

833-9434 (fax). Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on August 22, 1996.

Janice L. Peters,

Designated Official.

[FR Doc. 96-21991 Filed 8-27-96; 8:45 am]

BILLING CODE 4810-13-M

Federal Highway Administration

[FHWA Docket No. MC-96-32]

Notice of Request for Reinstatement of an Expired Information Collection

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501, 3506(c)(2)(A)), the FHWA solicits comment on its intent to request the Office of Management and Budget (OMB) to reinstate expired information collections that prove that motor carriers of property and passengers have obtained and have in effect the required minimum levels of financial responsibility.

DATES: Comments must be submitted on or before October 28, 1996.

ADDRESSES: All signed, written comments should refer to the docket number that appears at the top of this document and must be submitted to HCC-10, Room 4232, Office of the Chief Counsel, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590. All comments received will be available for examination at the above address from 8:30 a.m. to 3:30 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard/envelope. **FOR FURTHER INFORMATION CONTACT:** Mr. Peter C. Chandler, Office of Motor Carrier Research and Standards, (202) 366-5763, Federal Highway Administration, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Title: Endorsement for Motor Carrier Policies of Insurance.

OMB Number: 2125-0074.

Background: Sections 29 and 30 of the Motor Carrier Act of 1980 (codified at 49 U.S.C. 31139) require the Secretary of Transportation to promulgate

regulations which establish minimal levels of financial responsibility for motor carriers of property to cover public liability, property damage, and environmental restoration. The Endorsement for Motor Carrier Policies of Insurance for Public Liability (Form MCS-90) and the Motor Carrier Public Liability Surety Bond (Form MCS-82) contain the minimum amount of information necessary to document that a motor carrier of property has obtained and has in effect the minimum levels of financial responsibility as set forth in 49 CFR 387.9. The information within these documents is used by the FHWA and the public to verify that a motor carrier of property has obtained and has in effect the required minimum levels of financial responsibility.

Respondents: Insurance and surety companies of motor carriers of property.

Average Burden per Response: 2 minutes to complete the Endorsement for Motor Carrier Policies of Insurance for Public Liability or the Motor Carrier Public Liability Surety Bond; 1 minute to file the Motor Carrier Public Liability Surety Bond; 1 minute to have either document on board the vehicle (foreign-domiciled motor carriers only).

Estimated Total Annual Burden: 3,555 hours.

Frequency: Upon creation, change, or replacement of an insurance policy or surety bond.

Title: Financial Responsibility for Motor Carriers of Passengers.

OMB Number: 2125-0518.

Background: Sections 18 of the Bus Regulatory Reform Act of 1982 (codified at 49 U.S.C. 31138) requires the Secretary of Transportation to establish regulations to require minimal levels of financial responsibility for for-hire motor carriers of passengers to cover public liability and property damage. The Endorsement for Motor Carrier Policies of Insurance for Public Liability (Form MCS-90B) and the Motor Carrier Public Liability Surety Bond (Form MCS-82B) contain the minimum amount of information necessary to document that a motor carrier of passengers has obtained and has in effect the minimum levels of financial responsibility as set forth in 49 CFR 387.33. The information within these documents is used by the FHWA and the public to verify that a motor carrier of passengers has obtained and has in effect the required minimum levels of financial responsibility.

Respondents: Insurance and surety companies of motor carriers of property.

Average Burden per Response: 2 minutes to complete the Endorsement for Motor Carrier Policies of Insurance for Public Liability or the Motor Carrier

Public Liability Surety Bond; 1 minute to file the Motor Carrier Public Liability Surety Bond; 1 minute to have either document on board the vehicle (foreign-domiciled motor carriers only).

Estimated Total Annual Burden: 103 hours.

Frequency: Upon creation, change, or replacement of an insurance policy or surety bond.

Interested parties are invited to send comments regarding any aspect of this information collection, including, but not limited to: (1) The necessity and utility of the information collection for the proper performance of the functions of the FHWA; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the collected information; and (4) ways to minimize the collection burden without reducing the quality of the collected information.

Authority: 23 U.S.C. 315; 44 U.S.C. 3506(c)(2)(A); 49 CFR 1.48.

Issued on: August 21, 1996.

Diana Zeidel,

Deputy Associate Administrator for Administration.

[FR Doc. 96-21931 Filed 8-27-96; 8:45 am]

BILLING CODE 4910-22-P

[Docket Number MC-96-40]

Motor Carrier Regulatory Relief and Safety Demonstration Project

AGENCY: Federal Highway Administration, DOT.

ACTION: Notice; request for comments.

