

requirements. As requested by Ohio EPA, the following provisions are not included in this proposed approval: OAC 3745-31-01(A)(8), (E)(3)(b)(ii) and (iii), (M)(10)(a)(ii), (P)(12), (Q), and (S)(11); 3745-31-03(B)(1)(p); 3745-31-05(E); 3745-31-13(H)(1)(c); 3745-31-22(A)(3)(b); 1-hour NO<sub>2</sub> SIL in 3745-31-23(A); 3745-31-24(F); 3745-31-26(D); 3745-31-27(A)(1)(b); and 3745-31-34(B), (C), and (D).

#### IV. Incorporation by Reference

In this rulemaking, EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is proposing to incorporate by reference Ohio rule(s) 3745-31-01 [with the exception of OAC 3745-31-01(A)(8), (E)(3)(b)(ii) and (iii), (M)(10)(a)(ii), (P)(12), (Q), and (S)(11)], 3745-31-02, 3745-31-03 [with the exception of OAC 3745-31-03(B)(1)(p)], 3745-31-05 [with the exception of OAC 3745-31-05(E)], 3745-31-06, 3745-31-07, 3745-31-09, 3745-31-10, 3745-31-11, 3745-31-12, 3745-31-13 [with the exception of OAC 3745-31-13(H)(1)(c)], 3745-31-14, 3745-31-15, 3745-31-16, 3745-31-17, 3745-31-18, 3745-31-19, 3745-31-20, 3745-31-21, 3745-31-22 [with the exception of OAC 3745-31-22(A)(3)(b)], 3745-31-23 [with the exception of the 1-hour NO<sub>2</sub> SIL in 3745-31-23(A)], 3745-31-24 [with the exception of OAC 3745-31-24(F)], 3745-31-25, 3745-31-26 [with the exception of OAC 3745-31-26(D)], 3745-31-27 [with the exception of OAC 3745-31-27(A)(1)(b)], 3745-31-28, 3745-31-29, 3745-31-30, and 3745-31-32, effective March 11, 2023, and August 14, 2025, discussed in section II of this preamble. EPA has made, and will continue to make, these documents generally available through [www.regulations.gov](http://www.regulations.gov) and at the EPA Region 5 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

#### V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve State choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);

- Is not subject to Executive Order 14192 (90 FR 9065, February 6, 2025) because SIP actions are exempt from review under Executive Order 12866;

- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);

- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

- Is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it approves a State program;

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and

- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act.

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian Tribe has demonstrated that a Tribe has jurisdiction. In those areas of Indian country, the rulemaking does not have Tribal implications and will not impose substantial direct costs on Tribal governments or preempt Tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: December 23, 2025.

**Cheryl Newton,**

*Acting Regional Administrator, Region 5.*

[FR Doc. 2026-00258 Filed 1-8-26; 8:45 am]

**BILLING CODE 6560-50-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

#### 49 CFR Part 390

[Docket No. FMCSA-2025-0124]

RIN 2126-AC77

### Clarification to the Applicability of Emergency Exemptions; Response to Petitions for Reconsideration

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

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** In response to several petitions for reconsideration, FMCSA proposes to revise from 14 days to 30 days the length of the emergency relief automatically triggered subsequent to a regional declaration of emergency by a Governor of a State, their authorized representative, or FMCSA. This proposal would reverse one change made by a final rule published in October of 2023.

**DATES:** Comments must be received on or before March 10, 2026.

**ADDRESSES:** You may submit comments identified by Docket Number FMCSA-2025-0124 using any of the following methods:

- **Federal eRulemaking Portal:** Go to <https://www.regulations.gov/docket/FMCSA-FMCSA-2025-0124/document>. Follow the online instructions for submitting comments.

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

- **Hand Delivery or Courier:** Dockets Operations, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Ground Floor, Washington, DC 20590-0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366-9317 or (202) 366-9826 before visiting Dockets Operations.

• **Fax:** (202) 493-2251.

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 for instructions on submitting comments, including information collection comments for the Office of Information and Regulatory Affairs, OMB.

