

individuals to operate CMVs are beyond the scope of the medical exemptions being granted and are not evidence that FMCSA should no longer grant exemptions from its hearing standard. FMCSA notes there are CDL training schools that have successfully trained deaf and hard of hearing drivers and State driver's licensing agencies have found ways to conduct CDL skills tests for such individuals. FMCSA believes that it is not necessary for FMCSA to "provide a consistent standard" for training and testing activities when considering an application for an exemption from the hearing standard.

#### 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 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 medical 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 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 demonstrated a safe driving history. Based on an individual assessment of each applicant that focused on whether an equal or greater level of safety would likely be achieved by permitting each of these drivers to drive in interstate commerce, the Agency finds the drivers granted this

exemption have demonstrated that they do not pose a risk to public safety. Consequently, FMCSA finds further that in each case exempting these applicants from the hearing standard in § 391.41(b)(11) would likely achieve a level of safety that is equal to that existing without the exemption, consistent with the applicable standard in 49 U.S.C. 31315(b)(1).

#### V. Conditions and Requirements

The terms and conditions of the exemption are provided to the applicants in the exemption document and include the following: (1) each driver must report any crashes or accidents as defined in § 390.5T; (2) each driver must report all citations and convictions for disqualifying offenses under 49 CFR parts 383 and 391 to FMCSA; and (3) each driver is prohibited from operating a motorcoach or bus with passengers in interstate commerce. The driver must also have a copy of the exemption when driving, for presentation to a duly authorized Federal, State, or local enforcement official. In addition, the exemption does not exempt the individual from meeting the applicable CDL testing requirements.

#### 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 upon its evaluation of the 18 exemption applications, FMCSA exempts the following drivers from the hearing standard in § 391.41(b)(11), subject to the requirements cited above: Stephen Arellano (CO) Hagop Balian (MD) Michael Clark (MD) Jeremy Earl (IL) James Hall (MS) Arnold Heyen (NE) Omar Ibrahim (MN) Majuong Koijza (CO) Peter Mannella (WA) Jay Manns (PA) Matthew Moyer (PA) Ismail Muse (UT) Dax Nutt (TX) Michael Piirainen (ME) Jeremy Stockman (KS) Zander Symansky (KS) Dalton Taylor (OK) Jorge Toledo (FL)

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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## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

#### Safety Advisory 2022–02; Addressing Unintended Train Brake Release

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

**ACTION:** Notice of Safety Advisory.

**SUMMARY:** FRA is issuing Safety Advisory 2022–02 to make the rail industry aware of a recent issue encountered by a train crew that experienced an unintended brake release of a train's automatic air brakes while stopped at a signal, and to recommend steps addressing the unintended release of train air brakes.

**FOR FURTHER INFORMATION CONTACT:** Gary Fairbanks, Staff Director, Motive Power & Equipment Division, Office of Railroad Infrastructure and Mechanical, FRA, 1200 New Jersey Avenue SE., Washington, DC 20590, telephone: (202) 493–6322, email: [gary.fairbanks@dot.gov](mailto:gary.fairbanks@dot.gov).

*Disclaimer:* This Safety Advisory is considered guidance pursuant to DOT Order 2100.6A (June 7, 2021). Except when referencing laws, regulations, policies, or orders, the information in this Safety Advisory does not have the force and effect of law and is not meant to bind the public in any way. This document does not revise or replace any previously issued guidance.

#### SUPPLEMENTARY INFORMATION:

##### Background

On June 22, 2022, during a significant thunderstorm, a crew consisting of a locomotive engineer and conductor operated a conventionally powered, intermodal train with 3 head-end locomotives, 47 loaded cars, and 6 empty cars, totaling 9,204 feet in length and 7,392 tons in weight. The engineer stopped the train on a downhill grade of 0.9–1.18% near the signal governing the train's movement, set the train's air brakes at approximately 12 pounds, and

fully set the locomotive consist's independent brakes. After being stopped for approximately 3 hours, the engineer and conductor, located in the lead locomotive cab, observed the train roll towards the signal interlocking displaying a stop indication. This train experienced an unintended automatic brake release. The locomotive consist's independent brakes remained fully applied but due to the grade, tonnage and wet rail could not solely hold the train without the automatic air brakes also being applied.

