

NTSB added that although the applicants propose implementing a fatigue risk management system to provide an adequate level of safety in lieu of the standard HOS requirements, FMCSA does not have a means to track, evaluate, or validate the effectiveness of such a system. NTSB said that FMCSA should therefore deny the requested exemption, and any similar exemption.

Two hundred ninety-four comments were filed in support of the request. Fifty-two were filed by State trucking associations related to livestock and cattlemen, including comments from all the original applicants. The remainder of the supporting comments were from individuals and trucking companies, primarily those hauling livestock. The supporters of the exemption reiterated the scenario provided in the application and supported four additional hours of drive time to facilitate longer hauls that are necessitated by the distances between where cattle are born, fed, and harvested. The supporters referenced industry guidelines that direct drivers to avoid stops while hauling livestock, especially in warmer weather, as the trailers are designed to cool the animals while in motion. According to many who supported the request, the majority of livestock cannot withstand the stress of 10 hours stopped without airflow or the added time on the trailer necessitated by such an extended rest. Sixteen commenters took no position either for or against the exemption request, and 6 others asked that livestock carriers be exempted from the ELD regulations.

## V. FMCSA Safety Analysis and Decision

FMCSA evaluated the joint application and public comments and denies the exemption request. Research studies demonstrate that long work hours reduce sleep and harm driver health, and that crash risk increases with work hours. The HOS regulations impose limits on when and how long an individual may drive, to ensure that drivers stay awake and alert, and to reduce the possibility of cumulative fatigue. As stated by opponents of the exemption, livestock haulers have been required to operate within the confines of the HOS regulations for over 80 years.

Livestock haulers are entirely exempt from all HOS regulations under the agricultural commodities exemption in 49 CFR 395.1(k)(1), which covers a 150 air-mile radius from the source of the agricultural commodities. In addition, Section 23018 of the Bipartisan Infrastructure Law, Public Law 117–58, 135 Stat. 429, Nov. 15, 2021, enacted after applicants filed their exemption

request, now provides that drivers transporting livestock are also exempt from all HOS regulations within a 150 air-mile radius from the final destination of the livestock. Livestock haulers remain exempt from the requirement to use ELDs.

If the Agency were to grant the exemption, drivers transporting agricultural commodities would be allowed six or more hours of driving time within the 150 air-mile exempt zones for the transportation of agricultural commodities, in addition to the 15 hours of driving time outside the zone. The Agency finds that allowing 21 or more hours of driving during a work shift would not likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent the exemption.

Although the applicants suggest that they could adopt a fatigue risk management system to ensure safety, fatigue risk management systems must be scientifically validated. FMCSA has promoted the voluntary adoption of fatigue management programs, including the North American Fatigue Management Program. Those voluntary fatigue management measures do not replace the safety benefits of compliance with the HOS regulations.

For these reasons, and to protect the safety of these truck drivers and the public, the FMCSA denies the request for exemption.

**Robin Hutcheson,**

*Administrator.*

[FR Doc. 2022–25999 Filed 11–28–22; 8:45 am]

**BILLING CODE 4910–EX–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2014–0212; FMCSA–2014–0215; FMCSA–2015–0323; FMCSA–2016–0007; FMCSA–2018–0052; FMCSA–2018–0053; FMCSA–2018–0054; FMCSA–2020–0050; FMCSA–2020–0051]

### Qualification of Drivers; Exemption Applications; Epilepsy and Seizure Disorders

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

**ACTION:** Notice of renewal of exemptions; request for comments.

**SUMMARY:** FMCSA announces its decision to renew exemptions for 15 individuals from the requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) that interstate commercial motor vehicle (CMV)

drivers have “no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause loss of consciousness or any loss of ability to control a CMV.” The exemptions enable these individuals who have had one or more seizures and are taking anti-seizure medication to continue to operate CMVs in interstate commerce.

**DATES:** The exemptions are applicable on November 27, 2022. The exemptions expire on November 27, 2024. Comments must be received on or before December 29, 2022.