**FOR FURTHER INFORMATION CONTACT:** Ms. Kathryn Sinniger, Regulatory and

Legislative Affairs Division, Office of the Chief Counsel, FMCSA, 1200 New Jersey Avenue SE, Washington, DC 20590-0001, (202) 570-8062, [Kathryn.sinniger@dot.gov](mailto:Kathryn.sinniger@dot.gov). If you have questions on viewing material in the docket, call Dockets Operations at (202) 366-9826.

#### **SUPPLEMENTARY INFORMATION:**

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

##### *A. Submitting Comments*

If you submit a comment, please include the docket number for this NPRM (FMCSA-2025-0124), indicate the specific section of this document to which your comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to <https://www.regulations.gov/docket/FMCSA-2025-0124/document>, click on this NPRM, click “Comment,” and type your comment into the text box on the following screen.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing.

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

##### **Confidential Business Information (CBI)**

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to the NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to the NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission that constitutes CBI as “PROPIN” to indicate it contains proprietary information. FMCSA will treat such marked submissions as confidential under the Freedom of Information Act, and they will not be placed in the public docket of the NPRM. Submissions containing CBI should be sent to Brian Dahlin, Chief,

Regulatory Evaluation Division, Office of Policy, FMCSA, 1200 New Jersey Avenue SE, Washington, DC 20590-0001 or via email at [brian.g.dahlin@dot.gov](mailto:brian.g.dahlin@dot.gov). You need not send a duplicate hardcopy of your electronic CBI submissions to FMCSA headquarters. Any comments FMCSA receives not specifically designated as CBI will be placed in the public docket for this rulemaking.

##### *B. Viewing Comments and Documents*

To view any documents mentioned as being available in the docket, go to <https://www.regulations.gov/docket/FMCSA-2025-0124/document> and choose the document to review. To view comments, click this NPRM, then click “Browse Comments.” If you do not have access to the internet, you may view the docket online by visiting Dockets Operations on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590-0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366-9317 or (202) 366-9826 before visiting Dockets Operations.

##### *C. Privacy*

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

#### **II. Abbreviations**

ANPRM Advance notice of proposed rulemaking  
CE Categorical Exclusion  
CMV Commercial motor vehicle  
CVSA Commercial Vehicle Safety Alliance  
DOT Department of Transportation  
FMCSA Federal Motor Carrier Safety Administration  
FMCSRs Federal Motor Carrier Safety Regulations  
FR Federal Register  
HOS Hours of service  
NPGA National Propane Gas Association  
NPRM Notice of Proposed Rulemaking  
OOIDA Owner Operator Independent Driver Association  
PIA Privacy Impact Analysis  
PTA Privacy Threshold Assessment  
SCHTO Subcommittee on Highway Transport

UMRA The Unfunded Mandates Reform Act of 1995  
U.S.C. United States Code

#### **III. Legal Basis**

This NPRM is issued under the authority of 49 U.S.C. 31136(a) and 31133(a)(10). The Secretary of Transportation (the Secretary) has authority under 49 U.S.C. 31136(a) to “prescribe regulations on commercial motor vehicle safety. The regulations shall prescribe minimum safety standards for commercial motor vehicles.” Where appropriate, the Secretary may provide exceptions to the applicability and scope of such regulations.

Authority to “perform other acts the Secretary considers appropriate” is conferred by 49 U.S.C. 31133(a)(10). The Secretary, acting through FMCSA, finds the use of emergency relief in the wake of an emergency to be appropriate and in the public interest.

Pursuant to 49 CFR 1.87, the Secretary has delegated this statutory authority to the FMCSA Administrator.

#### **IV. Regulatory History**

On October 13, 2023, FMCSA published in the **Federal Register** (88 FR 70897) a final rule titled “Clarification to the Applicability of Emergency Exemptions.” That final rule revised the emergency exemption rules, found in 49 CFR 390.23 and 390.25. Among other changes, the revisions narrowed the scope of the safety regulations from which relief is automatically provided when an emergency is declared by a Governor (or other authorized State-level official), FMCSA, or a local government official. The exemptions continue to apply only to motor carriers and drivers providing direct assistance in response to the declared emergency.

