

### III. Discussion of Comments

FMCSA received no comments in this proceeding.

### IV. Conclusion

Based upon its evaluation of the 16 renewal exemption applications, FMCSA announces its decision to exempt the following drivers from the hearing requirement in § 391.41(b)(11).

As of January 6, 2024, and in accordance with 49 U.S.C. 31136(e) and 31315(b), the following four individuals have satisfied the renewal conditions for obtaining an exemption from the hearing requirement in the FMCSRs for interstate CMV drivers (89 FR 434):

Steven Andrews (FL)  
John Brown (MN)  
Jerry Doose (MN)  
Donald Howton (AL)

The drivers were included in docket numbers FMCSA–2015–0326, FMCSA–2015–0329, or FMCSA–2017–0058. Their exemptions were applicable as of January 6, 2024 and will expire on January 6, 2026.

As of January 8, 2024, and in accordance with 49 U.S.C. 31136(e) and 31315(b), the following three individuals have satisfied the renewal conditions for obtaining an exemption from the hearing requirement in the FMCSRs for interstate CMV drivers (89 FR 434):

Matthew Burgoyne (MN); Joshua Gelona (OK); Eduardo Pedregal (TX).

The drivers were included in docket number FMCSA–2016–0003. Their exemptions were applicable as of January 8, 2024 and will expire on January 8, 2026.

As of January 14, 2024, and in accordance with 49 U.S.C. 31136(e) and 31315(b), the following four individuals have satisfied the renewal conditions for obtaining an exemption from the hearing requirement in the FMCSRs for interstate CMV drivers (89 FR 435):

Geoffrey Canoyer (MN)  
Chase Cooke (VA)  
Douglas Gray (OR)  
Sue Gregory (UT)

The drivers were included in docket numbers FMCSA–2013–0122,

FMCSA–2013–0123, or FMCSA–2017–0058. Their exemptions were applicable as of January 14, 2024 and will expire on January 14, 2026.

As of January 21, 2024, and in accordance with 49 U.S.C. 31136(e) and 31315(b), the following five individuals have satisfied the renewal conditions for obtaining an exemption from the hearing requirement in the FMCSRs for interstate CMV drivers:

Mario Alvarado (CA)

Kevin Clickner (MI)  
Herman Fleck (PA)  
Matthew Honkanen (MN)  
Michael Steffen (IN)

The drivers were included in docket numbers FMCSA–2017–0058, FMCSA–2019–0111, FMCSA–2020–0024, or FMCSA–2021–0015. Their exemptions were applicable as of January 21, 2024 and will expire on January 21, 2026.

In accordance with 49 U.S.C. 31315(b), each exemption will be valid for 2 years from the effective date unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (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 prior to being granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136, 49 U.S.C. chapter 313, or the FMCSRs.

**Larry W. Minor,**

*Associate Administrator for Policy.*

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**BILLING CODE 4910–EX–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2018–0090]

#### Parts and Accessories Necessary for Safe Operation; Exemption Renewal for Automobile Carriers Conference and Auto Haulers Association of America

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

**ACTION:** Notice of provisional renewal of exemption; request for comments.

**SUMMARY:** FMCSA announces its decision to provisionally renew an exemption requested jointly by the Automobile Carriers Conference (ACC) of the American Trucking Associations and the Auto Haulers Association of America (AHAA) to relieve motor carriers operating stinger-steered automobile transporter equipment from the requirement to place warning flags on projecting loads of new and used motor vehicles. The Federal Motor Carrier Safety Regulations (FMCSRs) require any commercial motor vehicle (CMV) transporting a load which extends more than 4 feet beyond the rear of the vehicle be marked with a single red or orange fluorescent warning flag at the extreme rear if the projecting load is 2 feet wide or less and two

warning flags if the projecting load is wider than 2 feet.<sup>1</sup> The exemption is renewed for 5 years, unless revoked earlier.

**DATES:** This renewed exemption is effective February 15, 2024, through August 9, 2024, unless revoked earlier. Comments must be received on or before March 22, 2024.

**ADDRESSES:** You may submit comments identified by docket number FMCSA–2018–0090 using any of the following methods:

- **Federal eRulemaking Portal:** Go to <https://www.regulations.gov/docket/FMCSA-2018-0090/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. ET, Monday through Friday, except Federal holidays.

- **Fax:** (202) 493–2251.