SUMMARY: With this notice, the Federal Highway Administration (FHWA) is proposing to implement a motor carrier regulatory relief and safety demonstration project, as mandated by Congress in section 344 of the National Highway System Designation Act of 1995 (NHS Act). The FHWA is utilizing this project as a means of furthering the objectives of the President's Regulatory Reinvention Initiative. Through this project, motor carriers operating commercial motor vehicles (CMVs) with a gross vehicle weight rating (GVWR) between 10,001 and 26,000 pounds in interstate commerce may qualify for exemptions from the Federal Motor Carrier Safety Regulations (FMCSRs) if they exhibit exemplary safety records. Motor carriers participating in this Project would have the opportunity to demonstrate that they can maintain or improve their safety records when they are given greater latitude to select the means by which their safety performance is attained. The FHWA seeks the comments of all interested parties, especially comments aimed at

aiding the FHWA in designing this project so that it advances safety to the highest degree possible. A Notice of Final Determination will be published as soon as the comments on this Project which are received in a timely manner can be reviewed and carefully considered.

DATES: Written comments on this Project must be received on or before September 27, 1996. Written comments on the information collection requirements of this Project must be received on or before October 28, 1996.

ADDRESSES: Submit written, signed comments to FHWA Docket No. MC-96-40, Room 4232, HCC-10, Office of the Chief Counsel, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. All comments received will be available for examination at the above address from 8:30 a.m. to 3:30 p.m., e.t., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Robert F. Schultz, Jr., Office of Motor Carrier Research and Standards, (202) 366-4009, or Ms. Grace Reidy, Office of the Chief Counsel, (202) 366-0834, Federal Highway Administration, DOT, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION: On November 28, 1995, the President signed the NHS Act (Pub. L. 104-59, 109 Stat. 568 (1995)). Section 344 of the NHS Act requires the FHWA to implement a pilot program under which motor carriers operating CMVs with a GVWR between 10,001 and 26,000 pounds in interstate commerce could qualify for exemptions from the FMCSRs (49 CFR Part 325 *et seq.*). In accordance with the NHS Act, notice is hereby given that the FHWA is proposing the Motor Carrier Regulatory Relief and Safety Demonstration Project. The purpose of the comment period is to provide the public with the opportunity to assist the FHWA in designing the Project. The details of the Project which follow are proposed details; the FHWA is seeking all points of view before defining the final parameters of the Project. The FHWA will carefully scrutinize all timely suggestions and weigh carefully the facts upon which they are based.

The FHWA proposes that in order to participate in the Project, a motor carrier would have to meet the criteria for admission developed by the Secretary and outlined later in this notice. Motor carriers seeking to participate would also be required to develop a written Safety Control Plan for the Project. This plan would outline the measures which

the motor carrier will undertake to ensure that the current level of safety is not compromised by the operation of the exemptions. The motor carrier would also enter into a written Agreement of Participation with the Administrator of the FHWA in which it agrees to abide by its Safety Control Plan and to work with the FHWA in generating and monitoring certain Project data. The FHWA would grant, for the term of the Project only, an exemption to the motor carrier from certain requirements of the current FMCSRs, but such exemption would apply only to the eligible CMVs and drivers designated in the motor carrier's application. The FHWA would evaluate the Project data throughout the Project, with particular focus upon the significance of the data with regard to FHWA's regulatory reinvention and zero-base initiatives. In addition, at the conclusion of the Project, the FHWA, in accordance with the NHS Act, will use this data to conduct a zero-base review of the need for, and the costs and benefits of, all the FMCSRs.

The proposed requirements for participation in the Project would include several information collection requirements which must be approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520). Generally, OMB has 60 days to review proposed collections of information. However, since Congress mandated that this Project begin no later than August 23, 1996, the FHWA will request that OMB authorize emergency processing of FHWA's submission of these information collection requirements as provided for in OMB's regulations implementing the Paperwork Reduction Act. The OMB regulation regarding emergency processing provides, in part, that an agency may request expedited processing if use of normal procedures is reasonably likely to cause a statutory deadline to be missed. 5 CFR 1320.13(a)(2)(iii). The FHWA will request that OMB approve this request within 20 days.

Analysis of Project data will occur throughout the Project, and only at such time as that analysis is complete will the FHWA be in a position to consider other performance-based initiatives in this area. Given the Project parameters, the FHWA believes that three years of continuous, sustained motor carrier operations is the minimum amount of time necessary to draw conclusions about operational safety. In view of the customary level of activity for a motor carrier, the FHWA, after three years, should be able to assert, with reasonable

certainty, that the data accumulated with respect to the activity of the class of motor carriers in this Project is representative of future behavior.

Table of Contents

- I. The New Era at FHWA
- II. Proposed Exemptions of the Project
- III. Criteria For Admission to the Project
- IV. The Agreement
- V. Coordination with the States
- VI. Disqualification
- VII. The Final Evaluation
- VIII. Paperwork Reduction Act of 1995
- IX. Conclusion

I. The New Era at FHWA

The FHWA is entering a new era of highway safety. The President's initiatives in reinventing government and regulatory reform have challenged the FHWA to re-examine the way in which it operates. Internally, the FHWA has begun to orient its systems more toward performance-based standards and to reward its employees who set and attain performance goals. Externally, the FHWA is approaching its duty to advance the safety of the public, and particularly the motor carrier industry, in a new manner. We are de-emphasizing prescriptive, "red tape" requirements, and focusing upon allowing the motor carrier industry a greater role in promoting highway safety. In particular, the new era at FHWA is characterized by:

Greater FHWA Emphasis upon Safety Performance, and Less Emphasis Upon the Specific Procedures Employed to Achieve Safety. In order to improve highway safety, the FHWA is focusing more upon the results of the operational controls of motor carriers, and less upon the specific design of those controls. To monitor the safety of motor carriers, the FHWA is increasingly utilizing "performance-based" systems; that is, systems which employ performance standards to measure safety. This approach provides the motor carrier greater flexibility to conduct its business in the manner which best meets its organizational and operational needs. Rather than sacrificing operational efficiency in order to conform its procedures to specific regulatory requirements, the motor carrier is better able to capitalize upon opportunities to exercise creativity in developing those countermeasures which work best for it. In turn, the economic vitality of the motor carrier industry is promoted.