Specifically, the final rule made changes to the definitions of *emergency* and *direct assistance* and removed the definition of the term *emergency relief*. It revised the scope of the regulatory relief that takes effect upon a regional declaration of emergency by a Governor, a Governor’s authorized representative, or FMCSA, such that the automatic exemption would be limited to 14 days and exempt motor carriers and commercial motor vehicle (CMV) drivers from only the hours of service (HOS) regulations in sections 395.3 and 395.5. The previous regulation provided that the automatic exemption was limited to 30 days and covered all regulations in 49 CFR parts 390 through 399. For local emergencies, which were already limited to a 5-day period of automatic relief, the final rule narrowed

the exemption to cover only the HOS regulations in sections 395.3 and 395.5, rather than all regulations in 49 CFR parts 390 through 399. Finally, the final rule simplified the process for requesting modifications and extensions of emergency exemptions, found in section 390.25.

#### V. Petitions for Reconsideration

Following the publication of the final rule, FMCSA received seven petitions for reconsideration,<sup>1</sup> filed by the following entities: The Commercial Vehicle Safety Alliance (CVSA); Doug Burgum, Governor of North Dakota; the Montana Department of Transportation; the Western Association of State Highway Transportation Officials Subcommittee on Highway Transport; the National Propane Gas Association (NPGA); Owner-Operator Independent Drivers Association, Inc. (OOIDA);<sup>2</sup> Brad Little, Governor of Idaho; and Kristi Noem, Governor of South Dakota. Six of the seven petitions requested that FMCSA reconsider the 14-day automatic time limit placed on emergency exemptions when those exemptions are triggered by an emergency declaration issued by a Governor or a delegatee for a Governor. Each of these petitions noted that the 14-day limit was too short, cited specific examples of events where the emergency response surpassed 14 days, and argued that the various clearance procedures involved in requesting extensions for the emergency exemption, at both the State and Federal levels, made it necessary to request an extension before it was even known how much additional time would be needed. The seventh petition requested that FMCSA revoke the final rule in its entirety. All seven petitions may be found in the docket for this rulemaking.

In January 2025, FMCSA notified all petitioners that it would reconsider the final rule on the limited issue of the maximum time a regional emergency exemption would trigger relief from HOS regulations in sections 395.3 and 395.5. A copy of the letters to the petitioners are also included in the docket for this rulemaking.

#### VI. Discussion of Proposed Rule

In response to the petitions listed above, FMCSA is reconsidering the 14-day time limit for the automatic relief

<sup>1</sup> Two of the petitions came in after the period for filing a petition for reconsideration had ended. However, FMCSA is treating them as properly submitted petitions for reconsideration, as the Agency had not issued responses to any of the petitions submitted prior to receiving the late-filed petitions.

<sup>2</sup> NPGA and OOIDA jointly filed one petition for reconsideration.

triggered by a regional emergency declaration, found at section 390.23(b). This proposed rule, if adopted, would revert the automatic time limit for regional emergency exemptions back to the 30-day limit that existed prior to the issuance of the October 2023 final rule. The need for direct assistance requiring regulatory relief may extend beyond the 14-day limit currently found in section 390.23(b). FMCSA experienced several instances since the final rule was issued where decisions on extension requests could not be issued until very close to the expiration time of the automatic emergency exemption, which created uncertainty about whether the emergency exemption would be in place for a longer period of time. Instances where such regulatory relief extended beyond 14 days include: the collapse of the Francis Scott Key Bridge in Baltimore, Maryland in the spring of 2024; the wildfires in western United States; and the historic back-to-back hurricanes in North Carolina in the fall of 2024.<sup>3</sup> Most petitioners reported that the time needed to draft and process exemption extensions, both at the State and Federal level, can be lengthy. In some scenarios, emergency responders are forced to justify an extension request before they know how much additional time will be required to respond to an emergency situation. In these cases, responders may need to delay their direct assistance in order to ensure the extension is completed, and CMV drivers engaged in direct assistance may delay operations, if their operation would extend past the 14 days, until they know an extension has been issued. FMCSA agrees with petitioners who pointed out that any delay in response in such situations, while rare, is unacceptable because it creates a risk of delays in the provision of emergency assistance.

