



DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Parts 350, 365, 385, 386, 387, and 395

[Docket No. FMCSA-2022-0003]

RIN 2126-AC52

Safety Fitness Determinations

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

ACTION: Notice of data availability; request for comments.

SUMMARY: This notice of data availability (NODA) is to alert stakeholders and members of the public about information that FMCSA believes may be relevant to this proceeding. This NODA identifies information the Agency has become aware of and provides an opportunity for public comment. The Agency may consider this information in preparation for further regulatory action following an advance notice of proposed rulemaking (ANPRM).

DATES: Comments must be received by [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: You may submit comments identified by Docket Number FMCSA-2022-0003 using any of the following methods:

- Federal eRulemaking Portal: Go to <https://www.regulations.gov/docket/FMCSA-2022-0003/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.

FOR MORE INFORMATION CONTACT: Ms. Stacy Ropp, (609) 661-2062, SafetyFitnessDetermination@dot.gov. FMCSA office hours are from 7:30 a.m. to 4 p.m., Monday through Friday, except Federal holidays. 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 proceeding (FMCSA-2022-0003), 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-2022-0003/document>, click on this

NODA, 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 8 1/2 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 NODA 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 NODA, 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 proceeding. Submissions containing CBI should be sent to Mr. 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. 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 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-2022-0003/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., 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, as described in the system of records notice (DOT/ALL 14—Federal Docket Management System (FDMS)), which can be reviewed at www.transportation.gov/privacy. The comments are posted without edit and are searchable by the name of the submitter.

II. Background

FMCSA published an ANPRM in this proceeding stating the Agency was interested in developing a new methodology to determine when a motor carrier is not fit to operate commercial motor vehicles (CMVs) in or affecting interstate commerce (Safety Fitness Determinations, 88 FR 59489 (Aug. 29, 2023)). The original deadline for submitting comments in response to the ANPRM was extended from October 30, 2023, to November 29, 2023 (88 FR 72727 (Oct. 23, 2023)). The background and history of the procedures and standards for safety fitness determinations, as well as the legal basis for such determinations, were set out in detail in the ANPRM (88 FR at 59489-59493).

III. What information is available?

The following reports and studies provide information that FMCSA may consider in responding to the public comments on the issues raised and questions

posed in the ANPRM and in the context of further regulatory action. The list also provides links for the source of these items.

The following material is available on the internet at the locations specified below and in the docket for this rulemaking:

Bell, Jennifer L., et al. (2017). "Evaluation of an in-vehicle monitoring system (IVMS) to reduce risky driving behaviors in commercial drivers: Comparison of in-cab warning lights and supervisory coaching with videos of driving behavior." *Journal of Safety Research*. 60: 125-136, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5427714/>.

Cai, Maio, et al. (2021). "The association between crashes and safety-critical events: Synthesized evidence from crash reports and naturalistic driving data among commercial truck drivers." *Transportation Research Part C: Emerging Technologies*. 126: 103016, <https://doi.org/10.1016/j.trc.2021.103016>.

Chen, Guang Xiang (2008). "Impact of federal compliance reviews of trucking companies in reducing highway truck crashes." *Accident Analysis & Prevention*. 40: 238-245, <https://doi.org/10.1016/j.aap.2007.06.002>.

Cicchino, Jessica B. (2017). "Effectiveness of forward collision warning and autonomous emergency braking systems in reducing front-to-rear crash rates." *Accident Analysis & Prevention*. 99 (Pt A): 142-152, <https://dx.doi.org/10.1016/j.aap.2016.11.009>.

Lotan, Tsippy and Toledo, Tomer (2006). "In-vehicle data recorder for evaluation of driving behavior and safety." *Transportation Research Record: Journal of the Transportation Research Board*. 1953: 112-119, <https://journals.sagepub.com/doi/pdf/10.1177/0361198106195300113>.

NHTSA (2023). *2021 FARS/CRSS coding and validation manual*. Report No. DOT HS 813 426. DOT, National Highway Traffic Safety Administration, <https://crashstats.nhtsa.dot.gov/Api/Public/ViewPublication/813426>.

IV. What is FMCSA taking comment on and what supporting documentation do I need to include in my comments?

FMCSA has become aware of the reports and studies listed above. The Agency will be considering whether any material information contained in these reports and studies may be relied upon by the Agency in developing a proposed or final rule. This NODA is necessary to disclose such possible reliance and to provide the interested public an opportunity to comment on the accuracy and relevance of the information (49 CFR 5.5(a)(1)).

The comment period for the ANPRM ended on November 29, 2023. Comments submitted in response to this NODA must be limited to addressing any relevant information in the reports and studies listed above. Comments addressing other matters will not be considered by FMCSA.

Issued under authority delegated in 49 CFR 1.87.

Larry W. Minor,
Associate Administrator for Policy.

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