**ADDRESSES:** You may submit comments identified by the Federal Docket Management System Docket No. FMCSA–2014–0212, Docket No. FMCSA–2014–0215, Docket No. FMCSA–2015–0323, Docket No. FMCSA–2016–0007, Docket No. FMCSA–2018–0052, Docket No. FMCSA–2018–0053, Docket No. FMCSA–2018–0054, Docket No. FMCSA–2020–0050, and Docket No. FMCSA–2020–0051 using any of the following methods:

- *Federal eRulemaking Portal:* Go to [www.regulations.gov/](http://www.regulations.gov/), insert the docket number FMCSA–2014–0212, FMCSA–2014–0215, FMCSA–2015–0323, FMCSA–2016–0007, FMCSA–2018–0052, FMCSA–2018–0053, FMCSA–2018–0054, FMCSA–2020–0050, or FMCSA–2020–0051 in the keyword box, and click “Search.” Next, sort the results by “Posted (Newer-Older),” choose the first notice listed, and click on the “Comment” button. Follow the online instructions for submitting comments.

- *Mail:* Dockets Operations; U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.

- *Hand Delivery:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590–0001 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” portion of the **SUPPLEMENTARY INFORMATION** section for instructions on submitting comments.

**FOR FURTHER INFORMATION CONTACT:** Ms. Christine A. Hydock, Chief, Medical Programs Division, FMCSA, DOT, 1200 New Jersey Avenue SE, Room W64–224, Washington, DC 20590–0001, (202) 366–4001, [fmcsamedical@dot.gov](mailto:fmcsamedical@dot.gov). Office hours are from 8:30 a.m. to 5 p.m., ET, Monday through Friday, except Federal holidays. If you have questions

regarding viewing or submitting material to the docket, contact Dockets Operations, (202) 366–9826.

#### SUPPLEMENTARY INFORMATION:

### I. Public Participation

#### A. Submitting Comments

If you submit a comment, please include the docket number for this notice (FMCSA–2014–0212, FMCSA–2014–0215, FMCSA–2015–0323, FMCSA–2016–0007, FMCSA–2018–0052, FMCSA–2018–0053, FMCSA–2018–0054, FMCSA–2020–0050, or FMCSA–2020–0051), 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 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 [www.regulations.gov/](http://www.regulations.gov/), insert the docket number, FMCSA–2014–0212, FMCSA–2014–0215, FMCSA–2015–0323, FMCSA–2016–0007, FMCSA–2018–0052, FMCSA–2018–0053, FMCSA–2018–0054, FMCSA–2020–0050, or FMCSA–2020–0051 in the keyword box, and click “Search.” Next, sort the results by “Posted (Newer-Older),” choose the first notice listed, click the “Comment” button, and type your comment into the text box on the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit.

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.

#### B. Viewing Comments

To view comments go to [www.regulations.gov](http://www.regulations.gov/). Insert the docket number, FMCSA–2014–0212, FMCSA–2014–0215, FMCSA–2015–0323, FMCSA–2016–0007, FMCSA–2018–0052, FMCSA–2018–0053, FMCSA–2018–0054, FMCSA–2020–0050, or FMCSA–2020–0051 in the keyword box, and click “Search.” Next, sort the

results by “Posted (Newer-Older),” choose the first notice listed, and click “Browse Comments.” If you do not have access to the internet, you may view the docket online by visiting Dockets Operations in Room W12–140 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., ET, 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 Act

In accordance with 49 U.S.C. 31315(b)(6), DOT solicits comments from the public on the exemption request. DOT posts these comments, without edit, 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-act-system-records-notices>, the comments are searchable by the name of the submitter.

### II. Background

Under 49 U.S.C. 31136(e) and 31315(b), FMCSA may grant an exemption from the FMCSRs for no longer than a 5-year period if it finds such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption. The statutes also allow the Agency to renew exemptions at the end of the 5-year period. However, FMCSA grants medical exemptions from the FMCSRs for a 2-year period to align with the maximum duration of a driver’s medical certification.