Based on the foregoing, FMCSA is proposing to change the time limit placed on the automatic emergency exemption that is triggered by a regional emergency declaration, *i.e.*, a declaration by a Governor, their authorized representative, or FMCSA. If this proposed rule is adopted, the applicable time limit for an automatic

emergency exemption would be 30 days, as it was prior to the effective date of the October 2023 final rule. However, the terms of the exemption would require that it not continue after the emergency period if that period is less than 30 days. This limitation existed prior to the October 2023 final rule and was maintained with that final rule. This means that should a Governor issue an emergency declaration for 14 days, the emergency exemption would also be limited to 14 days. Likewise, if a Governor cancels a 30-day emergency declaration after 20 days, the emergency exemption would also be cancelled. In addition, the limitation that the emergency relief from sections 395.3 and 395.5 during a declared emergency only applies to motor carriers and drivers providing direct assistance during the emergency would remain in place. FMCSA believes that these limitations would continue to meet the goal of ensuring that the relief granted through emergency declarations is appropriate and tailored to the specifics of the circumstances and emergencies being addressed.

#### Issues on Which the Agency Seeks Further Comment

FMCSA invites comment on all aspects of the NPRM from all stakeholders, but we are particularly interested in comments from States that address the following issues. In addressing topics, FMCSA requests that commenters number their remarks to correspond with the list below:

1. How frequently have emergency declarations, issued by your State, required extensions beyond the current regulatory limit (14 days)?
2. To what extent would the proposed rule reduce the number of extensions requests that your State needs to submit annually?
3. What are the estimated administrative costs, incurred by your State, in preparing and submitting requests for extensions of emergency declarations?
4. Would the proposed rule lead to any changes in your State's resource allocation or staffing needs as it relates to emergency management and regulatory compliance?

#### VII. International Impacts

Motor carriers and drivers are subject to the laws and regulations of the countries they operate in, unless an international agreement states otherwise. Non-U.S. domiciled carriers and drivers would be able to provide direct assistance in some scenarios, under the terms of the emergency

<sup>3</sup> All emergency exemptions are available here: <https://www.fmcsa.dot.gov/emergency-declarations>.

The first exemption granted related to the Francis Scott Key Bridge collapse is available here: <https://www.fmcsa.dot.gov/emergency/maryland-executive-order-0101202409>. It was subsequently extended four times. The emergency exemptions related to the hurricanes in North Carolina were also extended several times. Emergency exemptions related to wildfires are granted on a regular basis in several States. Exemption extensions related to hurricanes and wildfires can both be found through a search of the first link in this footnote.

exemption provisions found in section 390.23.

### VIII. Section-by-Section Analysis

There is only one change that would be made in this proposed rulemaking. In section 390.23, in paragraph (b), the number “14” would be changed to “30,” thereby increasing the length of time for an emergency exemption based on a regional declaration of an emergency. This change would revert the length of time for a regional emergency exemption to the automatic time limit that existed prior to the October 2023 final rule.

### IX. Regulatory Analyses

#### A. Executive Order (E.O.) 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

FMCSA has considered the impact of this proposed rule under E.O. 12866 (58 FR 51735, Oct. 4, 1993), Regulatory Planning and Review, and DOT Order 2100.6B, Policies and Procedures for Rulemakings.<sup>4</sup>

In the October 2023 final rule, FMCSA stated that it did not expect that final rule to result in substantive incremental impacts relative to the baseline established in the Federal Motor Carrier Safety Regulations (FMCSRs). *See* 88 FR 70987, 70903. The final rule included an analysis of the costs and benefits of the final rule. One cost cited was the increase in the number of extension requests from motor carriers and drivers, resulting from the reduction in the automatic exemption from 30 days to 14 days. FMCSA reported this extension request cost as part of its Paperwork Reduction Act compliance, where the Agency estimated a total annual cost of \$1,011 for the submission of the extension requests and a total Federal government annual cost of \$1,589 to review and approve the requests. *See* 88 FR 70987, 70904. FMCSA assumed that 50 individuals would submit requests for extensions each year based on input from the FMCSA Crisis Management Center, and that extension requests would take 15 minutes to complete, for a total of 12.5 hours of labor (50 respondents  $\times$  15 minutes). FMCSA also assumed that a motor carrier employee equivalent to General and Operations Managers with a loaded hourly wage of \$80.88 will submit the extension request.<sup>5</sup> As such, there would have

been an annual cost of \$1,011 (\$80.88  $\times$  12.5 hours) to submit extension requests. For the estimate of government costs, FMCSA assumed that requests for extensions would take 15 minutes each to review by a GS-13, step 5 in the Washington, DC area with a loaded hourly wage of \$127.13.<sup>6</sup> The annual cost to review these extension requests would have been \$1,589 (\$127.13  $\times$  12.5 hours).