Greater Reliance upon our Partners. In this environment, the FHWA relies increasingly upon its partners in the motor carrier industry to share the burden of promoting safety. The States are assuming greater responsibility for ensuring compliance by interstate motor carriers with the FMCSRs, and this Project will provide the FHWA with further opportunities to work with State enforcement officials in developing new approaches to improving highway safety. In addition, motor carriers are recognizing that, hand-in-hand with the increased opportunities presented by the greater emphasis upon performance, comes an

increased responsibility on their part for safety. As long as a motor carrier demonstrates by its safety performance that it recognizes this responsibility, it will experience less operational oversight from the FHWA. This enables the FHWA to focus more of its limited resources upon those carriers, and drivers, who adversely affect highway safety.

Greater Reliance Upon Technology to Achieve Safety. The FHWA is encouraging greater implementation of technology as a tool in the effort to improve motor carrier safety. One benefit of the greater flexibility of the new environment will be that motor carriers will be better able to explore "high tech" solutions to operational safety.

The FHWA recently sought information from the motor carrier community with regard to advanced driver, vehicle, and inspection technology in CMV operations (Notice and Request For Information, 60 FR 46682, Sep. 7, 1995). Eight responses were received to this Notice—three from private industry, three from trade associations, and two from state or local agencies. None of them brought to light any significant developments on these topics. However, technology progresses rapidly, and the FHWA wishes to capitalize on every opportunity to explore new ways in which technology can ease the burden on all parties. Is there a greater role which technology could play in addressing the needs of this Project?

Greater Emphasis Upon Regulatory Reinvention and "Zero-Base" Reform. The FHWA is currently at the halfway point of the multi-year "Zero-Base Regulatory Review Program." This program is redesigning the FMCSRs into a performance-based "Rulebook of the Future." The new design is evolving from a close examination of each FMCSR from the ground up, or "zero-base." This examination will ensure that each requirement of our regulations is either supported by sound data, or represents the best professional judgment possible. The NHS Act directs the FHWA to conduct a zero-base review at the conclusion of the Project. This review, drawing upon the various zero-base resources of the FHWA, will examine the need for, as well as the cost and benefits of, each provision of the FMCSRs, as applied to this class of motor carriers.

For purposes of this Project, the new era at the FHWA means that participants in the Project will be able to exercise a high degree of innovation, consistent with highway safety, in designing and implementing their safety controls. Motor carriers will also be challenged to demonstrate that they can fulfill their responsibility for safety when regulatory relief is granted.

II. Proposed Exemptions of the Project

In accordance with the NHS Act, interstate motor carriers participating in the Project will be exempt from certain sections of the FMCSRs. The FHWA proposes the regulations described below as the particular FMCSRs from which motor carriers participating in the Project would be exempt. All motor

carriers participating in the Project would be exempt from the same regulations. Applicant motor carriers would not be authorized to pick and choose the regulations from which they would be exempt. In this way, all motor carriers in the Project would be operating under the same conditions. The FHWA believes that any weakening of this uniformity would compromise the Project data and impair the evaluation phase of the Project.

In selecting specific FMCSRs to propose for exemption, the FHWA believes that relief from those regulations related to the physical requirements of drivers, the parts and accessories necessary for safe operation, and the number of hours which drivers may operate CMVs would not be in the public interest. The regulations which are proposed for exemption are those whose purposes could easily be served by the safety control plans to be developed by participating motor carriers and monitored by the FHWA.

The FHWA proposes that Project motor carriers would be exempt from the following regulations:

Driver Qualifications

The FHWA proposes that newly-hired drivers would not be required to prepare, or furnish to the employing motor carrier, a list of violations of motor vehicle laws, or a certificate in lieu thereof. Drivers would also not be required to successfully complete a Driver's Road Test, or furnish an Application For Employment. 49 CFR 391.11(b)(8), 391.11(b)(10), and 391.11(b)(11). In addition, motor carriers would not have to maintain "Driver Qualification Files" on each driver in accordance with 49 CFR § 391.51, Driver Hours Of Service.

The FHWA proposes that Project drivers would not be required to comply with record of duty status provisions, whether this entails maintenance of a logbook in accordance with 49 CFR 395.8, use of a timecard in accordance with 49 CFR 395.1(e), or the use of an automatic on-board recording device in accordance with 49 CFR 395.15. However, Project motor carriers and drivers would have to continue to observe the provisions governing maximum driving time, and the use of ill or fatigued operators. 49 CFR 395.3 and 392.3. Project motor carriers, and their drivers, would not forfeit any other exemptions currently available under FHWA regulations.

