

SUPPLEMENTARY INFORMATION:**Federal Aviation Administration (FAA)**

Title: General Operating and Flight Rules—14 CFR part 91.

Type of Request: Extension of a currently approved collection.

OMB Control Number: 2120-0005.

Forms(s): NA.

Affected Public: A total of 21,197 individual airmen, state & local governments, and businesses.

Abstract: Part A of Subtitle VII of the Revised Title 49 United States Code authorizes the issuance of regulations governing the use of navigable space. 14 CFR part 91 prescribes regulations governing the general operation and flight of aircraft. The multi-recordkeeping and information collection activities imposed by this regulation are required to determine compliance. Respondents are individual airmen, state or local governments, and businesses.

Estimated Annual Burden Hours: An estimated 231,064 hours annually.

ADDRESSES: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW, Washington, DC 20503, Attention FAA Desk Officer.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimates of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on December 17, 2001.

Steve Hopkins,

Manager, Standards and Information Division, APF-100.

[FR Doc. 01-31730 Filed 12-26-01; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****Research, Engineering and Development (R,E&D) Advisory Committee**

AGENCY: Federal Aviation Administration, Department of Transportation.

ACTION: Notice of meeting.

Pursuant to section 10(A)(2) of the Federal Advisory Committee Act (Public Law 92-463; 5 U.S.C. App. 2), notice is hereby given of a meeting of the FAA Research, Engineering and Development Advisory Committee (REDAC).

Name: Research, Engineering & Development Advisory Committee.

Time and Date: January 16, 2002—9 a.m.—5 p.m.

Place: Holiday Inn Rosslyn Westpark Hotel, 1900 North Fort Myer Drive, Arlington, Virginia 22209.

Purpose: On January 16 the R,E&D Advisory Committee will meet to review a report prepared by the Ad Hoc Security Subcommittee on aviation security. As a result of the tragic events of September 11, 2001, Administrator Jane Garvey reconstituted the Subcommittee on Aviation Security into an Ad Hoc Security Subcommittee to evaluate security related research ideas capabilities resulting from the thousands of solicited and unsolicited recommendations on how to mitigate attempted acts of terrorism received by FAA. These recommendations came from private enterprises, universities, other government agencies, private consultants, citizens and elements within FAA. The Ad Hoc Security Subcommittee is comprised of the REDAC Security Subcommittee members, Chairs of the other REDAC subcommittees, four Aviation Security Advisory Committee (ASAC) members, and selected DOD and Boeing representatives.

Attendance is open to the interested public but limited to space available. Persons wishing to attend the meeting or obtain information should contact Gloria Dunderman at the Federal Aviation Administration, AAR-200, 800 Independence Avenue, SW, Washington, DC 20591 (202) 267-8937.

Members of the public may present a written statement to the Committee at any time.

Issued in Washington, DC on December 18, 2001.

Herman A. Rediess,

Director, Office of Aviation Research.

[FR Doc. 01-31728 Filed 12-26-01; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF TRANSPORTATION**Federal Motor Carrier Safety Administration**

[Docket No. FMCSA-2001-10578]

Qualification of Drivers; Exemption Applications; Vision

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

ACTION: Notice of final disposition.

SUMMARY: The FMCSA announces its decision to exempt 37 individuals from the vision requirement in 49 CFR 391.41(b)(10).

DATES: December 27, 2001.

FOR FURTHER INFORMATION CONTACT: For information about the vision exemptions in this notice, Ms. Sandra Zywockarte, Office of Bus and Truck Standards and Operations, (202) 366-2987; for information about legal issues related to this notice, Mr. Joseph Solomey, Office of the Chief Counsel, (202) 366-1374, FMCSA, 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:**Electronic Access**

You may see all the comments online through the Document Management System (DMS) at: <http://dmses.dot.gov>.

Background

Thirty-seven individuals petitioned the FMCSA for an exemption from the vision requirement in 49 CFR 391.41(b)(10), which applies to drivers of commercial motor vehicles (CMVs) in interstate commerce. They are: Loa M. Boggs, Anthony Brandano, Jerald D. Davis, Vernon J. Dohrn, Stanley E. Elliott, Elmer E. Gockley, Paul C. Gruenberg, Tommy D. Habben, Glenn T. Hehner, Carl R. Hunt, Shane M. Hunter, Thomas M. Ingebrechtsen, Lonnie M. Jones, Martin D. Keough, Ricky J. Knutson, Randall B. Laminack, Norman R. Lamy, James A. Lenhart, Dennis L. Lockhart, Sr., Jerry J. Lord, Raymond P. Madron, Ronald S. Mallory, Keith G. McCully, Ernest L. McLendon, Charles J. Morman, Eugene C. Murphy, Jack E. Potts, Jr., Bernard A. Ranly, John E. Rogstad, Jerry W. Russell, Stephen G. Sniffin, John R. Snyder, Darwin J. Thomas, Rene R. Trachsel, Stephen D. Vice, John H. Voigts, and Kendle F. Waggle, Jr.

Under 49 U.S.C. 31315 and 31136(e), the FMCSA may grant an exemption for a renewable 2-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." Accordingly, the FMCSA has evaluated the 37 petitions on their merits and made a determination to grant the exemptions to all of them. On October 24, 2001, the agency published notice of its receipt of applications from these 37 individuals, and requested comments from the public (66 FR 53826). The comment period closed on November 23, 2001. Two comments were received, and their contents were carefully considered by the FMCSA in reaching the final decision to grant the petitions.

Vision And Driving Experience of the Applicants

The vision requirement provides:

A person is physically qualified to drive a commercial motor vehicle if that person has distant visual acuity of at least 20/40 (Snellen) in each eye without corrective lenses or visual acuity separately corrected to 20/40 (Snellen) or better with corrective lenses, distant binocular acuity of at least 20/40 (Snellen) in both eyes with or without corrective lenses, field of vision of at least 70° in the horizontal meridian in each eye, and the ability to recognize the colors of traffic signals and devices showing standard red, green, and amber. 49 CFR 391.41(b)(10)

Since 1992, the Federal Highway Administration (FHWA) has undertaken studies to determine if this vision standard should be amended. The final report from our medical panel recommends changing the field of vision standard from 70° to 120°, while leaving the visual acuity standard unchanged. (See Frank C. Berson, M.D., Mark C. Kuperwaser, M.D., Lloyd Paul Aiello, M.D., and James W. Rosenberg, M.D., "Visual Requirements and Commercial Drivers," October 16, 1998, filed in the docket, FHWA-98-4334.) The panel's conclusion supports the FMCSA's (and previously the FHWA's) view that the present standard is reasonable and necessary as a general standard to ensure highway safety. The FMCSA also recognizes that some drivers do not meet the vision standard, but have adapted their driving to accommodate their vision limitation and demonstrated their ability to drive safely.

The 37 applicants fall into this category. They are unable to meet the vision standard in one eye for various reasons, including amblyopia, corneal and macular scars, and loss of an eye due to trauma. In most cases, their eye conditions were not recently developed. All but four of the applicants were either born with their vision impairments or have had them since childhood. The four individuals who sustained their vision conditions as adults have had them for periods ranging from 7 to 16 years.

Although each applicant has one eye which does not meet the vision standard in 49 CFR 391.41(b)(10), each has at least 20/40 corrected vision in the other eye and, in a doctor's opinion, has sufficient vision to perform all the tasks necessary to operate a CMV. The doctors' opinions are supported by the applicants' possession of valid commercial driver's licenses (CDLs) or non-CDLs to operate CMVs. Before

issuing CDLs, States subject drivers to knowledge and performance tests designed to evaluate their qualifications to operate a CMV. All these applicants satisfied the testing standards for their State of residence. By meeting State licensing requirements, the applicants demonstrated their ability to operate a commercial vehicle, with their limited vision, to the satisfaction of the State. The Federal interstate qualification standards, however, require more.

While possessing a valid CDL or non-CDL, these 37 drivers have been authorized to drive a CMV in intrastate commerce, even though their vision disqualifies them from driving in interstate commerce. They have driven CMVs with their limited vision for careers ranging from 3 to 47 years. In the past 3 years, the 37 drivers had 4 convictions for traffic violations among them. Two of these convictions were for speeding. The other convictions consisted of: "Drive and/or Pass on Shoulder"; and "Failure to Yield Right of Way to Emergency Vehicle." None of the drivers was involved in an accident in a CMV.

