

million.<sup>1</sup> Section 13906 is located in 49 U.S.C. Part B (Chapter 139) and therefore may be considered within the general scope of the Agency's exemption authority under section 13541.<sup>2</sup> The Secretary may begin a section 13541 exemption proceeding on the application of an interested party or on the Secretary's own initiative. 49 U.S.C. 13541(b). The Secretary may "specify the period of time during which an exemption" is effective and may revoke the exemption "to the extent specified, on finding that application of a provision of [49 U.S.C. Chapters 131–149] to the person, class, or transportation is necessary to carry out the transportation policy of [49 U.S.C.] section 13101." 49 U.S.C. 13541(c), (d). In addition, the exemption authority provided by section 13541 "may not be used to relieve a person from the application of, and compliance with, any law, rule, regulation, standard, or order pertaining to cargo loss and damage [or] insurance . . ." 49 U.S.C. 13541(e)(1).

The Administrator of FMCSA has been delegated authority under 49 CFR 1.87 to carry out the functions vested in the Secretary by 49 U.S.C. 13541.

### III. Background

On July 6, 2012, the President signed into law MAP–21, which included a number of mandatory, non-discretionary changes to FMCSA programs. Some of these changes amended the financial security requirements applicable to property brokers and freight forwarders operating under FMCSA's jurisdiction. MAP–21 § 32918, (codified at 49 U.S.C. 13906(b) and (c)). More specifically, 49 U.S.C. 13906(b) and (c) require brokers and freight forwarders to provide evidence of minimum financial security in the amount of \$75,000. On October 1, 2013, FMCSA issued regulations requiring brokers and freight forwarders to have a \$75,000 surety bond or trust fund in effect. 49 CFR 387.307(a), 387.403(c). 78 FR 60226, 60233. The 11th Circuit Court of Appeals dismissed AIPBA's Administrative Procedure Act challenge to the rule, *AIPBA v.*

*Secretary, U.S. Department of Transportation*, 13–15238 (11th Cir. Mar. 18, 2016), and the United States District Court for the Middle District of Florida dismissed a separate AIPBA challenge to the constitutionality of the statute. *AIPBA v. Foxx*, 5:15–cv–00038–JSM–PRL (M.D. Fla. July 15, 2015).

On December 26, 2013, FMCSA requested public comment on the August 14, 2013, AIPBA application for an exemption for all property brokers and freight forwarders from the requirement for a \$75,000 surety bond or trust fund (78 FR 78472). Specifically, FMCSA requested comments on whether the Agency should grant or deny AIPBA's application, in whole or in part. The Agency also requested comments on how it should apply 49 U.S.C. 13541(a) (1–3) to AIPBA's request. 78 FR at 78473.

On March 31, 2015 (80 FR 17142), FMCSA published a **Federal Register** notice denying AIPBA's request.<sup>3</sup> The Agency concluded that the exemption should be denied on the basis that 49 U.S.C. 13541 does not give FMCSA the authority to essentially nullify a statutory provision by exempting the entire class of persons subject to the provision. 80 FR at 17145. Furthermore, even if the Agency had the authority to issue such a blanket exemption, AIPBA's exemption application did not meet the factors provided in section 13541 because (1) the new \$75,000 bond requirement is necessary to carry out the National Transportation Policy at 49 U.S.C. 13101, (2) there has been no showing that the \$75,000 requirement "is not needed to protect shippers from the abuse of market power," and (3) the requested exemption is not in the public interest. *Id.* at 17147.

On Sept. 10, 2019, SBTC submitted its current request for a 5-year exemption from the \$75,000 broker/freight forwarder financial responsibility requirement for those brokers and freight forwarders with revenues under \$15.01 million.

#### *Request for Comments*

FMCSA requests public comment on the SBTC exemption application. A copy of SBTC's exemption application is included in the public docket referenced at the beginning of this notice. Specifically, FMCSA requests comments on whether the Agency should grant or deny the application, in whole or in part. The Agency also requests comments on how it should

apply 49 U.S.C. 13541(a)(1–3) to SBTC's request. Commenters are encouraged to provide data or information concerning the impact of the financial security requirements and/or the impact of granting this exemption request on motor carriers, brokers, freight forwarders and shippers.

