

The notices of applications stated in detail the qualifications, experience, and medical condition of each applicant for an exemption from the vision requirements. That information is available by consulting the above cited **Federal Register** publications.

Interested parties or organizations possessing information that would otherwise show that any, or all, of these drivers are not currently achieving the statutory level of safety should immediately notify FMCSA. The Agency will evaluate any adverse evidence submitted and, if safety is being compromised or if continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315, FMCSA will take immediate steps to revoke the exemption of a driver.

#### Submitting Comments

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 that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov> and in the search box insert the docket numbers FMCSA-1999-6156; FMCSA-2000-7918; FMCSA-2001-10578; FMCSA-2003-15268; FMCSA-2003-15892; FMCSA-2005-21711; FMCSA-2005-22194; FMCSA-2005-22727; FMCSA-2006-24783; FMCSA-2006-25246; FMCSA-2007-0017; FMCSA-2007-26653; FMCSA-2007-27897; FMCSA-2009-0154; FMCSA-2009-0303; FMCSA-2010-0082; FMCSA-2011-0142; FMCSA-2011-0189; FMCSA-2011-0275; FMCSA-2011-0298; FMCSA-2011-0299; FMCSA-2011-26690; FMCSA-2013-0027; FMCSA-2013-0029; FMCSA-2013-0030; FMCSA-2013-0165; FMCSA-2013-0166; FMCSA-2013-0167; FMCSA-2013-0168; FMCSA-2013-0169; FMCSA-2013-0170 and click the search button. When the new screen appears, click on the blue "Comment Now!" button on the right hand side of the page. On the new page, enter information required including the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. 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.

We will consider all comments and material received during the comment period and may change this proposed rule based on your comments. FMCSA may issue a final rule at any time after the close of the comment period.

#### Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble, To submit your comment online, go to <http://www.regulations.gov> and in the search box insert the docket number FMCSA-1999-6156; FMCSA-2000-7918; FMCSA-2001-10578; FMCSA-2003-15268; FMCSA-2003-15892; FMCSA-2005-21711; FMCSA-2005-22194; FMCSA-2005-22727; FMCSA-2006-24783; FMCSA-2006-25246; FMCSA-2007-0017; FMCSA-2007-26653; FMCSA-2007-27897; FMCSA-2009-0154; FMCSA-2009-0303; FMCSA-2010-0082; FMCSA-2011-0142; FMCSA-2011-0189; FMCSA-2011-0275; FMCSA-2011-0298; FMCSA-2011-0299; FMCSA-2011-26690; FMCSA-2013-0027; FMCSA-2013-0029; FMCSA-2013-0030; FMCSA-2013-0165; FMCSA-2013-0166; FMCSA-2013-0167; FMCSA-2013-0168; FMCSA-2013-0169; FMCSA-2013-0170 and click "Search." Next, click "Open Docket Folder" and you will find all documents and comments related to the proposed rulemaking.

Issued on: December 17, 2015.

**Larry W. Minor,**

*Associate Administrator for Policy.*

[FR Doc. 2015-32362 Filed 12-23-15; 8:45 am]

**BILLING CODE 4910-EX-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

#### Annual Random Controlled Substances Testing Percentage Rate for Calendar Year 2016

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

**ACTION:** Notice of program change.

**SUMMARY:** The FMCSA announces, pursuant to 49 CFR 382.305, that it is reducing the minimum annual percentage rate for random controlled substances testing for drivers of commercial motor vehicles (CMVs) requiring a commercial driver's license (CDL) from the current rate of 50 percent of the average number of driver positions to 25 percent of the average

number of driver positions, effective in calendar year 2016. The FMCSA Administrator has the discretion to decrease the minimum annual random testing percentage rate based on the reported positive random test rate for the entire motor carrier industry. Based on the controlled substances random test data in FMCSA's Management Information System (MIS) for calendar years 2011, 2012, and 2013, the positive rate for controlled substances random testing fell below the 1.0 percent threshold for 3 consecutive calendar years. As a result, the Agency will lower the controlled substances minimum annual percentage rate for random controlled substances testing to 25 percent of the average number of driver positions. In accordance with 49 CFR 382.305(e)(2) if, in the future, the reported positive rate for any calendar year is equal to or greater than 1.0 percent, the FMCSA Administrator will increase the minimum annual percentage rate for random controlled substances testing to 50 percent of all driver positions.

**DATES:** Effective January 1, 2016, the minimum annual percentage rate for random controlled substances testing, for drivers of commercial motor vehicles (CMVs) requiring a commercial driver's license (CDL), will be 25 percent.

**FOR FURTHER INFORMATION CONTACT:** For information concerning this notice, contact Mr. Juan Moya, Drug and Alcohol Program Manager, Compliance Division, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590, 202-366-4844 or [fmcsadrugandalcohol@dot.gov](mailto:fmcsadrugandalcohol@dot.gov).

#### SUPPLEMENTARY INFORMATION:

#### Background

The final rule titled, "Controlled Substances and Alcohol Use and Testing," published August 17, 2001, (66 FR 43097), established the process by which the Agency determines whether the minimum annual percentage rate for random controlled substances testing should be increased or decreased. The final rule included a provision indicating that the decision on whether to increase or decrease the percentage rate would be based upon the motor carrier industry's overall positive random controlled substance test rate, as reported by motor carrier employers to FMCSA, pursuant to 49 CFR 382.403. Under this performance-based system, the testing rate was initially set at 50 percent. The FMCSA Administrator may, at his or her discretion, lower the minimum annual random controlled substances testing

percentage rate to 25 percent when the industry-wide random controlled substances positive rate is less than 1.0 percent for two consecutive calendar years. 49 CFR 382.305(g). The new annual random testing percentage rate would then apply starting January 1 of the following calendar year. 49 CFR 382.305(f).

