated stroke.

**BENDIX DD-3 BRAKE CHAMBERS**

Type	Outside diameter	Brake adjustment limit
30 ....	8⅝ in. (206 mm)	2¼ in. (57 mm)

actuator by the actuator manufacturer, or less than the readjustment limit marked on the actuator by the actuator manufacturer.  
 \* \* \* \* \*

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

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**BILLING CODE 4910-EX-P**

**BOLT-TYPE BRAKE CHAMBERS**

Type	Outside diameter	Brake adjustment limit
A .....	6⅝ in. (176 mm).	1⅜ in. (35 mm)
B .....	9⅜ in. (234 mm).	1¾ in. (45 mm)
C .....	8⅜ in. (205 mm).	1¾ in. (45 mm)
D .....	5¼ in. (133 mm)	1¼ in. (32 mm)
E .....	6⅜ in. (157 mm).	1⅝ in. (35 mm)
F .....	11 in. (279 mm) ..	2¼ in. (57 mm)
G .....	9⅞ in. (251 mm)	2 in. (51 mm)

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Parts 622 and 640**

**RIN 0648-AY72**

**Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Spiny Lobster Fishery of the Gulf of Mexico and South Atlantic; Amendment 10**

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

**ACTION:** Notice of availability; request for comments.

**SUMMARY:** The Gulf of Mexico and South Atlantic Fishery Management Councils (Councils) have submitted Amendment 10 to the Fishery Management Plan for the Spiny Lobster Fishery of the Gulf of Mexico and South Atlantic (FMP) for review, approval, and implementation by NMFS. Amendment 10 proposes actions to revise the lobster species contained within the fishery management unit; revise definitions of management thresholds; establish an acceptable biological catch control (ABC) rule, an annual catch limit (ACL), and an annual catch target (ACT) for

Caribbean spiny lobster; revise the Federal spiny lobster tail-separation permitting requirements; revise the regulations specifying the condition of spiny lobster landed during a fishing trip; modify the undersized attractant regulations; modify the framework procedures; and transfer to the state of Florida the authority to remove derelict spiny lobster traps within the exclusive economic zone (EEZ) off Florida.

**DATES:** Written comments must be received on or before November 1, 2011.

**ADDRESSES:** You may submit comments on the amendment identified by NOAA-NMFS-2011-0106 by any of the following methods:

- *Electronic submissions:* Submit electronic comments via the Federal e-Rulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *Mail:* Susan Gerhart, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.

*Instructions:* All comments received are a part of the public record and will generally be posted to <http://www.regulations.gov> without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

To submit comments through the Federal e-rulemaking portal: <http://www.regulations.gov>, click on "submit a comment," then enter "NOAA-NMFS-2011-0106" in the keyword search and click on "search." To view posted comments during the comment period, enter "NOAA-NMFS-2011-0106" in the keyword search and click on

For actuator types not listed in these tables, the pushrod stroke must be less than 80 percent of the rated stroke marked on the