CMV Inspections

While participating in the Project, motor carriers would be exempt from the requirements pertaining to CMV inspection records and their retention.

In addition, exemption would be granted from the requirements pertaining to driver vehicle inspection reports and the driver vehicle inspection. 49 CFR 396.3 (b) and (c), 396.11, and 396.13 (b) and (c). Finally, the FHWA proposes that driveaway-towaway inspections would not be required, nor would the periodic inspection and the periodic inspection report. 49 CFR 396.15, 396.17 and 396.21.

Accident Information

The FHWA proposes to exempt Project motor carriers from the requirement that they maintain an accident register in accordance with 49 CFR 390.15 (b)(1) and (b)(2). This exemption would allow motor carriers to maintain their records during the Project in the manner which they deem best.

The FHWA seeks public comment on whether these exemptions are appropriate and whether other regulations ought to be included. We ask that you consider which of the current FMCSRs most readily lend themselves to exemption. That is, which are most amenable to being replaced by a standard or standards based upon performance? The NHS Act requires the FHWA to ensure that the Project is designed to achieve a level of operational safety "equal to or greater than" that under the current requirements of the FMCSRs. In considering additional exemptions under this Project, the FHWA will carefully weigh whether adequate safety measures exist to ensure that the exemptions do not cause a decline in motor carrier safety.

III. Criteria for Administration to the Project

In selecting the criteria which motor carriers must satisfy to be admitted to this Project, the FHWA will be guided by the principles of the new era at FHWA. The FHWA proposes the following criteria for admission because the agency believes they will advance the development of an environment which rewards results and fosters technology-based applications. At the same time, this Project will generate data which will assist the agency's zero-base initiatives.

The criteria for admission to the Project which the FHWA proposes (numbered 1 through 7) follow:

1. A motor carrier would be eligible for the project if:

- (a) It operates in interstate commerce, and
- (b) Its operations include CMVs having a GVWR between 10,001 and 26,000 pounds.

Specifically excluded are CMVs designed to transport more than 15

passengers (including the driver), and CMVs used in transporting hazardous materials in placardable quantities, as defined in regulations issued by the Secretary of Transportation under the Hazardous Materials Transportation Act (49 U.S.C. 5101, et seq.). These requirements are dictated by the NHS Act.

2. The FHWA intends that this Project include only motor carriers and drivers with exemplary safety records. To serve that end, the FHWA proposes that a motor carrier would be eligible for the Project only if:

(a) It does not have a current Safety Rating of Unsatisfactory, AND

(b) Its police reported accident rate is no more than 1.6 per million vehicle miles traveled for the most recent 36 month period.

An applicant motor carrier would have to satisfy BOTH of these criteria to be eligible to participate in the Project. The FHWA would exclude those motor carriers which have a Safety Rating of Unsatisfactory from participating in the program. Those which have a rating of Satisfactory, or Conditional, or have no rating, would be eligible for the Project only if they also satisfy the accident rate criterion.

Although the FHWA is entering a new era of performance-based regulation, it must continue to ensure that the motor carrier industry is operating safely on our nation's highways. As proposed, this Project would allow us to examine the question: Does the safety performance of motor carriers with exemplary safety histories change when they are permitted to operate exempt from certain FMCSRs? The exclusion of interstate motor carriers with either Unsatisfactory Safety Ratings or poor accident rates permits the FHWA to explore the role of such exemptions while ensuring the safety of CMVs operations.

Participation would be limited to those motor carriers which have exemplary safety histories. An example of an exemplary history would be that of a motor carrier with an accident rate equal to or better than that of the top 25% of all motor carriers. The FHWA estimates this accident rate to be 1.6, or fewer, crashes per 1,000,000 miles of travel, based on analysis of the nationwide police reported crash experience of the types of vehicles that are expected to participate in this Project, and the FHWA's estimates of the miles traveled annually by such vehicles.

This suggested crash rate is more particularly derived from the most recent three years of information for straight trucks included in the General Estimates System (GES) of the National Highway Traffic Safety Administration, and from mileage statistics found in the

FHWA's 1994 Highway Statistics, Publication No. FHWA-PL-95-042. The FHWA employed data on straight trucks from the GES to ensure that all types of police reported crashes were taken into consideration. The FHWA believes that in order to definitively pinpoint those motor carriers with exemplary safety histories, all types of crashes, not just those which may be defined as preventable or recordable, must be taken into account. In addition, this approach nearly doubles the number of crashes available for consideration.

The FHWA believes that many of the motor carriers which will volunteer for the Project will have operations in urban areas. Using a measure of 1.6 police reported crashes per million miles of travel is consistent with the methods which the FHWA employs to determine the Safety Rating of motor carriers with urban operations. When combined with the exclusion of those motor carriers with an Unsatisfactory Safety Rating, participation in the Project is effectively limited to motor carriers with exemplary safety histories.