**Larry W. Minor,**

*Associate Administrator for Policy.*

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**BILLING CODE 4910–EX–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

#### **Safety Advisory 2020–01; Safety Precautions Related to Coronavirus Disease 2019 (COVID–19)**

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

**ACTION:** Notice of Safety Advisory.

**SUMMARY:** This Safety Advisory encourages railroads, their employees, and contractors to review and follow all applicable guidance available related to COVID–19, including the best practices identified in the President's Coronavirus Guidelines for America—30 Days to Slow the Spread of Coronavirus (COVID–19), the Centers for Disease Control and Prevention's (CDC) COVID–19 guidelines, and the Occupational Safety and Health Administration's (OSHA) Guidance on Preparing Workplaces for COVID–19. This Safety Advisory recommends that railroads develop and implement procedures and practices consistent with the above-identified best practices and that railroads take certain other actions to ensure the safety of railroad operations and maintenance during this national emergency. FRA believes that actions consistent with this Safety Advisory will reduce the risk of railroad employees, contractors, and members of the public contracting or spreading COVID–19.

**FOR FURTHER INFORMATION CONTACT:** Karl Alexy, Associate Administrator for Safety and Chief Safety Officer, FRA, 1200 New Jersey Avenue SE, Washington, DC 20590, telephone (202) 493–6282.

**Disclaimer:** This Notice of Safety Advisory is considered guidance pursuant to 49 CFR 5.25. 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. If you have questions relating to COVID–19, please contact the CDC directly.

<sup>1</sup> SBTC Petition for Exemption, at 10.

<sup>2</sup> SBTC styles its request as a resubmission of an exemption request pursuant to 49 U.S.C. 31315(b)(3) and 49 CFR 381.317. Section 31315 of title 49 and 49 CFR part 381 apply to exemptions from 49 U.S.C. Chapter 313, 49 U.S.C. 31136 and from rules issued under those statutes, however. FMCSA therefore has no jurisdiction to entertain a resubmission of AIPBA's exemption request under section 31315(b)(3) and section 381.317, as the requirements SBTC seeks exemption from are not within Chapter 313 or Section 31136. However, instead of dismissing SBTC's request, FMCSA will treat SBTC's request as a new request for exemption under section 13541 and consider it under that applicable statutory provision.

<sup>3</sup> AIPBA did not appeal FMCSA's decision as required within the 60-day limitations period in 28 U.S.C. 2344.

**SUPPLEMENTARY INFORMATION:****Background**

As reported by CDC,<sup>1</sup> infection with SARS-CoV-2, the virus that causes COVID-19, can cause a respiratory illness that can spread from person to person. Symptoms can range from mild to severe, and often include a fever and a cough or difficulty breathing. The outbreak first started in China, but cases have been identified in a growing number of other areas, including the United States. On March 11, 2020, the World Health Organization characterized the COVID-19 outbreak a pandemic, meaning the disease had spread worldwide. On March 13, 2020, President Donald J. Trump declared a national emergency related to COVID-19.

SARS-CoV-2 is a novel virus, which means there is still much to learn about the risk factors, signs and symptoms, and how it is spread.<sup>2</sup> Based on what the CDC currently knows about the virus, it is mostly spread from person-to-person in close contact (within about 6 feet) through respiratory droplets produced when an infected person coughs, sneezes, or talks.<sup>3</sup> Maintaining good social distance (about 6 feet) is very important in preventing the spread of COVID-19.<sup>4</sup> It may also be possible that a person can get COVID-19 by touching a surface or object that has the virus on it and then touching their own mouth, nose, or possibly their eyes, but this is not thought to be the main way the virus spreads.<sup>5</sup>

**FRA's Actions Related to COVID-19**

Following the President's declaration of a national emergency related to COVID-19, on March 13, 2020, FRA Administrator Ronald L. Batory determined that the imminent threat and exposure to COVID-19 posed a risk of serious illness that constitutes an "emergency situation" as related to railroad operations. As a result, Administrator Batory activated FRA's *Emergency Relief Docket* (ERD) (Docket Number FRA-2020-0002), which enabled FRA to begin considering, on an expedited basis, requests for relief from regulatory requirements to address issues caused by the COVID-19 public health emergency.