This proposed rule would revert one change from the October 2023 final rule in section 390.23, in paragraph (b), to what it was prior to that final rule—30 days. As a result, FMCSA does not expect that making the change in this proposed rule would result in substantive incremental impacts relative to the baseline established in the FMCSRs, nor would it result in substantive incremental impacts relative to the baseline established by the October 2023 final rule. Generally, emergency exemptions are issued and extended to cover whatever period needed for CMV operators to provide direct assistance to restore essential supplies and services. This was the case before the October 2023 final rule, has been the case since the October 2023 final rule came into effect, and would continue to be the case under this proposed rule should it become a final rule. The only impact this proposal would have would be to reduce the number of extension requests needed, as more emergencies would be covered under the 30-day time period than were covered by the 14-day time period. Consequently, FMCSA estimates that this rule could yield annual cost savings up to the 2023 final rule cost estimates: \$1,011 for motor carriers and up to \$1,589 for the Federal Government, depending on the reduction in emergency exemption requests.

FMCSA is not estimating how large that reduction might be at this time. Rather, the Agency will update the expected number of extension requests per year when completing the renewal process for the approved collection of

and overhead costs of 21 percent. The median hourly wage of a General and Operations Manager is \$47.16. A General Operations Manager falls under the Bureau of Labor Statistics Occupation Code 11-1021. Data is from the BLS Occupational Employment and Wage Statistics (OEWS), National, May 2022, available at <https://www.bls.gov/oes/tables.htm> (accessed Nov. 17, 2025).

<sup>4</sup> The hourly wage for a GS-13 Step 5 in the Washington, DC region was multiplied by the federal government fringe benefits rate of 45 percent and the federal government overhead rate of 64 percent to arrive at the loaded hourly wage. The hourly wage denoted in the OPM schedule for a GS-13 step 5 is \$60.83. Available at [https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2023/DCB\\_h.pdf](https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2023/DCB_h.pdf) (accessed Nov. 17, 2025).

information, OMB Control Number 2126-0077, “Emergency Declaration Exemption Reporting under 49 CFR 390.25.” That collection is scheduled to expire on January 31, 2027. This may result in FMCSA over-estimating the burden on both the public and the Agency for approximately one year.

#### B. E.O. 14192 (Unleashing Prosperity Through Deregulation)

E.O. 14192 (90 FR 9065, Jan. 31, 2025), Unleashing Prosperity Through Deregulation, requires that for “each new [E.O. 14192 regulatory action] issued, at least ten prior regulations be identified for elimination.”<sup>7</sup>

Implementation guidance for E.O. 14192 issued by the Office of Management and Budget (OMB) (Memorandum M-25-20, March 26, 2025) defines two different types of E.O. 14192 actions: an E.O. 14192 deregulatory action, and an E.O. 14192 regulatory action.<sup>8</sup>

An E.O. 14192 deregulatory action is defined as “an action that has been finalized and has total costs less than zero.” This proposed rulemaking is expected to have total costs less than zero, and therefore would be considered an E.O. 14192 deregulatory action upon issuance of a final rule. FMCSA seeks comment on how States, motor carriers, and individuals will be impacted by the decrease in extension requests filed and any other information that would aid the Agency in quantifying costs or savings associated with this proposed rule.

#### C. Congressional Review Act

This rulemaking is not a *major rule* as defined under the Congressional Review Act (5 U.S.C. 801–808).<sup>9</sup>

#### D. Advance Notice of Proposed Rulemaking

Under 49 U.S.C. 31136(g), FMCSA is required to publish an advance notice of proposed rulemaking (ANPRM) or

<sup>7</sup> Executive Office of the President, *Executive Order 14192 of January 31, 2025. Unleashing Prosperity Through Deregulation*, 90 FR 9065–9067 (Feb. 6, 2025).