The FHWA seeks public comment on these proposed criteria. Is a crash rate of no more than 1.6 crashes per 1,000,000 miles of travel a prudent requirement in view of the need to limit participation to those motor carriers with exemplary safety histories? Are there other tenable approaches, and if so, what is the rationale behind them?

3. Project motor carriers will submit the name, driver's license number, and date of employment for each of its drivers whom it proposes for participation in the Project. The FHWA proposes that a driver would not be eligible for the Project if:

(a) He or she operates, AT ANY TIME, CMVs other than those which have a GVWR between 10,001 and 26,000 pounds, inclusive,

OR if

(b) He or she has been convicted, in the past three years, of:

(i) an offense that directly arose out of a fatal traffic accident;

(ii) Driving a CMV while under the influence of alcohol. This shall include:

(A) Driving a CMV while the person's alcohol concentration is 0.04 percent or more;

(B) Driving under the influence of alcohol, as prescribed by State law;

(C) Refusal to undergo such testing for alcohol or controlled substances required by any State or jurisdiction;

(iii) Driving a CMV while under the influence of a controlled substance;

(iv) Leaving the scene of an accident involving a CMV; and

(v) A felony involving the use of a CMV, including use of a CMV in the commission of a felony involving manufacturing, distributing, or dispensing a controlled substance.

The FHWA proposes that a motor carrier applicant would certify that its

Project drivers operate eligible CMVs exclusively. We believe that drivers who cross over, and operate, for example, CMVs in excess of 26,000 pounds GVWR (whether for the same employer or a different one), create difficulties in analyzing the results of the Project. At the conclusion of this Project, we wish to provide an analysis of the Project's effect upon the operation of CMVs in the 10,001 to 26,000 pounds GVWR range. By excluding drivers who cross over to operate other CMVs, we would ensure that the Project data would not be compromised by the driving experience developed while operating other kinds of vehicles.

In addition, the FHWA proposes that each motor carrier would submit the names of the drivers whom it wishes to place in the Project. The motor carrier would also provide the driver's license numbers, and the dates on which each driver's employment with the motor carrier began. Owner-operators would be eligible to volunteer to participate in the Project if they satisfy all entrance criteria.

The FHWA believes that the exclusion of drivers who have these types of convictions, in the past three years, is consistent with Criterion 2 which confines the Project to the safest motor carriers. The Project must be consistent in limiting its findings to a finite class engaged in specific activities; unnecessary ambiguity in the classifications employed in this Project will limit the reliability of the findings and recommendations of the Project.

The FHWA would like to know if there are other means of limiting this Project to exemplary drivers and would welcome any ideas which the public may have on how these issues could be handled in a different manner. In responding to this request, please explain the rationale supporting your suggestions.

4. Project motor carriers would be required to submit ALL eligible drivers and ALL eligible motor vehicles for participation in the Project.

The FHWA was directed by Congress, in the NHS Act, to ensure that the participants represent a broad cross-section of fleet size and drivers. See Public Law No. 104-59, 344(2)(E)(i), 109 Stat. at 611 (codified at 49 U.S.C. 31136(e)(2)(E)(i)(1996)). The FHWA believes that if motor carriers are permitted to submit less than all of their eligible drivers, or vehicles, to the Project, the findings or conclusions of the Project relative to their performance during the Project will be subject to questions about why these particular drivers, or vehicles, were selected. The proposed approach allows the FHWA to

analyze all of a motor carrier's Project vehicles and drivers instead of a select portion of them.

The FHWA is mindful of the fact that some motor carriers with larger operations may desire to volunteer a particular terminal, or a particular geographic region, or state, for this Project. The FHWA anticipates no difficulty in affording motor carriers flexibility with this form of selection for participation; however, the FHWA will carefully scrutinize any suggested subunits to be certain that they advance the Congressional mandate, particularly the requirement that this Project examine a broad cross-section of the motor carrier industry. Any ideas which the public may have on how this issue could be handled in a different manner would be welcome. The rationale which supports such a suggestion should be explained.

5. Project motor carriers would have to be active on a year-round basis.

The FHWA further proposes that each interstate motor carrier applying for participation in the Project would have to certify that it is actively engaged in interstate commerce *at all times of the year*.

Thus seasonal motor carriers would be excluded. The FHWA proposes to collect Project data for a relatively short period of time (three years). Consequently, we believe that a Project motor carrier must generate a regular flow of Project data on a year-round basis in order to provide the FHWA with a true picture of the effect of the Project exemptions upon the motor carrier's operational safety. The FHWA believes that it should avoid issues which cloud the evaluation of this Project, such as what weight to give to the spotless accident record of a motor carrier which only operates for three months of the year, vis-a-vis the spotless record of a year-round motor carrier. The FHWA believes that it must have a consistent pattern of motor carrier activity in order to reach sound conclusions regarding the Project. This pattern is customarily absent from the profile of the seasonal motor carrier. The agency invites public comment on this proposed criterion and on whether or not the misgivings of the FHWA are well-founded. The FHWA would also appreciate suggestions regarding other methods the agency could employ to deal with the problems which seasonal motor carriers present.