The physical qualification standard for drivers regarding epilepsy found in 49 CFR 391.41(b)(8) states that a person is physically qualified to drive a CMV if that person has no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause the loss of consciousness or any loss of ability to control a CMV.

In addition to the regulations, FMCSA has published advisory criteria<sup>1</sup> to assist Medical Examiners in determining whether drivers with certain medical conditions are qualified

<sup>1</sup> These criteria may be found in APPENDIX A TO PART 391—MEDICAL ADVISORY CRITERIA, section H. *Epilepsy*: § 391.41(b)(8), paragraphs 3, 4, and 5, which is available on the internet at <https://www.gpo.gov/fdsys/pkg/CFR-2015-title49-vol5/pdf/CFR-2015-title49-vol5-part391-appA.pdf>.

to operate a CMV in interstate commerce.

The 15 individuals listed in this notice have requested renewal of their exemptions from the epilepsy and seizure disorders prohibition in § 391.41(b)(8), in accordance with FMCSA procedures. Accordingly, FMCSA has evaluated these applications for renewal on their merits and decided to extend each exemption for a renewable 2-year period.

### III. Request for Comments

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(b), FMCSA will take immediate steps to revoke the exemption of a driver.

### IV. Basis for Renewing Exemptions

In accordance with 49 U.S.C. 31136(e) and 31315(b), each of the 15 applicants has satisfied the renewal conditions for obtaining an exemption from the epilepsy and seizure disorders prohibition. The 15 drivers in this notice remain in good standing with the Agency, have maintained their medical monitoring and have not exhibited any medical issues that would compromise their ability to safely operate a CMV during the previous 2-year exemption period. In addition, for commercial driver’s license (CDL) holders, the Commercial Driver’s License Information System and the Motor Carrier Management Information System are searched for crash and violation data. For non-CDL holders, the Agency reviews the driving records from the State Driver’s Licensing Agency. These factors provide an adequate basis for predicting each driver’s ability to continue to safely operate a CMV in interstate commerce. Therefore, FMCSA concludes that extending the exemption for each renewal applicant for a period of 2 years is likely to achieve a level of safety equal to that existing without the exemption.

As of November 27, 2022, and in accordance with 49 U.S.C. 31136(e) and 31315(b), the following 15 individuals have satisfied the renewal conditions for obtaining an exemption from the epilepsy and seizure disorders prohibition in the FMCSRs for interstate CMV drivers:

Thomas Avery (NY)

Scott Baggarley (WA)  
 Kevin Beamon (NY)  
 Joshua Cirilo (MN)  
 Paul Gomez (CA)  
 Jesse Hansen (MN)  
 Donald Horst (MD)  
 Keith Hubbard (PA)  
 Billy Hunter (KY)  
 Chad Knott (MD)  
 Louis Lerch (IA)  
 Rick Morrison (NC)  
 Thomas Ork (NY)  
 Curtis Palubicki (MN)  
 Devyn Roberts (KY)

The drivers were included in docket number FMCSA–2014–0212, FMCSA–2014–0215, FMCSA–2015–0323, FMCSA–2016–0007, FMCSA–2018–0052, FMCSA–2018–0053, FMCSA–2018–0054, FMCSA–2020–0050, or FMCSA–2020–0051. Their exemptions are applicable as of November 27, 2022 and will expire on November 27, 2024.

#### V. Conditions and Requirements

The exemptions are extended subject to the following conditions: (1) each driver must remain seizure-free and maintain a stable treatment during the 2-year exemption period; (2) each driver must submit annual reports from their treating physicians attesting to the stability of treatment and that the driver has remained seizure-free; (3) each driver must undergo an annual medical examination by a certified ME, as defined by § 390.5; and (4) each driver must provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy of his/her driver's qualification file if he/she is self-employed. The driver must also have a copy of the exemption when driving, for presentation to a duly authorized Federal, State, or local enforcement official. The exemption will be rescinded if: (1) the person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315(b).

#### VI. Preemption

During the period the exemption is in effect, no State shall enforce any law or regulation that conflicts with this exemption with respect to a person operating under the exemption.

