



Commercial Vehicle Safety Alliance

Improving commercial motor vehicle safety and enforcement

July 28, 2025

Dockets Operations
U.S. Department of Transportation
1200 New Jersey Avenue SE
West Building, Ground Floor
Washington, DC 20590-0001

RE: Docket Number: FMCSA-2021-0050

Railroad Grade Crossings; Stopping Required: Exception for Railroad Grade Crossing Equipped With Active Warning Device Not in Activated State

The Commercial Vehicle Safety Alliance (CVSA) respectfully submits the following comments in response to the notice of proposed rulemaking (NPRM) published in the Federal Register by the Federal Motor Carrier Safety Administration (FMCSA) on May 30, 2025, seeking comments on the agency's proposal to amend the regulations related to driving a commercial motor vehicle (CMV) at railroad grade crossings. Currently, federal regulations require drivers of certain CMVs (e.g., buses transporting passengers and CMVs transporting certain hazardous materials) to stop before crossing a railroad track unless an exception applies, such as when the crossing is controlled by a functioning highway traffic signal transmitting a green indication. FMCSA is proposing to add a similar exception for a railroad grade crossing equipped with an active warning device that is not in an activated state, Docket No. FMCSA-2021-0050.

CVSA is a nonprofit organization comprised of local, state, provincial, territorial and federal commercial motor vehicle safety officials and industry representatives. The Alliance aims to prevent commercial motor vehicle crashes, injuries and fatalities and believes that collaboration between government and industry improves road safety and saves lives. Our mission is to improve commercial motor vehicle safety and enforcement by providing guidance, education and advocacy for enforcement and industry across North America.

CVSA recognizes the potential safety benefits outlined by the agency in the proposal related to the reduction of rear end collisions involving CMVs that are required to stop at railroad grade crossings equipped with active warning devices (covered CMVs) and non-CMV drivers who are not required to stop. However, the Alliance also has concerns about the potential for an increase in crash risk at grade crossings equipped with active warning devices that are not functional.

FMCSA's proposal references the current exception under § 392.10(a)(3), which does not require the covered CMVs to stop if the crossing is "controlled by a functioning highway traffic signal transmitting a green indication, which, under local law, permits the commercial motor vehicle to proceed across the railroad tracks without slowing or

stopping.” This exception makes sense, as the indicator is active when the railroad grade crossing is *confirmed to be safe* to cross, as indicated by an active signal.

In contrast, FMCSA’s proposed change would allow these covered CMVs to not stop at crossings equipped with an active warning device that indicates when a train is approaching, so long as the active warning device [typically flashing red lights] is not active. In this instance, however, the active warning devices indicate when it is *unsafe* to proceed. In situations where the system is not functioning, drivers may proceed onto a railroad grade crossing that is not safe to travel through due to an oncoming train that was not detected/signaled by the malfunctioning system. This is further compounded by the fact some local jurisdictions prohibit trains from using their horns to signal approach (designated quiet zones), eliminating one of the other ways a driver may detect an oncoming train even when the active warning device is not functional.

In the NPRM, FMCSA notes that the agency believes it would be appropriate to permit a CMV to proceed through an active warning device equipped railroad grade crossing without stopping where the warning device is not in activated state, noting that this would be similar to the existing exceptions for a police officer or flagman directing traffic to proceed or for a highway traffic signal transmitting a green signal which, under local law, permits vehicles to proceed without slowing or stopping as described in § 392.10(b), paragraphs (2) and (3). However, both those exceptions provide active notice that it is *safe to proceed*, either by the active management of the traffic direction official or by the highway traffic signal transmitting a green signal. Unlike those scenarios, the active warning devices provide notice when it is unsafe to proceed and there is no active confirmation of safety when those systems are not functional.

Unfortunately, because these CMVs are currently required to stop at grade crossings equipped with active warning devices, there is no readily available crash data related to incidents where a crash occurred due to a malfunctioning warning device. CVSA encourages FMCSA to consider this potential unintended safety risk associated with adding this exception and to explore ways to ensure that drivers are aware of malfunctioning active warning devices when approaching a grade crossing prior to implementing the proposed change.

If, after considering how best to address the safety impacts of malfunctioning active warning devices, FMCSA moves forward with the proposed revision to § 392.10(b), it is critical that FMCSA include the highlighted language below, which ensures that the states and local governments retain authority over traffic control decisions.

§ 392.10 Railroad grade crossings; stopping required.

...

(b) A stop need not be made at:

...

(6) A 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), **which, under local law,**

permits the commercial motor vehicle to proceed across the railroad tracks without slowing or stopping.

CVSA works to closely monitor, evaluate, and identify potentially unsafe transportation processes and procedures as well as to help facilitate and implement best practices for enhancing safety on our highways. Commercial motor vehicle safety continues to be a challenge and we need the involvement of all affected parties to help us better understand these issues and put into place practical solutions. We appreciate the opportunity to provide feedback to the agency.

If you have further questions or comments, please do not hesitate to contact me at 202-998-1008 or collin.mooney@cvsa.org.

Respectfully,

A handwritten signature in black ink, appearing to read 'Collin B. Mooney'.

Collin B. Mooney, MPA, CAE
Executive Director
Commercial Vehicle Safety Alliance