

driving tasks, the agency does not believe it is necessary to take such action at this time. Currently, the safety benefits of such a rulemaking cannot be quantified, and there is no practicable means of estimating the potential costs in the event that such a rulemaking would necessitate equipment manufacturers to design systems now being sold. The agency will, however, certainly work with the private sector if specific safety problems are identified that they require Federal rules to effectively address the issue.

The FMCSA continues to consider § 393.88 to be applicable only to television receivers, and believes that the rule should not be construed as being applicable to any other device or technology unless such technology is capable of receiving a television broadcast signal. The agency believes that § 393.3 provides adequate guidance concerning other technology in that it prohibits equipment and accessories that decrease the safety of operation of the CMV on which it is used. The agency will continue to provide general regulatory guidance, as necessary, to clarify the applicability of § 393.3 to devices other than television receivers, while ensuring to the greatest extent practicable, that the regulatory guidance process does not become a de facto design approval or product endorsement process.

FMCSA Decision

In consideration of the comments and for the reasons given above, the FMCSA will retain § 393.88. The agency no longer believes that the regulation could discourage the use of certain technologies intended to improve the safety or efficiency of motor carrier operations, at least to the extent that action must be taken at this time. Furthermore, the safety benefits of retaining the rule, while admittedly undocumented, outweigh the potential safety risks that would result from motor carriers or drivers concluding that there are no regulatory obstacles to the watching of television while a CMV is being operated on public roads.

For these reasons, the NPRM of April 3, 1996 (61 FR 14733), is withdrawn.

Issued on: July 11, 2003.

Annette M. Sandberg,

Acting Administrator.

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DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Parts 395 and 396

[Docket No. FMCSA-98-3414]

RIN 2126-AA36

Withdrawal of Advance Notice of Proposed Rulemaking; Out-of-Service Criteria

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Withdrawal of advance notice of proposed rulemaking (ANPRM).

SUMMARY: The FMCSA withdraws the ANPRM published in the **Federal Register** of July 20, 1998, concerning the use of the North American Uniform Out-of-Service Criteria (the Criteria). FMCSA has determined that including the Criteria in the Federal Motor Carrier Safety Regulations (FMCSRs), either through codification of each criterion or through incorporation-by-reference of a specific edition of the Criteria, would not provide any discernible safety benefits to the public or resolve issues raised by parties seeking such action. Adoption of the Criteria into the FMCSRs would only have the effect of regulating FMCSA enforcement actions during roadside inspections. However, it would not necessarily preclude the States from continuing to use the uniform international tolerances. Accordingly, this rulemaking proceeding has been terminated.

FOR FURTHER INFORMATION CONTACT: Larry Minor, Chief of the Vehicle and Roadside Operations Division (MC-PSV), (202) 366-4009, Federal Motor Carrier Safety Administration, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590.

ADDRESSES: The electronic file of this document is available from the DOT public docket at <http://dms.dot.gov>, docket number FMCSA-98-3414. It is also available from FMCSA's Web site at <http://www.fmcsa.dot.gov/rulesregs/fmcsr/rulemakings/> or the **Federal Register** Web site at <http://www.gpoaccess.gov>. If you do not have access to the Internet, you may request a copy of this document from the Docket Management System, U.S. Department of Transportation, Room PL-401, 400 Seventh Street, SW., Washington, DC 20590. You must identify the title and docket number of the document.

SUPPLEMENTARY INFORMATION:

Background

On July 20, 1998 (63 FR 38791), the Federal Highway Administration (FHWA) published an ANPRM requesting public comment concerning the use of the Criteria. During roadside inspections, Federal, State and local enforcement officials use the Criteria as a guide in determining whether a commercial motor vehicle (CMV) or driver should be placed out of service. The Criteria provides a list of violations of the safety regulations that are so unsafe that they must be corrected before operations can resume. Correction of other less severe violations may be deferred to a later date, but generally no later than 15 days from the date the violations were discovered (49 CFR 396.9(d)(3)).

Currently, the Criteria is published by the Commercial Vehicle Safety Alliance (CVSA), an association of Federal, State and Provincial official responsible for the administration and enforcement of motor carrier safety laws and regulations in the United States, Canada, and Mexico. Each year the CVSA reviews the Criteria through a committee process involving representatives from Federal, State, and Provincial governments and the motor carrier industry representatives, and adopts changes as necessary to reflect up-to-date information concerning the potential safety impacts of specific violations of motor carrier laws and regulations.

Discussion of Comments

Thirty comments were received in response to the ANPRM. These came from 12 States and Provinces, associations representing State and Provincial enforcement and motor vehicle administrators, associations representing various segments of the trucking industry, safety advocates, unions representing drivers, trucking companies, and individual citizens.

Most of the commenters expressed concern about incorporating the Criteria into the FMCSRs through codification of each criterion, or including the Criteria as an appendix to the FMCSRs. Generally, the commenters believes that subjecting the Criteria to the Federal rulemaking process would undermine the efforts of the States, Provinces and industry to work together through the CVSA's committee process to review and periodically revise the enforcement tolerances. However, most of the commenters who were opposed to codification of the criteria indicated that they would support incorporation-by-reference of the Criteria provided that such action would not delay, or