<sup>8</sup> Executive Office of the President, Office of Management and Budget, *Guidance Implementing Section 3 of Executive Order 14192, Titled “Unleashing Prosperity Through Deregulation,”* Memorandum M-25-20 (Mar. 26, 2025).

<sup>9</sup> A *major rule* means any rule that the Office of Management and Budget finds has resulted in or is likely to result in (a) an annual effect on the economy of \$100 million or more; (b) a major increase in costs or prices for consumers, individual industries, geographic regions, Federal, State, or local government agencies; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets. See 5 U.S.C. 804(2).

<sup>4</sup> DOT Order 2100.6B, available at <https://www.transportation.gov/regulations/dot-order-21006b-policies-and-procedures-rulemakings>.

<sup>5</sup> The loaded hourly wage is a product of the median hourly wage of a General and Operations Managers multiplied by the fringe benefits rate of 50.5 percent

proceed with a negotiated rulemaking, if a proposed safety rule “under this part”<sup>10</sup> is likely to lead to the promulgation of a major rule. As this proposed rule is not likely to result in the promulgation of a major rule, the Agency is not required to issue an ANPRM or to proceed with a negotiated rulemaking.

#### D. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996,<sup>11</sup> requires Federal agencies to consider the effects of the regulatory action on small business and other small entities and to minimize any significant economic impact. The term *small entities* comprises small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000 (5 U.S.C. 601(6)). Accordingly, DOT policy requires an analysis of the impact of all regulations on small entities, and mandates that agencies strive to lessen any adverse effects on these businesses.

#### E. Assistance for Small Entities

In accordance with section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121, 110 Stat. 857), codified at 5 U.S.C. 601 note, FMCSA wants to assist small entities in understanding this proposed rule so they can better evaluate its effects on themselves and participate in the rulemaking initiative. If this rulemaking would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

Small businesses may send comments on the actions of Federal employees who enforce or otherwise determine compliance with Federal regulations to the Small Business Administration’s Small Business and Agriculture Regulatory Enforcement Ombudsman (Office of the National Ombudsman, see <https://www.sba.gov/about-sba/oversight-advocacy/office-national-ombudsman>) and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency’s responsiveness to small business. If you

<sup>10</sup> Part B of Subtitle VI of Title 49, United States Code, *i.e.*, 49 U.S.C. chapters 311–317.

<sup>11</sup> Public Law 104–121, 110 Stat. 857 (Mar. 29, 1996).

wish to comment on actions by employees of FMCSA, call 1–888–REG-FAIR (1–888–734–3247). DOT has a policy regarding the rights of small entities to regulatory enforcement fairness and an explicit policy against retaliation for exercising these rights.

#### F. Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) (UMRA) requires Federal agencies to assess the effects of their discretionary regulatory actions. The Act addresses actions that may result in the expenditure by a State, local, or Tribal government, in the aggregate, or by the private sector of \$206 million (which is the value equivalent of \$100 million in 1995, adjusted for inflation to 2024 levels) or more in any 1 year. Though this proposal would not result in such an expenditure, and the analytical requirements of UMRA do not apply as a result, the Agency discusses the effects of this rulemaking elsewhere in this preamble.

#### G. Paperwork Reduction Act

This proposed rule contains no new information collection requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The existing collections of information contained in section 390.25 are covered by an approved collection, OMB Control Number 2126–0077, “Emergency Declaration Exemption Reporting under 49 CFR 390.25.”

#### H. E.O. 13132 (Federalism)

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

FMCSA has determined that this rulemaking would not have substantial direct costs on or for States, nor would it limit the policymaking discretion of States. Nothing in this document preempts any State law or regulation. Therefore, this rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Impact Statement.

#### I. Privacy

The Consolidated Appropriations Act, 2005,<sup>12</sup> requires the Agency to assess the privacy impact of a regulation that would affect the privacy of individuals.

This rulemaking would not require the collection of personally identifiable information.

The Privacy Act (5 U.S.C. 552a) applies only to Federal agencies and any non-Federal agency that receives records contained in a system of records from a Federal agency for use in a matching program.

The E-Government Act of 2002,<sup>13</sup> requires Federal agencies to conduct a PIA for new or substantially changed technology that collects, maintains, or disseminates information in an identifiable form. No new or substantially changed technology would collect, maintain, or disseminate information as a result of this rulemaking. Accordingly, FMCSA has not conducted a PIA.