#### FOR FURTHER INFORMATION CONTACT:

David Sutula, Vehicle and Roadside Operations Division, Office of Carrier, Driver, and Vehicle Safety, FMCSA, 1200 New Jersey Avenue SE, Washington, DC 20590–0001; (202) 366–9209; [MCPSV@dot.gov](mailto:MCPSV@dot.gov). If you have questions on viewing or submitting material to 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 notice (FMCSA–2018–0090), indicate the specific section of this document to which the comment applies, and provide a reason for suggestions or recommendations. 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 the Agency

<sup>1</sup> In their renewal request, the applicants additionally asked for relief from 49 CFR 393.11, which requires “lamps or reflective devices” to be affixed to the rear of a load that extends more than 4 feet beyond a trailer. Because this is a new request for exemption, FMCSA is not considering the request with the renewal of the current exemption. FMCSA will process that request separately.

can contact you if it has questions regarding your submission.

To submit your comment online, go to <https://www.regulations.gov/docket/FMCSA-2018-0090/document>, click on this notice, click "Comment," 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. Comments received after the comment closing date will be filed in the public docket and will be considered to the extent practicable.

#### 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 notice 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 notice, 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 notice. 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). At this time, 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 notice.

#### B. Viewing Comments and Documents

To view any documents mentioned as being available in the docket, go to <https://www.regulations.gov/docket/FMCSA-2018-0090/document> and choose the document to review. To view

comments, click this notice, 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. 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

In accordance with 49 U.S.C. 31315(b)(6), DOT solicits comments from the public to better inform its exemption process. DOT posts these comments, including any personal information the commenter provides, to [www.regulations.gov](https://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 edit and are searchable by the name of the submitter.

#### II. Legal Basis

FMCSA has authority under 49 U.S.C. 31136(e) and 31315(b)(2) and 49 CFR 381.300(b) to renew an exemption from the FMCSRs for subsequent 5-year periods if it finds that such exemption would likely maintain a level of safety that is equivalent to, or greater than, the level that would be achieved by the current regulation (49 CFR 381.305(a)). ACC and AHAA have requested a 5-year extension of the current exemption.

#### III. Background

##### Current Regulatory Requirements

FMCSA requires in § 393.87 any CMV transporting a load which extends beyond the sides by more than 4 inches, or more than 4 feet beyond the rear, to have the extremities of the load marked with red or orange fluorescent warning flags. Each warning flag must be at least 18 inches square. There must be a single flag at the extreme rear if the projecting load is 2 feet wide or less, and two warning flags are required if the projecting load is wider than 2 feet. The flags must be located to indicate the maximum width of loads which extend beyond the sides and/or rear of the vehicle.

##### Original Exemption

In its original exemption application, ACC requested an exemption from § 393.87 for motor carriers operating stinger-steered automobile transporter equipment. A stinger-steered transporter

has a fifth wheel hitch located on a drop frame behind and below the rear-most axle of the power unit. It was noted that stinger-steered automobile transporters have been allowed to have a rear vehicular overhang of at least 6 feet since December 2015 (49 U.S.C. 31111(b)(1)(G)). Previously, a minimum 4-foot rear overhang was allowed for all automobile transporters.

ACC contended that adhering to flag requirements while transporting new motor vehicles posed a challenge to the vehicle industry. Vehicle manufacturers prohibit affixing flags or any items to their vehicles due to the potential for scratches and damage. Auto transporters tried to comply with the intent of § 393.87 by attaching flags to the rear of their trailers. However, this effort did not adhere to the letter of the regulation and resulted in carriers receiving numerous citations for being in violation of the flag requirements.

ACC emphasized that motor vehicles are the only commodity to be transported that must adhere to the requirements of Federal Motor Vehicle Safety Standard (FMVSS) No. 108, "Lamps, reflective devices, and associated equipment," which has mandated since 1968 the use of side-facing reflex reflectors,<sup>2</sup> amber reflectors at the front, and red reflectors at the rear of vehicles. ACC believed that these reflective devices, combined with the required lighting and conspicuity treatments on the trailers, adequately fulfill the intention of § 393.87 by notifying other motorists when a load extends more than 4 feet beyond the rear of the trailer. Additionally, ACC noted that FMVSS No. 108 imposes specific performance criteria for these required reflectors, while no such performance requirements exist for the flags mandated by § 393.87.

ACC pointed out that the population of automobile transporter vehicles is relatively small, comprising around 16,000 units, with stinger-steered vehicles being a subset of that population. ACC cited statistics showing that, following the enactment of the FAST Act which allowed 6 feet of overhang on the rear of the transporter, the frequency of rear-end collisions with auto transporters has been minuscule, with a rate of less than 0.05 percent.