Through the ERD, FRA has issued temporary, industry-wide relief from certain FRA regulations to help enable railroads to continue to operate for the duration of the COVID-19 public health emergency, and at the same time, to ensure the safety of railroad employees. See Docket Number FRA-2020-0002, available on [www.regulations.gov](http://www.regulations.gov). FRA granted temporary, conditional relief from certain required tests and inspections, as well as certain operational relief. FRA conditioned much of the relief granted in the waiver on the existence of workforce shortages or other constraints directly resulting from the COVID-19 public health emergency, meaning that individual railroads may utilize the relief only in situations where COVID-19 has caused workforce shortages (*i.e.*, employees are out sick or quarantined) or otherwise prevented railroads from complying with the regulations. Other relief FRA granted is consistent with CDC's recommendations for social distancing and limiting the touching of common surfaces.

**Safety Advisory 2020-01**

Railroads are a critical infrastructure industry and have a responsibility to ensure the timely movement of essential goods and people. FRA encourages railroads to review the following guidance and information related to the COVID-19 public health emergency:

- The President's Coronavirus Guidelines for America—30 Days to Slow the Spread: [https://www.whitehouse.gov/wp-content/uploads/2020/03/03.16.20\\_coronavirus-guidance\\_8.5x11\\_315PM.pdf](https://www.whitehouse.gov/wp-content/uploads/2020/03/03.16.20_coronavirus-guidance_8.5x11_315PM.pdf);
- CDC's Coronavirus (COVID-19) website: <https://www.cdc.gov/coronavirus/2019-nCoV/index.html>;
- CDC's Interim Guidance for Businesses and Employers: <https://www.cdc.gov/coronavirus/2019-ncov/community/guidance-business-response.html>;
- CDC's Workplace, Home and School Guidance: <https://www.cdc.gov/coronavirus/2019-ncov/downloads/workplace-school-and-home-guidance.pdf>;
- OSHA's COVID-19 guidance page: <https://www.osha.gov/coronavirus>; and
- Federal Coronavirus website: [www.coronavirus.gov](http://www.coronavirus.gov).

FRA encourages railroads to take action consistent with the recommendations and guidance cited above to help reduce the risk that railroad employees and contractors contract COVID-19 and then spread it to others. FRA may modify this Safety Advisory or take other appropriate

actions necessary to ensure the highest level of safety on the Nation's railroads.

Issued in Washington, DC.

**John Karl Alexy,**

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

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**DEPARTMENT OF TRANSPORTATION****Federal Transit Administration**

[FTA Docket No. FTA 2020-0003]

**Agency Information Collection Activity Under OMB Review**

**AGENCY:** Federal Transit Administration, DOT.

**ACTION:** Notice of request for comments.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, this notice announces the intention of the Federal Transit Administration (FTA) to request the Office of Management and Budget (OMB) to approve the extension of a currently approved information collection: Metropolitan and Statewide and Nonmetropolitan Transportation Planning.

**DATES:** Comments must be submitted before June 9, 2020.

**ADDRESSES:** To ensure that your comments are not entered more than once into the docket, submit comments identified by the docket number by only one of the following methods:

1. *Website:* [www.regulations.gov](http://www.regulations.gov). Follow the instructions for submitting comments on the U.S. Government electronic docket site. (Note: The U.S. Department of Transportation's (DOT's) electronic docket is no longer accepting electronic comments.) All electronic submissions must be made to the U.S. Government electronic docket site at [www.regulations.gov](http://www.regulations.gov). Commenters should follow the directions below for mailed and hand-delivered comments.
2. *Fax:* 202-366-7951.
3. *Mail:* U.S. Department of Transportation, 1200 New Jersey Avenue SE, Docket Operations, M-30, West Building, Ground Floor, Room W12-140, Washington, DC 20590-0001.
4. *Hand Delivery:* U.S. Department of Transportation, 1200 New Jersey Avenue SE, Docket Operations, M-30, West Building, Ground Floor, Room W12-140, Washington, DC 20590-0001 between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays.

*Instructions:* You must include the agency name and docket number for this notice at the beginning of your

<sup>1</sup> <https://www.cdc.gov/coronavirus/2019-ncov/index.html>.

<sup>2</sup> The understanding of COVID-19 is constantly evolving; FRA recommends checking the CDC website for the most current information and recommendations.

<sup>3</sup> <https://www.cdc.gov/coronavirus/2019-ncov/prepare/transmission.html>.

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*