

**SUPPLEMENTARY INFORMATION:** In 1992, OGE issued a final rule setting forth uniform executive branch Standards of Ethical Conduct (generally effective on February 3, 1993) and an interim final rule on financial disclosure, and in 1996 issued a final rule on financial interests for executive branch departments and agencies of the Federal Government and their employees. Those three executive branchwide regulations, as corrected and amended, are codified in 5 CFR parts 2634, 2635 and 2640. Together those regulations have superseded the old Commission regulations, based on prior OPM standards, on employee responsibilities and conduct at 45 CFR part 706 which the Commission is proposing to remove its superseded regulations, and add in place thereof, a new section containing residual cross-references to the provisions at 5 CFR parts 2634, 2635 and 2640, as well as to the proposed new Commission regulation supplementing the executive branchwide standards that is being separately published today elsewhere in this issue of the **Federal Register** for codification in a new chapter LXVIII of 5 CFR, to consist of part 7801. In addition, the Commission is proposing to include in its residual section a reference to the separate, specific executive branchwide provisions regarding gambling, safeguarding the examination process and conduct prejudicial to the Government which are set forth in 5 CFR part 735, as amended and reissued by OPM in 1992 and 2006. Those specific branchwide restrictions are not covered by in OGE's Standards of Ethical Conduct regulation; furthermore, they are self-executing and do not require any department or agency republication.

#### Matters of Regulatory Procedure

##### *Executive Orders 12866 and 12988*

Because this proposed rule relates to Commission personnel it is exempt from the provisions of Executive Orders 12866 and 12988.

##### *Regulatory Flexibility Act*

It has been determined under the Regulatory Flexibility Act (5 U.S.C. chapter 6) that this rule as proposed would not have a significant economic impact on a substantial number of small entities because it would primarily affect Commission employees.

##### *Paperwork Reduction Act*

It has been determined that the Paperwork Reduction Act (44 U.S.C. chapter 35) does not apply to this proposed rulemaking document, because it does not contain any

information collection requirements that require the approval of the Office of Management and Budget.

##### *Congressional Review Act*

The Commission has determined that this rulemaking is not a rule as defined in 5 U.S.C. 804, and, thus, does not require review by Congress.

#### List of Subjects in 45 CFR Part 706

Conflict of interests, Government employees.

Dated: August 24, 2006.

**Kenneth L. Marcus,**

*Staff Director, United States Commission on Civil Rights.*

Dated: August 24, 2006.

**Emma Monroig,**

*Solicitor and Designated Agency Ethics Official, United States Commission on Civil Rights.*

For the reasons set forth in this preamble, the Commission is proposing to revise 45 CFR part 706 to read as follows:

#### **PART 706—EMPLOYEE RESPONSIBILITIES AND CONDUCT**

**Authority:** 5 U.S.C. 7301, 42 U.S.C. 1975b(d).

##### **§ 766.1 Cross-references to employee ethical conduct standards, financial disclosure and financial interest regulations and other conduct rules.**

Employees of the United States Commission on Civil Rights are subject to the executive branch standards of ethical conduct contained in 5 CFR part 2635, the Commission regulations at 5 CFR part 7801 (as proposed in a separate proposed rule document published elsewhere in this issue of the **Federal Register**) which supplement the executive branchwide standards, the executive branch financial disclosure regulations contained in 5 CFR part 2634, and the executive branch financial interests regulations contained in 5 CFR part 2640, as well as the executive branch employee responsibilities and conduct regulations contained in 5 CFR part 735.

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#### **DEPARTMENT OF TRANSPORTATION**

##### **Federal Motor Carrier Safety Administration**

##### **49 CFR Part 392**

[Docket No. FMCSA-2006-25660]

RIN 2126-AB04

##### **Railroad-Highway Grade Crossing; Safe Clearance; Public Meeting**

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice of public meeting.

**SUMMARY:** The FMCSA announces that a public meeting will be held to discuss the problem of railroad-highway grade crossing crashes in which a commercial motor vehicle (CMV) is struck by a train because the driver of the CMV, for whatever reason, stops the vehicle prior to clearing the railroad track. The meeting is intended to promote the sharing of information between interested parties and FMCSA, the Federal Highway Administration (FHWA), and the Federal Railroad Administration (FRA) to ensure motor carriers and drivers are prepared to achieve full compliance with a forthcoming, statutorily mandated Federal rule to prohibit drivers from entering a railroad grade crossing unless there is sufficient room to clear the tracks completely without stopping. The meeting will provide all interested parties with an opportunity to voice their concerns about the potential costs and safety benefits of such a rule.

**DATES:** The meeting will be held on Wednesday, September 20, 2006, from 9:30 a.m. to 4:30 p.m. Individuals who wish to make a formal presentation must contact Ms. Ryan Thompson at (703) 934-3432 or e-mail her at [rthompson@icfi.com](mailto:rthompson@icfi.com) no later than 5 p.m., e.t., September 15, 2006. Comments to the docket should be submitted no later than October 20, 2006.

**ADDRESSES:** The meeting will be held in Room 2230, Nassif Building, DOT Headquarters, 400 Seventh Street, SW., Washington, DC 20590. You may also submit comments to the DOT Docket Management System (DMS), referencing Docket Number FMCSA-2006-25660, using any of the following methods:

- *Web Site:* <http://dmses.dot.gov>.