In addition, the Agency completed a Privacy Threshold Assessment (PTA) to evaluate the risks and effects the rulemaking might have on collecting, storing, and sharing personally identifiable information. The PTA has been submitted to FMCSA’s Privacy Officer for review and preliminary adjudication and would be submitted to DOT’s Privacy Officer for review and final adjudication.

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

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

#### K. National Environmental Policy Act of 1969

FMCSA analyzed this NPRM pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and determined this action is categorically excluded from further analysis and documentation in an environmental assessment or environmental impact statement under DOT Order 5610.1D,<sup>14</sup> Subpart B, paragraph e(6)(y)(4). The categorical exclusion (CE) in paragraph e(6)(y)(4) is for relief during regional and local emergencies and therefore the proposed requirements in this rulemaking are covered by this CE.

<sup>13</sup> Public Law 107–347, sec. 208, 116 Stat. 2899, 2921 (Dec. 17, 2002).

<sup>14</sup> Available at <https://www.transportation.gov/mission/dots-procedures-considering-environmental-impacts>.

<sup>12</sup> Public Law 108–447, 118 Stat. 2809, 3268, note following 5 U.S.C. 552a (Dec. 4, 2014).

### L. Rulemaking Summary

As required by 5 U.S.C. 553(b)(4), a summary of this rulemaking can be found in the Abstract section of the Department's Unified Agenda entry at <https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=202504&RIN=2126-AC77>.

### List of Subjects in 49 CFR Part 390

Highway safety, Intermodal transportation, Motor carriers, Motor vehicle safety, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, FMCSA proposes to amend 49 CFR part 390 as follows:

## PART 390—FEDERAL MOTOR CARRIER SAFETY REGULATIONS: GENERAL

The authority citation would continue to read as follows:

**Authority:** 49 U.S.C. 113, 504, 508, 31132, 31133, 31134, 31136, 31137, 31144, 31149, 31151, 31502; sec. 114, Pub. L. 103–311, 108 Stat. 1673, 1677; secs. 212 and 217, Pub. L. 106–159, 113 Stat. 1748, 1766, 1767; sec. 229, Pub. L. 106–159 (as added and transferred by sec. 4115 and amended by secs. 4130–4132, Pub. L. 109–59, 119 Stat. 1144, 1726, 1743, 1744), 113 Stat. 1748, 1773; sec. 4136, Pub. L. 109–59, 119 Stat. 1144, 1745; secs. 32101(d) and 32934, Pub. L. 112–141, 126 Stat. 405, 778, 830; sec. 2, Pub. L. 113–125, 128 Stat. 1388; secs. 5403, 5518, and 5524, Pub. L. 114–94, 129 Stat. 1312, 1548, 1558, 1560; sec. 2, Pub. L. 115–105, 131 Stat. 2263; and 49 CFR 1.81, 1.81a, 1.87.

### § 390.23 Automatic relief from regulations.

■ 1. In § 390.23(b), remove the number “14” and add, in its place, the number “30.”

Issued under the authority of delegation in 49 CFR 1.87.

**Derek D. Barrs,**  
Administrator.

[FR Doc. 2026–00268 Filed 1–8–26; 8:45 am]

**BILLING CODE 4910-EX-P**

## SURFACE TRANSPORTATION BOARD

### 49 CFR Part 1144

[Docket No. EP 788]

### Eliminating Regulatory Barriers to Competition: Review of Part 1144

**AGENCY:** Surface Transportation Board.  
**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Surface Transportation Board proposes to repeal its regulations on “Intramodal Rail Competition,” which implement the agency’s statutory authority to prescribe reciprocal switching agreements, through routes, and through rates. The approach set out

in the regulations, which narrows the Board’s statutory discretion, may no longer be appropriate on an industrywide basis, and its repeal would allow the Board to consider the prescription of through routes, through rates, and reciprocal switching agreements on a case-by-case basis under the applicable statutory standards.

**DATES:** Comments on this notice of proposed rulemaking are due by March 10, 2026. Reply comments are due by April 24, 2026.