At that time, an opposing train on the same track was preparing to cross through the interlocking in front of the rolling train. The locomotive engineer of the rolling train applied full-service airbrakes and full dynamic braking but was not satisfied that the brakes were working effectively or fast enough. The conductor operated the emergency brake valve and stopped the train short of the signal and the train that was preparing to cross through the interlocking.

The crew then contacted the dispatcher and railroad management to report the unintended brake release and the conductor set a sufficient number of car handbrakes to hold the train on the grade.

FRA's investigation of the rolling train's event recorder, positive train control (PTC) system, and engine data logs, revealed: the PTC system had operated properly and would have initiated an emergency brake application upon reaching the signal; the Trip Optimizer was off; and the lead locomotive and consist did not cause the unintended brake release. Instead, FRA determined that, after approximately three hours with the air brakes set, the air pressure slowly bled down from some of the cars' auxiliary reservoirs, likely causing localized brake releases.<sup>1</sup> The initiation of the brake release would enable the accelerated release functionality by taking some air from the emergency brake reservoirs and directing it back into the brake pipe resulting in a substantial number of adjacent car brakes releasing. Potentially contributing factors causing the train's unintended movement included the downhill grade, wet rail, and the train's tonnage.

Due to the potential for air brake system leaks, FRA prohibits unattended trains from depending solely on air brakes to hold equipment.<sup>2</sup> While the aforementioned rolling train was

attended, it nevertheless engaged in an unintended movement.

Based on FRA's review of this incident, and its awareness of other train incidents involving an unintended air brake release under similar circumstances, FRA believes operating guidance is warranted to help reduce the likelihood of similar unintended air brake releases, and therefore makes the following recommendations.

#### Recommendations

1. Train crews should not expect a service rate or emergency brake application to indefinitely maintain application of a train's air brakes.
  2. If a train is stopped with air brakes set, and the train begins moving, the crew should immediately apply the emergency brake. After the train is stopped, the crew should set a sufficient number of handbrakes to secure the train from further unintended movement before releasing the brakes and recharging the train's air brake system.
  3. Each railroad should adopt and implement an air brake procedure consistent with Recommendations 1 and 2 that addresses unintended brake releases.
  4. Each railroad should have an operating supervisor conduct a face-to-face meeting with each locomotive engineer and conductor to explain and reinforce the contents of this advisory.
- FRA may modify Safety Advisory 2022-02, issue additional safety advisories, or take other appropriate necessary action to ensure the highest level of safety on the Nation's railroads.

Issued in Washington, DC.

**John Karl Alexy,**

*Associate Administrator for Railroad Safety,  
Chief Safety Officer.*

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## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

[Docket No. NHTSA-2021-0096; Notice 2]

#### Hercules Tire & Rubber Company, Receipt of Petition for Decision of Inconsequential Noncompliance; Correction

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

**ACTION:** Notice; correction.

**SUMMARY:** NHTSA published a document in the **Federal Register** of August 10, 2022, concerning request for

comments on a petition for a decision of inconsequential noncompliance submitted by Hercules Tire & Rubber Company, (Hercules), for certain radial trailer tires that do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 119, *New Pneumatic Tires for Motor Vehicles with a GVWR of More Than 4,536 Kilograms (10,000 Pounds), Specialty Tires, and Tires for Motorcycles*. The document contained the incorrect docket number and the incorrect FMVSS in section "III. Noncompliance."

**DATES:** The comment period for the notice published August 10, 2022, at 87 FR 48760, is extended. Comments should be received on or before January 30, 2023.

**ADDRESSES:** Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited in the title of this notice and may be submitted by any of the following methods:

- **Mail:** Send comments by mail addressed to the U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590.

- **Hand Delivery:** Deliver comments by hand to the U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590. The Docket Section is open on weekdays from 10 a.m. to 5 p.m. except for Federal Holidays.

- **Electronically:** Submit comments electronically by logging onto the Federal Docket Management System (FDMS) website at <https://www.regulations.gov/>. Follow the online instructions for submitting comments.

- Comments may also be faxed to (202) 493-2251.

Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that comments you have submitted by mail were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to <https://www.regulations.gov/>, including any personal information provided.

All comments and supporting materials received before the close of business on the closing date indicated

<sup>1</sup> FRA notes this type of prolonged pressure release would likely not be identified during a periodic single car air brake test.

<sup>2</sup> 49 CFR 232.103(n)(2).