On February 15, 2019, following notice and consideration of the comments received, FMCSA determined that an exemption for motor carriers

<sup>2</sup> FMVSS No. 108 defines reflex reflectors as devices used on vehicles to give an indication to approaching drivers using reflected light from the lamps of the approaching vehicle (49 CFR 571.108).

operating stinger-steered automobile transporters from the requirement to place warning flags on projecting loads of motor vehicles would likely maintain a level of safety that is equivalent to or greater than the level of safety that would be obtained by complying with § 393.87 and granted ACC's exemption request for a 5-year period (84 FR 4602). In its decision, FMCSA stated that the transport of automobiles that are permitted, by statute, to extend up to 6 feet beyond the rearmost portion of a stinger-steered auto transporter is a unique situation as compared to the transportation of other items because automobiles extend across virtually the entire width of the transporter and are easily identifiable as automobiles to the motoring public. FMCSA stated further that this is especially true if the rearmost automobile being transported faces the front of the auto transporter, as the rear of the automobile is required to be equipped with two reflex reflectors located as far apart as practicable, which meet the photometric requirements specified in FMVSS No. 108. To the contrary, § 393.87 requires extending loads be marked with red or orange fluorescent warning flags, but does not impose any specific photometric requirements for these flags, *i.e.*, required level of visibility from a certain distance, etc. While FMVSS No. 108 does not require the front of automobiles to be equipped with reflex reflectors, FMCSA noted that even if the rearmost automobile being transported is facing the rear of the auto transporter, oncoming motorists will easily identify the extending load as an automobile that extends across the full width of the auto transporter.

#### *Application for Renewal of Exemption*

In the renewal application, ACC and AHAA stated that since the granting of the exemption in 2019, they are unaware of any events that suggest the exemption has resulted in a lower level of safety than would be achieved by complying with § 393.87 or that the exemption has jeopardized public safety in any way. They also requested that FMCSA clarify that the exemption applies to transportation of both new and used vehicles. ACC and AHAA stated it is their view that the exemption granted for transportation of "motor vehicles" already includes new and used vehicles; however, not everyone in CMV enforcement agrees with their interpretation. A copy of the request to renew the exemption is available in the docket.

#### **IV. Equivalent Level of Safety Analysis**

FMCSA is not aware of any evidence indicating that providing relief to motor carriers operating stinger-steered automobile transporter equipment from the requirement to place warning flags on projecting loads of new and used motor vehicles in accordance with the conditions of the original exemption has resulted in any degradation in safety. ACC and AHAA are also unaware of any events that suggest the exemption has resulted in a lower level of safety than would be maintained by complying with § 393.87. The Agency, however, is continuing to analyze crash data to better assess the safety of this exemption. Therefore, for the reasons discussed above and in the prior notice granting the original exemption request, FMCSA concludes that provisionally renewing the exemption granted on February 15, 2019, for a period of six (6) months to allow FMCSA to receive comment on the application and assess any additional relevant crash data, on the terms and conditions set forth in this exemption renewal decision, would likely maintain a level of safety that is equivalent to, or greater than, the level of safety achieved without the exemption.

#### **V. Exemption Decision**

##### *A. Grant of Exemption*

FMCSA provisionally renews the exemption for a period of six (6) months subject to the terms and conditions of this decision and the absence of adverse public comments that would cause the Agency to terminate the exemption at an earlier date. The exemption from the requirements of 49 CFR 393.87 is otherwise effective February 15, 2024, through August 9, 2024, 11:59 p.m. local time, unless revoked.

##### *B. Applicability of Exemption*

During the temporary exemption period, motor carriers operating stinger-steered automobile transporter equipment are exempt from the requirements of § 393.87 to place warning flags on loads of new or used motor vehicles that project up to 6 feet from the rear of the stinger-steered automobile transporter.

##### *C. Terms and Conditions*

1. This exemption is limited to stinger-steered automobile transporter equipment and the transport of new or used motor vehicles. It does not apply to any other type of transporter equipment or other types of projecting or oversized loads.

2. Motor carriers operating under this exemption involved in any crash to the

rear end of the stinger-steered automobile transporter equipment during the transport of new or used motor vehicles must notify FMCSA within 7 business days of the crash by email at [MCPSV@DOT.GOV](mailto:MCPSV@DOT.GOV), even if such crash is not a reportable crash as defined in § 390.5T.

3. New and used motor vehicles transported on Stinger-steered automobile transporters that overhang from the transporter must be equipped with all other lights and reflective devices required by the applicable FMVSS or FMCSRs.

4. Motor carriers and CMVs operating under this exemption must comply with all other applicable FMCSRs (49 CFR parts 350–399), unless specifically exempted from a requirement.

##### *D. Preemption*

In accordance with 49 U.S.C. 31315(d), as implemented by 49 CFR 381.600, during the period this exemption is in effect, no State shall enforce any law or regulation that conflicts with or is inconsistent with this exemption with respect to a person operating under the exemption. States may, but are not required to, adopt the same exemption with respect to operations in intrastate commerce.

##### *E. Termination*

The exemption will be valid for as provided in section V.A. above, unless revoked earlier by FMCSA. FMCSA does not believe that motor carriers and CMVs covered by the exemption will experience any deterioration of their safety record. However, should this occur, FMCSA will take all steps necessary to protect the public interest, including revocation of the exemption without prior notice. The exemption may be immediately rescinded if: (1) motor carriers and/or CMVs fail 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 or chapter 313.