#### VII. Conclusion

Based on its evaluation of the 15 exemption applications, FMCSA renews the exemptions of the aforementioned drivers from the epilepsy and seizure

disorders prohibition in § 391.41(b)(8). In accordance with 49 U.S.C. 31136(e) and 31315(b), each exemption will be valid for 2 years unless revoked earlier by FMCSA.

**Larry W. Minor,**

*Associate Administrator for Policy.*

[FR Doc. 2022–25982 Filed 11–28–22; 8:45 am]

**BILLING CODE 4910–EX–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

[Docket No. FRA–2010–0028]

#### CSX Transportation's Request To Amend Its Positive Train Control Safety Plan and Positive Train Control System

**AGENCY:** Federal Railroad Administration (FRA), Department of Transportation (DOT).

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

**SUMMARY:** This document provides the public with notice that, on November 11, 2022, CSX Transportation (CSX) submitted an updated request for amendment (RFA) to its FRA-approved Positive Train Control Safety Plan (PTCSP). As this RFA may involve a request for FRA's approval of proposed material modifications to an FRA-certified positive train control (PTC) system, FRA is publishing this notice and inviting public comment on the railroad's RFA to its PTCSP.

**DATES:** FRA will consider comments received by December 19, 2022. FRA may consider comments received after that date to the extent practicable and without delaying implementation of valuable or necessary modifications to a PTC system.

**ADDRESSES:** *Comments:* Comments may be submitted by going to <https://www.regulations.gov> and following the online instructions for submitting comments.

*Instructions:* All submissions must include the agency name and the applicable docket number. The relevant PTC docket number for this host railroad is Docket No. FRA–2010–0028. For convenience, all active PTC dockets are hyperlinked on FRA's website at <https://railroads.dot.gov/train-control/ptc/ptc-annual-and-quarterly-reports>. All comments received will be posted without change to <https://www.regulations.gov>; this includes any personal information.

**FOR FURTHER INFORMATION CONTACT:** Gabe Neal, Staff Director, Signal, Train Control, and Crossings Division,

telephone: 816–516–7168, email: [Gabe.Neal@dot.gov](mailto:Gabe.Neal@dot.gov).

**SUPPLEMENTARY INFORMATION:** In general, Title 49 United States Code (U.S.C.) section 20157(h) requires FRA to certify that a host railroad's PTC system complies with title 49 Code of Federal Regulations (CFR) part 236, subpart I, before the technology may be operated in revenue service. Before making certain changes to an FRA-certified PTC system or the associated FRA-approved PTCSP, a host railroad must submit, and obtain FRA's approval of, an RFA to its PTCSP under 49 CFR 236.1021.

Under 49 CFR 236.1021(e), FRA's regulations provide that FRA will publish a notice in the **Federal Register** and invite public comment in accordance with 49 CFR part 211, if an RFA includes a request for approval of a material modification of a signal and train control system. Accordingly, this notice informs the public that, on November 11, 2022, CSX submitted an updated RFA to its PTCSP for its Interoperable Electronic Train Management System (I-ETMS) and that RFA is available in Docket No. FRA–2010–0028.

Interested parties are invited to comment on CSX's RFA to its PTCSP by submitting written comments or data. During FRA's review of this railroad's RFA, FRA will consider any comments or data submitted within the timeline specified in this notice and to the extent practicable, without delaying implementation of valuable or necessary modifications to a PTC system. See 49 CFR 236.1021; see also 49 CFR 236.1011(e). Under 49 CFR 236.1021, FRA maintains the authority to approve, approve with conditions, or deny a railroad's RFA to its PTCSP at FRA's sole discretion.

#### Privacy Act Notice

In accordance with 49 CFR 211.3, FRA solicits comments from the public to better inform its decisions. DOT posts these comments, without edit, including any personal information the commenter provides, to <https://www.regulations.gov>, as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at <https://www.transportation.gov/privacy>. See <https://www.regulations.gov/privacy-notice> for the privacy notice of regulations.gov. To facilitate comment tracking, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. If you wish to provide comments containing proprietary or confidential information, please contact FRA for alternate submission instructions.