



DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Part 392

[Docket No. FMCSA-2021-0050]

RIN 2126-AC39

Railroad Grade Crossings; Stopping Required: Exception for Railroad Grade

Crossing Equipped with Active Warning Device Not in Activated State

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

ACTION: Notification of data availability; request for comments.

SUMMARY: This notification of data availability (NODA) is to alert interested parties about information that FMCSA believes may be relevant to this proceeding. This NODA identifies information the Agency has developed and provides an opportunity for public comment. The Agency may consider this information in preparation of further regulatory action.

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-2021-0050 using any of the following methods:

- Federal eRulemaking Portal: Go to <https://www.regulations.gov/docket/FMCSA-2021-0050/document>. Follow the online instructions for submitting comments.
- Mail: Dockets Operations, U.S. Department of Transportation, 1200 New Jersey Avenue SE, W58-213, Washington, DC 20590-0001.
- Hand Delivery or Courier: Dockets Operations, U.S. Department of Transportation, 1200 New Jersey Avenue SE, W58-213, 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.

FOR FURTHER INFORMATION CONTACT: Ms. Melissa Williams, Hazardous Materials Division, Office of Enforcement and Compliance, FMCSA, 1200 New Jersey Ave. SE, Washington, DC 20590-0001, (202) 366-4163, melissa.williams@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 proceeding (FMCSA-2021-0050), 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-2021-0050/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 8½ 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-2021-0050/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, U.S. Department of Transportation, 1200 New Jersey Avenue SE, W58-213, 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 <https://www.transportation.gov/individuals/privacy/privacy-act-system-records-notice>. The comments are posted without edit and are searchable by the name of the submitter.

II. Background

On May 30, 2025, FMCSA published a notice of proposed rulemaking (NPRM) in this proceeding stating the Agency proposed to amend 49 Code of Federal Regulations (CFR) 392.10 by adding an exception for any railroad grade crossing equipped with an active warning device that is not in an activated state (e.g., flashing lights or crossing gates down, indicating the arrival of a train) (90 FR 22914). Under local law, this would permit the commercial motor vehicle (CMV) to proceed across the railroad tracks without slowing or stopping.

The NPRM provided detailed information on the background and history of FMCSA regulations regarding railroad grade crossings, the proposed amendments, and the legal basis for such amendments. The deadline for submitting comments in response to the NPRM was July 29, 2025.

III. What information is available?

Using data from the Federal Railroad Administration, FMCSA has identified information on vehicle and railroad collisions, rear-end CMV fatal crashes, and signal failures. This information has been summarized and posted to the docket and FMCSA may consider it in the context of further regulatory action.

IV. What is the scope of comments FMCSA is seeking and what supporting documentation do I need to include in my comments?

FMCSA has provided the information identified above and is considering whether to rely upon it in further regulatory action. 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 NPRM ended on July 29, 2025. Comments submitted in response to this NODA must be limited to addressing any relevant information identified above. Comments addressing other matters will not be considered by FMCSA.

Issued under authority delegated in 49 CFR 1.87.

Derek Barrs,
Administrator.

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