The qualifications, experience, and medical condition of each applicant were stated and discussed in detail in an October 24, 2001, notice (66 FR 53826). Since there were no docket comments on the specific merits or qualifications of any applicant, we have not repeated the individual profiles here. Our summary analysis of the applicants as a group is supported by the information published at 66 FR 53826.

Basis for Exemption Determination

Under 49 U.S.C. 31315 and 31136(e), the FMCSA may grant an exemption from the vision standard in 49 CFR 391.41(b)(10) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. Without the exemption, applicants will continue to be restricted to intrastate driving. With the exemption, applicants can drive in interstate commerce. Thus, our analysis focuses on whether an equal or greater level of safety is likely to be achieved by permitting these drivers to drive in interstate commerce as opposed to restricting them to driving in intrastate commerce.

To evaluate the effect of these exemptions on safety, the FMCSA considered not only the medical reports about the applicants' vision, but also their driving records and experience with the vision deficiency. To qualify for an exemption from the vision standard, the FMCSA requires a person to present verifiable evidence that he or

she has driven a commercial vehicle safely with the vision deficiency for 3 years. Recent driving performance is especially important in evaluating future safety, according to several research studies designed to correlate past and future driving performance. Results of these studies support the principle that the best predictor of future performance by a driver is his/her past record of accidents and traffic violations. Copies of the studies have been added to the docket. (FHWA-98-3637).

We believe we can properly apply the principle to monocular drivers, because data from the vision waiver program clearly demonstrate the driving performance of experienced monocular drivers in the program is better than that of all CMV drivers collectively. (See 61 FR 13338, 13345, March 26, 1996.) The fact that experienced monocular drivers with good driving records in the waiver program demonstrated their ability to drive safely supports a conclusion that other monocular drivers, meeting the same qualifying conditions as those required by the waiver program, are also likely to have adapted to their vision deficiency and will continue to operate safely.

The first major research correlating past and future performance was done in England by Greenwood and Yule in 1920. Subsequent studies, building on that model, concluded that accident rates for the same individual exposed to certain risks for two different time periods vary only slightly. (See Bates and Neyman, University of California Publications in Statistics, April 1952.) Other studies demonstrated theories of predicting accident proneness from accident history coupled with other factors. These factors—such as age, sex, geographic location, mileage driven and conviction history—are used every day by insurance companies and motor vehicle bureaus to predict the probability of an individual experiencing future accidents. (See Weber, Donald C., "Accident Rate Potential: An Application of Multiple Regression Analysis of a Poisson Process," Journal of American Statistical Association, June 1971.) A 1964 California Driver Record Study prepared by the California Department of Motor Vehicles concluded that the best overall accident predictor for both concurrent and nonconcurrent events is the number of single convictions. This study used 3 consecutive years of data, comparing the experiences of drivers in the first 2 years with their experiences in the final year.

Applying principles from these studies to the past 3-year record of the 37 applicants receiving an exemption,

we note that cumulatively the applicants have had no accidents and only four traffic violations in the last 3 years. The applicants achieved this record of safety while driving with their vision impairment, demonstrating the likelihood that they have adapted their driving skills to accommodate their condition. As the applicants' ample driving histories with their vision deficiencies are good predictors of future performance, the FMCSA concludes their ability to drive safely can be projected into the future.

We believe the applicants' intrastate driving experience and history provide an adequate basis for predicting their ability to drive safely in interstate commerce. Intrastate driving, like interstate operations, involves substantial driving on highways on the interstate system and on other roads built to interstate standards. Moreover, driving in congested urban areas exposes the driver to more pedestrian and vehicular traffic than exists on interstate highways. Faster reaction to traffic and traffic signals is generally required because distances are more compact than on highways. These conditions tax visual capacity and driver response just as intensely as interstate driving conditions. The veteran drivers in this proceeding have operated CMVs safely under those conditions for at least 3 years, most for much longer. Their experience and driving records lead us to believe that each applicant is capable of operating in interstate commerce as safely as he or she has been performing in intrastate commerce. Consequently, the FMCSA finds that exempting these applicants from the vision standard in 49 CFR 391.41(b)(10) is likely to achieve a level of safety equal to that existing without the exemption. For this reason, the agency will grant the exemptions for the 2-year period allowed by 49 U.S.C. 31315 and 31136(e).

