

day United States Treasury bill rate in effect on December 11, 1997.<sup>11</sup> The dividend does not include any excess income attributable to investments of P&I as all such P&I related income with respect to fiscal year ended December 31, 1997, will be rebated to participants on a pro rata basis based on the amount of P&I disbursements to each participant.

PTC believes that the proposed rule change is consistent with Section 17A(b)(3)(D) of the Act<sup>12</sup> and the rules and regulations thereunder in that it provides for the equitable allocation of reasonable fees and other charges among participants.

*(B) Self Regulatory Organization's Statement on Burden on Competition*

PTC does not believe that the proposed rule change will impose any burden on competition.

*(C) Self Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

PTC has neither solicited nor received comments on this proposed rule change.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The foregoing rule change has become effective pursuant to Section 19(b)(A)(i) of the Act<sup>13</sup> and subparagraph (e)(1) of Rule 19b-4<sup>14</sup> thereunder because the proposed rule change constitutes a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule of the self-regulatory organization. At any time within sixty days of the filing of such rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise, in furtherance of the purposes of the Act.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent

amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of PTC. All submissions should refer to File No. SR-PTC-97-05 and should be submitted by January 30, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>15</sup>

**Margaret H. McFarland,**  
Deputy Secretary.

[FR Doc. 98-495 Filed 1-8-98; 8:45 am]

BILLING CODE 8010-01-M

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**RTCA Special Committee 159/Working Group 4A; Local Area Augmentation System (LAAS) Minimum Aviation System Performance Standards (MASPS/Minimum Operational Performance Standards (MOPS)**

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C., Appendix 2), notice is hereby given for a Special Committee 159/Working Group 4A meeting to be held January 26-30, 1998, starting at 9:00 a.m. on January 26 and concluding by 12:00 noon on January 30. The meeting will be held at the ARINC Facilities, Annapolis, MD. For local arrangements, Ms. Camilla Miller may be reached at (410) 266-4102 or [cjm@arinc.com](mailto:cjm@arinc.com).

The agenda will be as follows:

- (1) Chairmen's Introductory Remarks and Introduction of Attendees;
- (2) Review/Approval of Minutes of Previous Meeting;
- (3) Review of LAAS MASPS: (a) Appendixes E.3, F, G; (b) Sections 1, 4; (c) Completeness Check of Sections 2 and 3 and Appendix E.1-E.2;
- (d) Finalization of MASPS Scope;
- (4) LAAS ICD;
- (5) LAAS MOPS Draft Review and Discussion;
- (6) LAAS Ground Subsystem Specification;
- (7) Other business;
- (8) Date, Location, and Agenda of Next Meeting.

<sup>15</sup> 17 CFR 200.30-3(a)(12).

Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact Mr. Harold Moses, RTCA Program Director, at (202) 833-9339 (phone), (202) 833-9434 (fax), of <http://www.rtca.org> (web site). Members of the public may present a written statement to the committee at any time.

Issued in Washington, D.C., on January 5, 1998.

**Janice L. Peters,**

*Designated Official.*

[FR Doc. 98-564 Filed 1-8-98; 8:45 am]

BILLING CODE 4910-13-M

**DEPARTMENT OF TRANSPORTATION**

**Federal Highway Administration**

[FHWA Docket No. FHWA-97-2625]

**Qualification of Drivers; Waiver Application; Vision**

**AGENCY:** Federal Highway Administration (FHWA), DOT.

**ACTION:** Notice of final disposition.

**SUMMARY:** The FHWA announces its decision to grant the petition of David R. Rauenhorst for a waiver of the vision requirement contained in 49 CFR 391.41(b)(10).

**EFFECTIVE DATE:** This decision is effective on January 9, 1998.

**FOR FURTHER INFORMATION CONTACT:** Ms. Sandra Zywockarte, Office of Motor Carrier Research and Standards, (202) 366-1790, or Ms. Judy Rutledge, Office of Chief Counsel, (202) 366-0834, 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:** David R. Rauenhorst petitioned the FHWA for a waiver of the vision requirement in 49 CFR 391.41(b)(10), which applies to drivers of commercial motor vehicles in interstate commerce. The FHWA evaluated Mr. Rauenhorst's application on its merits, as required by the decision in *Rauenhorst v. United States Department of Transportation, Federal Highway Administration*, 95 F.3d 715 (8th Cir. 1996), and made a preliminary determination that the waiver should be granted. On July 2, 1997, the agency published notice of its preliminary determination and requested comments from the public. (62 FR 35881). The

<sup>11</sup> The 90-day United States Treasury bill rate, as published in *The Wall Street Journal* on December 11, 1997, was 5.23%.

<sup>12</sup> 15 U.S.C. 78q-1(b)(3)(D).

<sup>13</sup> 15 U.S.C. 78s(b)(3)(A)(i).

<sup>14</sup> 17 CFR 240.19b-4(e)(1).

comment period closed on August 1, 1997. Four comments were received, and their contents were carefully considered by the FHWA in reaching its final decision to grant Mr. Rauenhorst's petition for a waiver of the vision requirement in 49 CFR 391.41(b)(10).

#### **Mr. Rauenhorst's Vision and Driving Experience**

The vision requirement in 49 CFR 391.41(b)(10) 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.

Mr. Rauenhorst is unable to meet the vision standard because a non-driving accident in 1976 caused him to sustain a retinal detachment in his right eye. As a result, vision in his right eye is limited to finger counting, and the capability of seeing movement, colors, and gross objects. Medical reports for 1995, 1996, and 1997 indicate that Mr. Rauenhorst's eye condition is non-degenerative and that the vision in the right eye is stable. Moreover, Mr. Rauenhorst has had 20/20 corrected vision in his left eye for the last three years, and, in his doctor's opinion, can safely operate any motor vehicle.

Whether Mr. Rauenhorst can safely operate a commercial motor vehicle is the critical question in this proceeding. Under 49 U.S.C. 31136(e), the FHWA may waive application of the vision standard to Mr. Rauenhorst only if the agency determines that the waiver is consistent with the public interest and the safe operation of commercial motor vehicles. In making that determination, the FHWA has considered not only the medical evaluation of Mr. