

### B. Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. 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 FDMS), which can be reviewed at [www.transportation.gov/privacy](http://www.transportation.gov/privacy).

## II. Background

On May 26, 2021, FMCSA published a notice announcing receipt of applications from three individuals requesting an exemption from the epilepsy and seizure disorders prohibition in 49 CFR 391.41(b)(8) and requested comments from the public (86 FR 28432). The public comment period ended on June 25, 2021, and no comments were received.

FMCSA has evaluated the eligibility of these applicants and determined that granting exemptions to these individuals would achieve a level of safety equivalent to, or greater than, the level that would be achieved by complying with § 391.41(b)(8).

The physical qualification standard for drivers regarding epilepsy found in § 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 (MEs) in determining whether drivers with certain medical conditions are qualified to operate a CMV in interstate commerce.

## 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 statute also allows the Agency to renew exemptions at the end of the 5-year period. 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 the 2007 recommendations of the Agency's Medical Expert Panel. The Agency conducted an individualized assessment of each applicant's medical information, including the root cause of the respective seizure(s) and medical information about the applicant's seizure history, the length of time that has elapsed since the individual's last seizure, the stability of each individual's treatment regimen and the duration of time on or off of anti-seizure medication. In addition, the Agency reviewed the treating clinician's medical opinion related to the ability of the driver to safely operate a CMV with a history of seizure and each applicant's driving record found in the Commercial Driver's License Information System for commercial driver's license (CDL) holders, and interstate and intrastate 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. A summary of each applicant's seizure history was discussed in the May 26, 2021, **Federal Register** notice (86 FR 28432) and will not be repeated in this notice.

These three applicants have been seizure-free over a range of 17 years while taking anti-seizure medication and maintained a stable medication treatment regimen for the last 2 years. In each case, the applicant's treating physician verified his or her seizure history and supports the ability to drive commercially.

The Agency acknowledges the potential consequences of a driver experiencing a seizure while operating a CMV. However, the Agency believes the drivers granted this exemption have demonstrated that they are unlikely to have a seizure and their medical condition does not pose a risk to public safety.

Consequently, FMCSA finds that in each case exempting these applicants from the epilepsy and seizure disorder prohibition in § 391.41(b)(8) is likely to achieve a level of safety equal to that existing without the exemption.

## V. Conditions and Requirements

The terms and conditions of the exemption are provided to the applicants in the exemption document and includes the following: (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.

## 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 three exemption applications, FMCSA exempts the following drivers from the epilepsy and seizure disorder prohibition, § 391.41(b)(8), subject to the requirements cited above:

Angela Camarco (CT); Wesley Campbell (CA); and Thomas Frederick (PA)

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(e) and 31315(b).

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2021-15050 Filed 7-14-21; 8:45 am]

BILLING CODE 4910-EX-P

## DEPARTMENT OF TRANSPORTATION

### Federal Transit Administration

[FTA Docket No. FTA 2021-0011]

### Request for Information on Transit Safety Concerns

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

**ACTION:** Request for information.

<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>.

**SUMMARY:** The Federal Transit Administration (FTA) is responsible for administering a Public Transportation Safety Program (Safety Program) to improve the safety performance of the Nation's transit systems. FTA adopted the principles and methods of Safety Management System (SMS) as the foundation of the Safety Program. FTA uses SMS processes and activities to proactively identify and address safety risk at the industry level. Through this Request for Information (RFI), FTA solicits input from the public regarding information and data to identify transit safety concerns that FTA should evaluate for potential action at the Federal level.

**DATES:** Comments are requested by August 16, 2021.

**ADDRESSES:** You may file comments identified by docket number FTA–2021–0011 by any of the following methods:

- *Federal eRulemaking Portal:* Go to <https://www.regulations.gov> and follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Ave. SE, West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Ave. SE, between 9:00 a.m. and 5:00 p.m. ET, Monday through Friday, except Federal holidays.
- *Fax:* (202) 493–2251.

*Instructions:* For detailed instructions on submitting comments, see the Public Participation heading of the **SUPPLEMENTARY INFORMATION** section of this document. Note that all comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided.

*Privacy Act:* Except as provided below, all comments received into the docket will be made public in their entirety. The comments will be searchable by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You should not include information in your comment that you do not want to be made public. You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78) or at <https://www.transportation.gov/privacy>.

**FOR FURTHER INFORMATION CONTACT:** Ray Biggs, Office of Transit Safety and Oversight—Safety Risk Management and Assurance Division, 1200 New Jersey Avenue SE, Mail Stop TSO–10,

Washington, DC 20590, (202) 366–7460 or [Ray.Biggs@dot.gov](mailto:Ray.Biggs@dot.gov).