Interested parties possessing information that would demonstrate that this exemption or motor carriers operating stinger-steered automobile transporter equipment without warning flags and with loads of new or used motor vehicles projecting up to 6 feet beyond the rear of the automobile transporter are not achieving the requisite statutory level of safety should immediately notify FMCSA by email at [MCPSV@DOT.GOV](mailto:MCPSV@DOT.GOV). The Agency will evaluate any such information and, if

safety is being compromised or if the continuation of the exemption is not consistent with the goals and objectives of 49 U.S.C. 31136 or chapter 313, may take immediate steps to revoke the exemption or impose additional requirements as part of the exemption.

#### VI. Request for Comments

In accordance with 49 U.S.C. 31315(b), FMCSA requests public comment from all interested persons on ACC and AHAA's application for renewal of the exemption from § 393.87.

All comments received before the close of business on the comment closing date indicated at the beginning of this notice will be considered and will be available for examination in the docket at the location listed under the Addresses section of this notice. Comments received after the comment closing date will be filed in the public docket and will be considered to the extent practicable. In addition to late comments, FMCSA will also continue to file, in the public docket, relevant information that becomes available after the comment closing date. Interested persons should continue to examine the public docket for new material.

Sue Lawless,

Acting Deputy Administrator.

[FR Doc. 2024-03446 Filed 2-20-24; 8:45 am]

BILLING CODE 4910-EX-P

### DEPARTMENT OF TRANSPORTATION

#### Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2023-0026]

#### Qualification of Drivers; Exemption Applications; Hearing

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

**ACTION:** Notice of final disposition.

**SUMMARY:** FMCSA announces its decision to exempt 10 individuals from the hearing requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) to operate a commercial motor vehicle (CMV) in interstate commerce. The exemptions enable these hard of hearing and deaf individuals to operate CMVs in interstate commerce.

**DATES:** The exemptions are applicable on February 9, 2024. The exemptions expire on February 9, 2026.

**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. Viewing Comments

To view comments go to [www.regulations.gov](http://www.regulations.gov). Insert the docket number (FMCSA-2023-0026) in the keyword box and click "Search." Next, sort the results by "Posted (Older-Newer)," 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 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.

###### B. Privacy Act

In accordance with 49 U.S.C. 31315(b)(6), DOT solicits comments from the public on the exemption requests. 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), which can be reviewed at <https://www.transportation.gov/individuals/privacy/privacy-act-system-records-notices>, the comments are searchable by the name of the submitter.

##### II. Background

On January 3, 2024, FMCSA published a notice announcing receipt of applications from 10 individuals requesting an exemption from the hearing requirement in 49 CFR 391.41(b)(11) to operate a CMV in interstate commerce and requested comments from the public (89 FR 432). The public comment period ended on February 2, 2024, and no comments were received.

FMCSA has evaluated the eligibility of these applicants and determined that granting exemptions to these individuals would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved by complying with § 391.41(b)(11).

The physical qualification standard for drivers regarding hearing found in § 391.41(b)(11) states that a person is

physically qualified to drive a CMV if that person first perceives a forced whispered voice in the better ear at not less than 5 feet with or without the use of a hearing aid or, if tested by use of an audiometric device, does not have an average hearing loss in the better ear greater than 40 decibels at 500 Hz, 1,000 Hz, and 2,000 Hz with or without a hearing aid when the audiometric device is calibrated to American National Standard (formerly ASA Standard) Z24.5-1951.

This standard was adopted in 1970 and was revised in 1971 to allow drivers to be qualified under this standard while wearing a hearing aid (35 FR 6458, 6463 (Apr. 22, 1970) and 36 FR 12857 (July 8, 1971), respectively).

##### III. Discussion of Comments

FMCSA received no comments in this proceeding.

##### IV. Basis for Exemption Determination

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 Agency's decision regarding these exemption applications is based on relevant scientific information and literature, and the 2008 Evidence Report, "Executive Summary on Hearing, Vestibular Function and Commercial Motor Driving Safety." The evidence report reached two conclusions regarding the matter of hearing loss and CMV driver safety: (1) no studies that examined the relationship between hearing loss and crash risk exclusively among CMV drivers were identified; and (2) evidence from studies of the private driver's license holder population does not support the contention that individuals with hearing impairment are at an increased risk for a crash. In addition, the Agency reviewed each applicant's driving record found in the Commercial Driver's License Information System, for commercial driver's license (CDL) holders, and inspections recorded in the Motor Carrier Management Information System. For non-CDL holders, the Agency reviewed the driving records from the State Driver's Licensing Agency. Each applicant's record