Follow the instructions for submitting comments on the DOT electronic docket site.

- *Fax:* 1-202-493-2251.

- *Mail:* Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building,

Room PL-401, Washington, DC 20590-0001.

- *Hand Delivery:* Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.

*Instructions:* All submissions must include the Agency name and docket numbers for this notice. Note that all comments received will be posted without change to <http://dms.dot.gov>, including any personal information provided. Please see the Privacy Act heading for further information.

*Docket:* For access to the docket to read background documents or comments received, go to <http://dms.dot.gov> at any time or Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The DMS is available 24 hours each day, 365 days each year. If you want us to notify you that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

*Privacy Act:* Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review the Department of Transportation's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477; Apr. 11, 2000). This information is also available at <http://dms.dot.gov>.

**FOR FURTHER INFORMATION CONTACT:** Mr. Thomas Yager, Driver and Carrier Operations, Office of Bus and Truck Standards and Operations, (202) 366-4009, Federal Motor Carrier Safety Administration (MC-PSD), 400 Seventh Street, SW., Washington, DC 20590; or [MCPSD@dot.gov](mailto:MCPSD@dot.gov). Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

*Information on Services for Individuals with Disabilities:* For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact Tom Yager at 202-366-4009.

**SUPPLEMENTARY INFORMATION:**

**Background**

On July 30, 1998, the FHWA published a notice of proposed rulemaking (NPRM) (63 FR 40691) to prohibit CMV operators from driving onto a railroad grade crossing without having sufficient space to drive completely through without stopping, thus leaving a portion of the CMV across the tracks. The rulemaking was required by section 112 of the Hazardous Materials Transportation Authorization Act of 1994 (HMTAA) (Pub. L. 103-311, 108 Stat. 1673, at 1676, August 26, 1994).

As stated in the report by the Senate Committee on Commerce, Science, and Transportation (December 9, 1993), the goal of the provision in Senate Bill 1640, which later became section 112, was to: “\* \* \* improve safety at highway-railroad crossings in response to fatalities that have occurred from accidents involving commercial motor vehicle operators who failed to use proper caution while crossing \* \* \* [T]he Committee believes that imposing a Federal statutory obligation on drivers of all commercial motor vehicles to consider whether they can cross safely and completely \* \* \* will help to reduce the number of tragedies associated with grade-crossing accidents” [S. Rep. No. 103-217, at 11 (1994), reprinted in 1994 U.S.C.C.A.N. 1763, 1773].

The FHWA asked the States for information on the number and location of highway-railroad grade crossings with inadequate storage space<sup>1</sup>—and on alternative crossings—as the first step in estimating the costs and benefits of the rule required by section 112. Many State agencies, however, assumed that they were required to provide the information. State agencies were concerned that a potential rule would require them to reconstruct, rewire, reroute, or otherwise correct every inadequate crossing and that FHWA was indifferent to the costs of such an undertaking. In fact, the time, difficulty, and cost involved in collecting reliable data on highway-railroad grade crossings became a primary focus of the

<sup>1</sup> Inadequate storage space means the roadway is too short in length on the opposite side of the railroad tracks to allow the vehicle to stand or wait to proceed at the traffic control device (e.g., traffic signal or stop sign) on that side. For example, the storage space of a particular highway-railroad grade crossing near a highway intersection measures 50 feet in length between the stopping line marker on the pavement at the traffic signal of the highway intersection and the railroad's grade crossing gate. A CMV driver is operating a tractor-trailer combination measuring 65 feet in overall length. Thus, the storage space of 50 feet is inadequate to accommodate a tractor-trailer combination measuring more than 50 feet in length.

comments in that rulemaking proceeding.

Therefore, on April 28, 2006 (71 FR 25128), FMCSA withdrew the 1998 NPRM, and will soon initiate a new rulemaking, less burdened by previous misunderstandings, to implement section 112 of HMTAA. An NPRM to address the requirements of section 112 will be published when a current, ongoing study of grade crossing crashes associated with the CMV stopping prior to clearing the tracks completely has been completed.

The FMCSA believes that holding a public meeting before publishing the NPRM will be helpful for the Agency and stakeholders. The public meeting will establish dialogue among Federal and State agencies, motor and rail carriers, safety advocacy groups, and other interested parties concerning practical approaches for reducing the incidence of CMV crashes with trains because the driver of the CMV, for whatever reason, stops the vehicle before clearing the railroad track.

**Meeting Information**

The meeting will be held from 9:30 a.m. to 4:30 p.m., e.t., on Wednesday, September 20, 2006, in Room 2230, Nassif Building, 400 Seventh Street, SW., Washington, DC. Because access to the DOT building is controlled, all visitors must sign in with the security office located at the southwest entrance of the building, present identification with a picture on it, be escorted, and wear a visitor's badge at all times while in the building.

Individuals who wish to make a formal presentation must contact Ms. Ryan Thompson at (703) 934-3432 or e-mail her at [rthompson@icfi.com](mailto:rthompson@icfi.com) no later than 5 p.m., e.t., September 15, 2006, to ensure that sufficient time is allotted for the presentation and to identify any audio-visual equipment needed for the presentation.

Individuals who are unable to attend the meeting may submit written comments to the docket identified at the beginning of this notice.

Issued on: August 25, 2006.

**David H. Hugel,**

*Deputy Administrator.*

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