In accordance with 49 CFR 382.403, each calendar year FMCSA requires motor carriers selected for the survey to submit their DOT drug and alcohol testing program results. Selected motor carriers are responsible for ensuring the completeness, accuracy, and timeliness of the data submitted. The survey requires motor carriers to provide information to the Agency on the number of random tests conducted and the corresponding positive rates.

For the 2013 survey, notices were sent out to 3,251 randomly selected motor carriers primarily via email and U.S. mail for those motor carriers with invalid or no email addresses. Of these forms, 2,236 were completed and returned to FMCSA, resulting in usable data from 1,654 carriers comprising of 497,270 CDL drivers based on the motor carriers' survey responses. Respondents providing non-usable data represent entities that are out of business, exempt, have no testing program in place, or belong to consortia that did not test any drivers for the carrier during 2013.

The estimated positive random controlled substance test rate in 2013 is 0.7 percent. The 95-percent confidence interval for this estimate ranges from 0.6–0.8 percent. In other words, if the survey were to be replicated, it would be expected that the confidence interval derived from each replication would contain the true usage rate in 95 out of 100 surveys. For 2011 and 2012, the estimated positive usage rate for drugs was estimated to be 0.9 percent and 0.6 percent, respectively.

For calendar year 2015, in order to ensure reliability of the data, the FMCSA Administrator made the decision to maintain the annual testing percentage rate at 50 percent and sought additional information related to drivers' positive test rates. Following a third consecutive calendar year of data reporting the positive rate below 1.0 percent FMCSA announces that the random controlled substances annual percentage testing rate will change from 50 percent to 25 percent. The new minimum annual percentage rate for random drug testing will be effective January 1, 2016. This change reflects the sustained low positive test rate and will result in an estimated \$50 million in annual savings to motor carriers by requiring that fewer drivers be tested.

In accordance with 49 CFR 382.305(e)(2) if, in the future, the reported positive rate for any calendar year is equal to or greater than 1.0 percent, the FMCSA Administrator will increase the minimum annual percentage rate for random controlled substances testing to 50 percent of all driver positions.

#### **Minimum Annual Percentage Rates for Random Controlled Substances Testing for 2016**

Effective January 1, 2016, the minimum annual percentage rate for random controlled substances testing is 25 percent of the average number of driver positions. The minimum annual percentage rate for random alcohol testing will remain at 10 percent.

Issued on: December 17, 2015.

**T.F. Scott Darling, III,**  
*Acting Administrator.*

[FR Doc. 2015–32364 Filed 12–23–15; 8:45 am]

**BILLING CODE 4910–EX–P**

## **DEPARTMENT OF TRANSPORTATION**

### **Federal Motor Carrier Safety Administration**

[Docket No. 2015–0124]

#### **Potential Benefits and Feasibility of Voluntary Compliance; Public Listening Sessions**

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

**ACTION:** Notice of public listening sessions.

**SUMMARY:** The FMCSA announces that it will hold two public listening sessions, on January 12 and 31, 2016, to solicit information on the potential benefits and feasibility of voluntary compliance and ways to credit carriers and drivers who initiate and establish programs that promote safety beyond the standards established in FMCSA regulations. The recently enacted Fixing America's Surface Transportation (FAST) Act mandates that the FMCSA Administrator allow recognition for a motor carrier that installs advanced safety equipment, enhanced driver fitness measures, fleet safety management tools, technologies, and programs and other standards for use by motor carriers to receive recognition, including credit or an improved Safety Measurement System (SMS) percentile. FMCSA is soliciting comment to develop a process for identifying and reviewing these opportunities to provide credit to those carriers and drivers who go above and beyond the regulatory requirements. The listening

sessions are intended to provide interested parties with an opportunity to share their views on this topic with Agency representatives, along with any data or analysis they may have. All comments will be transcribed and placed in the docket referenced above for FMCSA's consideration. The entire proceedings of both meetings will be webcast.

**DATES:** The listening sessions will be held on Tuesday, January 12, 2016, from 9:30 a.m. to 11:30 a.m. and 2:30 p.m. to 4:30 p.m., Local Time, and on Sunday, January 31, 2016, from 2:00 p.m. to 4:00 p.m., Local Time. If all interested parties have had the opportunity to comment, the sessions may conclude early.

**ADDRESSES:** The January 12 listening session will be held at the Kentucky International Convention Center, Room 108, 221 Fourth St., Louisville, KY 40202. The January 31 session will be held at the Georgia World Congress Center, Building C, 285 Andrew Young International Blvd. NW., Atlanta, GA. In addition to attending the session in person, the Agency offers several ways to provide comments, as enumerated below.

*Internet Address for Live Webcast.* FMCSA will post specific information on how to participate via the Internet on the FMCSA Web site at [www.fmcsa.dot.gov](http://www.fmcsa.dot.gov) in advance of the listening session.

You may submit comments identified by Docket Number FMCSA–2015–0124 using 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., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* 202–493–2251.

Each submission must include the Agency name and the docket number for this notice. Note that DOT posts all comments received, without change, to [www.regulations.gov](http://www.regulations.gov), including any personal information included in a comment. Please see the *Privacy Act* heading below. 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.