6. Project motor carriers would be required to have vehicle maintenance records which reflect the systematic inspection, repair, and replacement of all Project CMVs.

The FHWA proposes this criterion as a means of monitoring and selectively

evaluating the performance of Project motor carriers in maintaining their CMVs in safe operating condition. The FHWA believes that these records are indicative of the importance which the motor carrier assigns to its vehicle maintenance activities. Project motor carriers would have to certify that they have maintained these records for the 12 months immediately preceding entry into the Project. This data would serve as the benchmark for comparison to data generated during the Project. Consequently, the Project motor carrier would also have to agree to maintain these records on a continuing basis throughout the Project.

Please provide comments regarding this criterion. Are there better methods of measuring the particulars of fleet maintenance? Please explain the rationale underlying your suggestion.

7. Project motor carriers would be required to develop a safety control plan (SCP).

The FHWA proposes that all Project participants would develop a Safety Control Plan prior to admission to the Project. Under the NHS Act, an applicant to the Project must agree to implement such safety management controls as are necessary to carry out the objectives of the Project, while at the same time achieving a level of operational safety equal to or greater than that resulting from compliance with the regulations. See Public Law 104-59, section 344(2) (A) and (B), 109 Stat. at 610-11 (codified at 49 U.S.C. 31136(e)(2) (A) and (B) (1996)).

After the FHWA reviews the timely comments to this Notice, it will publish a Notice of Final Determination finalizing all aspects of this Project. Only at that time will motor carriers be able to examine the final Project admission criteria and the regulations from which the FHWA proposes to grant exemption under this Project. From this information, motor carriers will be able to develop their Safety Control Plan (SCP) and application for admission to the Project.

Until the Notice of Final Determination is issued, specific criteria for the SCP are unavailable. However, we propose that, in general, the SCP would provide the answers to the following questions: During the Project, how will the motor carrier applicant ensure:

That Project drivers are qualified to operate commercial motor vehicles,

That Project vehicles are in safe operating condition,

That Project drivers are complying with the maximum hours of service requirements of the FMCSRs, and

That it will receive a timely warning if Project drivers are violating the FMCSRs or the Agreement?

The FHWA believes that the preparation of the SCP will be straightforward for most motor carriers which have the exemplary safety history required in order to qualify for this Project. Experience has shown that the vast majority of motor carriers who have exemplary safety histories also have a well-defined set of safety controls. For this Project, the FHWA proposes that an existing set of company operating instructions, whether currently included in a manual or set of policy documents, could be used to satisfy the SCP requirement, if a motor carrier directed the FHWA to the sections which satisfy the SCP requirements. Where an initial SCP must be created, the FHWA believes that simple explanations of the day-to-day safety practices and controls which the motor carrier employs, or will employ, would suffice. Upon review of a motor carrier, the FHWA would need to be able to comprehend from the SCP what safety controls are in place, and be able to evaluate them in terms of the level of compliance they could be expected to produce. For those motor carriers which would like assistance in developing their SCP, the FHWA proposes to develop and make available a suggested outline for the document. Comments and suggestions as to the substance and form this outline should take would be welcome. The FHWA also welcomes the comments of the public on the following question: Should the SCP be submitted to the FHWA? Why, or why not?

IV. The Agreement

The FHWA proposes that an eligible interstate motor carrier would volunteer for the Project by submitting an application for admission. Thereafter, the FHWA would approve or deny the application within 120 days. If approved, a written agreement with the FHWA would be executed, in which the FHWA would grant the motor carrier exemption from certain requirements of the FMCSRs. The motor carrier would agree to be responsible for maintaining its safety performance while participating in the Project, and to make data on its operations available to the FHWA. A Project motor carrier would also agree to abide by the remaining FMCSRs, and all changes which may occur to the FMCSRs, as the Project progresses.

The FHWA proposes that each Project motor carrier would, as a condition of its Agreement with the FHWA, agree to provide the FHWA, on a quarterly basis each year, with the following:

(a) Details of all police reported accidents involving Project vehicles and/or drivers, including nonconfidential insurance-related

information, sufficient to enable the FHWA to locate the corresponding State police accident report;

(b) The miles traveled by Project vehicles, and the calculation of crashes per 1,000,000 vehicle miles traveled;

(c) Changes in the initial roster of Project drivers, including the names of those no longer employed by the motor carrier, and the names, driver's license numbers, and dates of employment of all new hires proposed for the Project (this information would enable the FHWA to monitor the driving records of Project drivers); and

(d) Vehicle maintenance records reflecting the frequency of replacement or repair of safety-related parts. (This information would enable the FHWA to compare this information to the records which reflect the 12 months preceding the motor carrier's entrance into the Project.)

The FHWA would like public comment upon this proposal. The FHWA will require data in order to evaluate this Project. What is the best method of providing this data to the FHWA? Is some form of periodic reporting necessary? If periodic reports are necessary: (a) Does the industry believe that they ought to be submitted quarterly, or at some other interval; and (b) could such information be made available in electronic format, or by means of on-line service? The FHWA is interested in other suggestions of methods by which the Agency could satisfy its duty to monitor and evaluate this Project while minimizing the paperwork burden on the motor carrier.