**SUPPLEMENTARY INFORMATION:** Through this RFI, FTA is seeking information and data from the public on safety concerns and issues recommended for additional assessment and potential action at the Federal level.

In August 2016, FTA published the Public Transportation Safety Program regulation, 49 CFR part 670, which establishes substantive and procedural rules for FTA's administration of the program to carry out the mandate of 49 U.S.C. 5329 to improve the safety of transit systems. In Part 670, FTA adopted the principles and methods of SMS and clarified that FTA will follow these principles and methods in its development of rules, regulations, policies, guidance, best practices, and technical assistance administered under the authority of 49 U.S.C. 5329.

In July 2018, FTA furthered the advancement of SMS in the transit industry by publishing the Public Transportation Agency Safety Plan regulation, 49 CFR part 673 (Part 673). Part 673 requires certain transit agencies to adopt SMS principles and methods; develop, certify, implement, and update Agency Safety Plans (ASPs); and coordinate ASP elements with other FTA programs and rules, as specified in 49 U.S.C. 5303, 5304, and 5329. In carrying out Part 673 requirements, transit agencies identify safety hazards and mitigate safety risks within their transit system through the implementation of ASPs and SMS processes and activities.

FTA expanded its safety oversight capabilities by establishing an internal SMS approach for identifying transit safety hazards and mitigating safety risks. In 2019, FTA implemented its Safety Risk Management (SRM) process to proactively address safety concerns impacting the transit industry. The SRM process follows a five-step continuous improvement approach: (1) Identify safety concerns; (2) assess safety risk; (3) develop mitigation; (4) implement mitigation; and (5) monitor safety performance. Appropriate mitigations advanced by FTA to resolve safety risk may include new proposed safety regulations, general or special directives, and safety advisories, as well as a range of technical assistance and training activities; enhanced data collection; or recommendations for further investigation, evaluation, or examination.

FTA utilizes its SRM process to address safety topics identified in FTA's SRM Action Plan. The FTA SRM Action Plan is informed by a review of National

Transportation Safety Board and Transit Advisory Committee for Safety recommendations to FTA, data from the National Transit Database, and additional industry sources as appropriate. FTA is currently analyzing four safety concerns utilizing its SRM process: Inward- and outward-facing audio and image recorders, roadway worker protection, signal system safety, and end-of-railcar door messaging.

FTA is developing the next SRM Action Plan to prioritize safety concerns for future SRM analyses. The transit industry's input is critically important in identifying and proactively mitigating safety concerns impacting the larger transit community. As such, FTA requests information from the public on safety concerns that the industry believes should be considered for inclusion in FTA's next SRM Action Plan.

Respondents to this RFI may respond to any question and do not need to respond to all questions. This RFI offers transit industry personnel, researchers, contractors, government entities, transit users, and other interested parties the opportunity to inform FTA's next SRM Action Plan.

### Questions to the Public

FTA seeks to gather information and discover valid and reliable aggregate data to support the identification and evaluation of safety concerns at the Federal level. The following list of questions and topic areas are intended to guide respondents in this effort:

#### *Safety Concerns*

(1) What transit safety concerns should FTA consider analyzing through its SRM process for small transit providers? Large transit providers? Rail, bus, and multimodal transit providers? Briefly describe why each identified safety concern should be considered, including any data-based evidence that may be available.

(2) Are there any new or emerging safety concerns that may not yet appear in industry data (either through near-misses or not meeting reporting thresholds, for example) that should be analyzed by FTA to proactively mitigate future impacts?

#### *Sources of Information and Data*

(3) Are there additional sources of information and data, beyond those detailed in this request, that may help inform FTA's identification of high-priority safety concerns for the SRM process and potential action at the Federal level?

(4) Are there additional sources of information and data, beyond those

detailed in this request, that FTA should consider in supporting the assessment and mitigation of identified transit safety risks?

(5) Should data sources outside of those maintained by transit agencies and FTA, such as geographic or demographic data, be considered to support the identification of safety concerns and assessment and mitigation of safety risk? If so, which data sources, and why?

#### *Examples*

(6) What are examples of safety concerns evaluated by a transit agency that can be shared with FTA?

(7) What are examples of high-impact data that support the identification of safety concerns and hazards and the corresponding safety risk assessment and mitigation that can be shared with FTA?

(8) Is there anything else FTA should know regarding the identification of safety concerns for the SRM process?

Please clearly indicate which question(s) you address in your response and any evidence to support assertions, where practicable.

#### **Public Participation**

##### *How do I prepare and submit comments?*

To ensure that your comments are filed correctly, please include the docket number provided [FTA–2021–0011] in your comments.