**ADDRESSES:** Comments and replies may be filed with the Board either via e-filing or in writing addressed to: Surface Transportation Board, Attn: Docket No. EP 788, 395 E Street SW, Washington, DC 20423–0001. A summary of the proposed rule and the proposed rule are available on the Board’s website at [www.stb.gov](http://www.stb.gov) and can be found by clicking “Search STB Records,” selecting Dockets in the “Search For” menu, selecting EP in the “Docket Number” menu and entering 788. Comments and replies will also be posted to the Board’s website.

**FOR FURTHER INFORMATION CONTACT:** Amy Ziehm, at (202) 918–5462. If you require accommodation under the Americans with Disabilities Act, please call (202) 245–0245.

### SUPPLEMENTARY INFORMATION:

#### Background

##### Statutory History

Regulation of freight rail transportation in the United States is governed by the Interstate Commerce Act, which was amended substantially by the Railroad Revitalization and Regulatory Reform Act of 1976 (the 4R Act), Public Law 94–210, the Staggers Rail Act of 1980 (Staggers), Public Law 96–448, and the ICC Termination Act of 1995 (ICCTA), Public Law 104–88. In the pre-Staggers era, the railroad industry was characterized by “open routing” and “rate equalization,” practices whereby through routes were created on practically all possible combinations of railroad tracks between two points (open routing) and where routes between the same two points—including single-line routes—were offered at the same rate, without regard to the actual cost (rate equalization). *Balt. Gas & Elec. Co. v. United States*, 817 F.2d 108, 110 (D.C. Cir. 1987).<sup>1</sup> The

<sup>1</sup> A “through route,” or “interline service,” refers to a long-distance movement that is performed by two or more rail carriers. The shipment is transferred from one carrier to another *en route* between the point of origin and the final destination. Each participating rail carrier performs a portion of the line haul and earns a portion of the

Board’s predecessor, the Interstate Commerce Commission (ICC), supported these practices by using its statutory authority to prescribe and maintain through routes and joint rates and by considering attempts by railroads to lower the rate on one route as “closing” higher-priced through routes between the same points (*i.e.*, the “commercial closing” doctrine). *Id.* at 111. While some shippers enjoyed the choice of routes and unified rates, made available by “open routing” and “rate equalization,” many shippers began to oppose these practices, which on many routes forced the payment of rates higher than those that might have prevailed in a competitive environment. *Id.* Likewise, while some smaller railroads benefited from the proliferation of through routes, many suffered by their inability to lower rates on more efficient routings and raise rates when their share of joint rates on through routes did not cover variable costs and provide a fair rate of return. *Id.*

By the 1970s, the railroad industry had entered a state of “financial crisis,” *Baltimore Gas & Electric*, 817 F.2d at 111, with low rate divisions and a proliferation of uneconomic routes as among the “major problems” that led to its poor financial health, *Standards for Intramodal Rail Competition*, EP 445, slip op. at 5 (ICC served July 7, 1983) (citing H.R. Rep. No. 96–1430, at 111 (1980)); *see also* H.R. Rep. No. 96–1430, at 79 (“Earnings by the railroad industry are the lowest of any transportation mode and are insufficient to generate funds for necessary capital improvements.”). In response, Congress enacted “two major pieces of legislation of a generally deregulatory thrust”: the 4R Act and Staggers. *Baltimore Gas & Electric*, 817 F.2d at 112–13. As relevant here, each statute reduced the ICC’s discretion to deny or suspend the cancellations of through routes and joint

line-haul revenues. *Baltimore Gas & Electric*, 817 F.2d at 110.

Rail carriers typically charge either “joint rates” or “proportional rates” for interline service. A joint rate is a single rate that applies to the entire movement, from the point of origin to the final destination. The division of revenues under a joint rate is determined in the first instance by the rail carriers, subject to division by the Board as provided for in 49 U.S.C. 10705(b). In the case of proportional rates, each rail carrier establishes a separate rate for its portion of the movement, based on the carrier’s participation in a through movement. *Cent. Power & Light Co. v. S. Pac. Transp. Co.*, 1 S.T.B. 1059, 1060, n.3 (1996). A “through rate” is a rate that applies to an entire origin-to-destination movement, without regard to how many rail carriers are involved in the movement. A joint rate and a proportional rate are each a form of through rate.