In addition, the FHWA proposes that each motor carrier admitted to the Project would agree to notify the FHWA immediately if any of the following occur:

(1) The motor carrier is sold, goes out of business, changes its name, ceases to operate in interstate commerce, or in any way alters its operation in such a manner;

(2) The motor carrier ceases to conduct active operations on a year-round basis;

(3) The motor carrier ceases to operate CMVs with GVWRs between 10,001 and 26,000 pounds;

(4) The motor carrier is rated "Unsatisfactory;"

(5) The accident rate of the motor carrier exceeds 1.6 per million vehicle miles traveled for the most recent thirty-six month period;

(6) The motor carrier is unable, for any reason, to carry out the terms of the Safety Control Plan which it developed for this Project;

(7) The motor carrier is unable to maintain Vehicle Maintenance Records which reflect the inspection, repair and maintenance history; or

(8) A Project driver ceases to exclusively operate CMVs with GVWRs between 10,001 and 26,000 pounds.

The FHWA also believes that some form of identification card or form should be furnished by the FHWA to

those selected to participate in the Project. We propose that a single-page document executed by the FHWA would serve this purpose. Any card or form furnished to drivers would be surrendered upon termination of employment with the motor carrier that nominated them for the Project. We invite public comment on this proposal, and encourage the development of alternative methods of providing appropriate identification of drivers and CMVs included in the Project.

V. Coordination With the States

The Motor Carrier Safety Assistance Program (MCSAP) was established by Congress in 1982, and has subsequently been amended several times. The program provides grants to States which agree to adopt and enforce minimum Federal safety standards for interstate and intrastate CMVs and drivers. The MCSAP funds are used to support salaries, equipment, and training of State enforcement officers. The data collected by the States are shared on a national basis and used by the FHWA as the basis for its safety rating, review, and enforcement programs. Through the MCSAP, the FHWA and its State partners have developed a uniform program of safety compliance and enforcement for CMVs.

The FHWA recognizes that this Project presents new challenges for this partnership. We are asking our State partners to support this program because of the long-term benefit which it can bestow upon the regulatory environment. This Project will serve as a major step toward a permanent performance-based revision of the FMCSRs. Through the implementation of a demonstration project instead of the initiation of a rulemaking, the FHWA will avoid burdening the States, and motor carriers, with frequent amendments to the FMCSRs driven by the preliminary results of performance-based regulation. Currently there are 26 states and territories that automatically adopt any revisions to the FMCSRs. This demonstration project would minimize the disruption to the States and motor carriers and would preserve the existing standards of highway safety, while permitting examination of the effect of performance-based standards on a controlled group of motor carriers. This Project should provide data which will serve as the foundation for performance-based rules.

VI. Disqualification

The FHWA does not anticipate that any motor carrier which has satisfied the stringent admission criteria of this Project will experience any deterioration of its safety record.

However, should this occur, the FHWA would, consistent with its duty under the NHS Act, take all steps necessary to protect the public interest, as well as the integrity of the Project. Participation in this Project is voluntary, and the FHWA retains the right to revoke a motor carrier's exemption and participation in the Project if its safety performance poses a threat to highway safety. Participating motor carriers will not be exempt from compliance reviews or enforcement actions on the remaining regulations from which they are not exempt, or on those portions of its operations (such as those involving CMVs with a GVWR in excess of 26,000 pounds) which are not a part of the Project. Also, Project drivers who pose a threat to highway safety would, at a minimum, be subject to immediate revocation of their privilege to participate in the Project.

The FHWA proposes that if it finds that the highway operations of a Project motor carrier have placed the safety of the public in jeopardy, it would, at a minimum, declare the motor carrier disqualified and remove it from the Project. The FHWA also proposes that an increase in the police reported accident rate of a Project motor carrier such that it exceeds 1.6 per million vehicle miles traveled (see Criteria For Admission, Item 2(b) above) would be grounds for immediate disqualification of the motor carrier. In addition, the FHWA proposes that any Project driver convicted of any of the offenses enumerated under 3(b) of the Criteria for Admission above would be immediately disqualified from further participation in the Project. We propose that such a conviction would not necessarily result in the disqualification of the motor carrier who placed the convicted driver in the Project.

VII. The Final Evaluation

The NHS Act requires the FHWA to conduct an evaluation at the conclusion of the Project. The principal objective of the evaluation is to provide input to a zero-base review of the need for, and the cost and benefits of, the FMCSRs as they apply to interstate motor carriers operating CMVs in the 10,001 to 26,000 pound GVWR class.

The FHWA proposes that the evaluation would focus upon operational safety by comparing the collective experience of Project motor carriers and drivers during the Project with that prior to the Project. The evaluation would also compare the collective experience of Project motor carriers and drivers with the collective experience of motor carriers and drivers not participating in the Project.