Please submit one copy of your comments, including any attachments, to the docket following the instructions given above under **ADDRESSES**. Please note, if you are submitting comments electronically as a PDF (Adobe) file, these documents must be scanned using an Optical Character Recognition process, thus allowing the Agency to search and copy certain portions of submissions.

##### *Will FTA consider late comments?*

FTA will consider all comments received before the close of business on the comment closing date indicated above under **DATES**. To the extent practicable, the Agency will also consider comments received after that date.

##### *How can comments submitted by other people be read?*

Comments received may be read at the Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Ave. SE, West Building Ground Floor, Room W12–140, Washington, DC 20590–0001. The hours of the docket are indicated above in the same location. Comments may also be

located on the internet, identified by the docket number at the heading of this notice, at <http://www.regulations.gov>.

Please note, this RFI will serve as a planning document. The RFI should not be construed as policy, a solicitation for applications, or an obligation on the part of the Government.

**Nuria I. Fernandez,**

*Administrator.*

[FR Doc. 2021–15078 Filed 7–14–21; 8:45 am]

**BILLING CODE 4910–57–P**

## **DEPARTMENT OF TRANSPORTATION**

### **Federal Transit Administration**

#### **Request for Information Concerning the Capital Investment Grants Program**

**AGENCY:** Federal Transit Administration (FTA), Department of Transportation (DOT).

**ACTION:** Request for Information.

**SUMMARY:** The Federal Transit Administration is seeking suggestions from all transit stakeholders (transit authorities, planning officials, States, cities, the private sector, and the public) on improvements that could be made to the evaluation process for projects seeking funding from the Capital Investment Grants (CIG) Program. Specifically, FTA seeks input on evaluation measures and data sources that can better capture the benefits and costs of transit and how the CIG program can facilitate outcomes that maximize those benefits.

**DATES:** Comments should be submitted on or before October 13, 2021. FTA will consider comments filed after this date to the extent practicable.

**ADDRESSES:** All responses MUST be submitted electronically to Docket No. FTA–2021–0010 at <http://www.regulations.gov>.

#### **FOR FURTHER INFORMATION CONTACT:**

Elizabeth Day, Director, Office of Capital Project Development, (202) 366–5159, or [Elizabeth.Day@dot.gov](mailto:Elizabeth.Day@dot.gov).

#### **SUPPLEMENTARY INFORMATION:**

*Background:* To receive discretionary Capital Investment Grants (CIG) program funding from the Federal Transit Administration (FTA), an applicant must complete the multi-year, multi-step process outlined in law at 49 U.S.C. 5309 for the proposed transit capital project. The law specifies evaluation criteria covering project justification and local financial commitment that FTA must use to develop a project rating on a five-point scale from low to high. It also specifies that a project must receive a Medium or

better overall rating to advance through the process and receive CIG program funding. The law establishes three categories of projects eligible under the CIG program, which are known as New Starts, Small Starts, and Core Capacity Improvement projects. Each project type has a unique set of requirements and evaluation criteria in law, although many similarities exist among them.

For New Starts and Core Capacity Improvement projects, the steps in the CIG process include project development, engineering, and construction. The CIG process for Small Starts projects includes only project development and construction. New Starts and Core Capacity Improvement projects receive construction funds from the CIG program through a full funding grant agreement (FFGA) that defines the scope of the project and specifies the total multi-year Federal commitment to the project. Small Starts projects receive construction funds through a single-year grant or a Small Starts grant agreement (SSGA) that defines the scope of the project and specifies the Federal commitment to the project.

There are six statutory project justification criteria that FTA must evaluate and rate individually for projects pursuing CIG funding that differ slightly between the three categories of projects. The law requires each project justification criterion to be given a “comparable, but not necessarily equal, numerical weight” when FTA develops a summary project justification rating. The law also requires FTA to evaluate local financial commitment. For New Starts and Core Capacity, the law requires FTA to determine whether: (A) The proposed financial plan provides for the availability of reasonable contingency to cover unanticipated cost increases or funding shortfalls; (B) each proposed local source of capital and operating financing is stable, reliable, and available within the proposed project timetable; and (C) local resources are available to recapitalize, maintain, and operate the overall existing and proposed public transportation system, including essential feeder bus and other services necessary to achieve the projected ridership levels, without requiring a reduction in existing public transportation services or level of service to operate the proposed project. For Small Starts projects the law requires FTA to determine that, “each proposed local source of capital and operating financing is stable, reliable, and available within the proposed project timetable.”

Lastly, the law requires FTA to issue policy guidance on the CIG review and