We recognize that the vision of an applicant may change and affect his/her ability to operate a commercial vehicle as safely as in the past. As a condition of the exemption, therefore, the FMCSA will impose requirements on the 37 individuals consistent with the grandfathering provisions applied to drivers who participated in the agency's vision waiver program.

Those requirements are found at 49 CFR 391.64(b) and include the following: (1) That each individual be physically examined every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the standard in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that the individual

is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy in his/her driver's qualification file if he/she is self-employed. The driver must also have a copy of the certification when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

Discussion of Comments

The FMCSA received two comments in this proceeding. The comments were considered and are discussed below.

An anonymous responder sympathized with drivers who do not meet the Federal standards for vision, but expressed reservation to exempting them on the basis that they might not continue to drive safely. This concern is addressed under the heading "Basis for Exemption Determination" in this notice.

Advocates for Highway and Auto Safety (AHAS) expresses continued opposition to the FMCSA's policy to grant exemptions from the Federal Motor Carrier Safety Regulations (FMCSRs), including the driver qualification standards. Specifically, the AHAS: (1) Objects to the manner in which the FMCSA presents driver information to the public and makes safety determinations; (2) objects to the agency's reliance on conclusions drawn from the vision waiver program; (3) claims the agency has misinterpreted statutory language on the granting of exemptions (49 U.S.C. 31315 and 31136(e)); and finally (4) suggests that a recent Supreme Court decision affects the legal validity of vision exemptions.

The issues raised by the AHAS were addressed at length in 64 FR 51568 (September 23, 1999), 64 FR 66962 (November 30, 1999), 64 FR 69586 (December 13, 1999), 65 FR 159 (January 3, 2000), 65 FR 57230 (September 21, 2000), and 66 FR 13825 (March 7, 2001). We will not address these points again here, but refer interested parties to those earlier discussions.

Conclusion

After considering the comment to the docket and based upon its evaluation of the 37 exemption applications in accordance with *Rauenhorst v. United States Department of Transportation*, Federal Highway Administration, 95 F.3d 715 (8th Cir. 1996), the FMCSA exempts Loa M. Boggs, Anthony

Brandano, Jerald D. Davis, Vernon J. Dohrn, Stanley E. Elliott, Elmer E. Gockley, Paul C. Gruenberg, Tommy D. Habben, Glenn T. Hehner, Carl R. Hunt, Shane M. Hunter, Thomas M. Ingebretsen, Lonnie M. Jones, Martin D. Keough, Ricky J. Knutson, Randall B. Laminack, Norman R. Lamy, James A. Lenhart, Dennis L. Lockhart, Sr., Jerry J. Lord, Raymond P. Madron, Ronald S. Mallory, Keith G. McCully, Ernest L. McLendon, Charles J. Morman, Eugene C. Murphy, Jack E. Potts, Jr., Bernard A. Ranly, John E. Rogstad, Jerry W. Russell, Stephen G. Sniffin, John R. Snyder, Darwin J. Thomas, Rene R. Trachsel, Stephen D. Vice, John H. Voigts, and Kendle F. Waggle, Jr. from the vision requirement in 49 CFR 391.41(b)(10), subject to the following conditions: (1) That each individual be physically examined every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the standard in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy in his/her driver's qualification file if he/she is self-employed. The driver must also have a copy of the certification when driving, so it may be presented to a duly authorized Federal, State, or local enforcement official.

In accordance with 49 U.S.C. 31315 and 31136(e), each exemption will be valid for 2 years unless revoked earlier by the FMCSA. The exemption will be revoked if: (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 before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31315 and 31136. If the exemption is still effective at the end of the 2-year period, the person may apply to the FMCSA for a renewal under procedures in effect at that time.

Issued on: December 19, 2001.

Brian M. McLaughlin,

Associate Administrator, Policy and Program Development.

[FR Doc. 01-31774 Filed 12-26-01; 8:45 am]

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