VIII. Paperwork Reduction Act of 1995

As proposed, this voluntary program would impose information collection requirements which are subject to review by OMB under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). Persons are not required to respond to a collection of information unless it displays a currently valid OMB control number. The FHWA has requested that OMB authorize emergency processing of these proposed information collections through an alternative procedure provided in OMB's regulations for cases where, among other things, use of normal procedures is reasonably likely to cause a statutory deadline to be missed. 5 CFR § 1320.13. The FHWA has asked OMB to approve this request within 20 days. However, the FHWA anticipates that this approval will be for a period of not more than 90 days, pursuant to OMB regulations. Thus, the FHWA also intends to submit a request to OMB through the usual procedures for approval under the Paperwork Reduction Act of 1995 for a three year period.

In general, Federal agencies must provide 60 days of notice in the Federal Register concerning each collection of information. Comments on the information collections proposed in this Notice will be considered by the FHWA in its request for long-term approval. With respect to the collections of information described below, the FHWA invites comments on: (1) Whether the proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collections of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; (4) ways to minimize the burden of these collections of information on those who are to respond, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

The title used to identify the information collections proposed in this notice and submitted for OMB's approval is—Motor Carrier Regulatory Relief and Safety Demonstration Project.

This Federal Register notice proposes a voluntary pilot project. In return for receiving exemption from certain Federal Motor Carrier Safety Regulations, each Project motor carrier would be required to develop and/or furnish certain information about its

operations. It is anticipated that the initial application will require about one-half hour to complete on average. This document is necessary to identify those motor carriers who believe they are eligible to participate in the Project, and to indicate their desire to be included in the Project. The Safety Control Plan, outlining the safety management measures the motor carrier would have in place to ensure that it would achieve the appropriate level of operational safety during the Project, would require, on average, one and one-half hours to prepare. This document would be subject to examination by the FHWA, and would be necessary to assist the FHWA in ensuring that Project participants did not neglect those aspects of motor carrier safety which are normally addressed by the regulations from which they are temporarily exempt. In addition, participating motor carriers would be required to submit to the FHWA: (1) For each of its Project drivers, the name, driver's license identification number, and date of employment and (2) for each Project vehicle, the vehicle identification number. On a quarterly basis, the motor carrier would have to advise the FHWA of any changes in this information. In addition, during the Project, motor carriers would be required to maintain, but not submit, a record of the maintenance performed upon Project vehicles. These collections and submissions of information are necessary in order to effectively grant Project exemption to identifiable CMVs and operators of CMVs and to permit the performance of each to be monitored and evaluated. It is estimated that the reporting and recordkeeping burden for these items would be one hour and fifteen minutes on the average.

In addition, it is proposed that each accident involving Project drivers and/or Project vehicles would be reported to the FHWA on a quarterly basis. Each Project motor carrier would also calculate its accident rate per million vehicle miles traveled on a quarterly basis, and advise the FHWA if that rate exceeds 1.6. This information is necessary in order to detect those motor carriers whose safety performance is declining during the Project and would also be used to assist in comparing the performance of the exempt motor carriers with the performance of those which remain subject to the FMCSRs. The annual reporting and recordkeeping burden for this information is estimated to be one-half hour on the average.

The most likely respondents to this information collection will be motor carriers operating commercial motor vehicles (CMVs) with a gross vehicle

weight rating (GVWR) between 10,001 and 26,000 pounds in interstate commerce, with a Safety Rating of satisfactory or unrated, and with an accident rate of fewer than 1.6 per million miles traveled. The approximate number of motor carriers currently eligible to participate in the Project is 33,000. Therefore, it is estimated that the total annual reporting and recordkeeping burden will be 2,214,250 hours. Comments on these proposed information collections may be submitted either to OMB or the FHWA (Docket # MC-96-40).

IX. Conclusion

The FHWA welcomes comment on any and all aspects of this Project from trade associations, public interest groups, the States, interstate motor carriers, drivers, and all others.

Issued on: August 2, 1996.

Rodney E. Slater,

Federal Highway Administrator.

[FR Doc. 96-21928 Filed 8-27-96; 8:45 am]

BILLING CODE 4910-22-P

National Highway Traffic Safety Administration

[Docket Number 96-092; Notice 1]

Reports, Forms, and Recordkeeping Requirements

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

ACTION: Request for public comment on proposed collections of information.

SUMMARY: Before a Federal agency can collect certain information from the public, it must receive approval from the Office of Management and Budget (OMB). Under new procedures established by the Paperwork Reduction Act of 1995, before seeking OMB approval, Federal agencies must solicit public comment on proposed collections of information, including extensions and reinstatements of previously approved collections.

This document describes two collections of information for which NHTSA intends to seek OMB approval.

DATES: Comments must be received on or before October 28, 1996.

ADDRESSES: Comments must refer to the docket and notice number cited at the beginning of this notice and be submitted to Docket Section, Room 5109, NHTSA, 400 Seventh Street, Southwest, Washington, D.C. 20590. Please identify the proposed collection of information for which a comment is provided, by referencing its OMB Clearance Number. It is requested, but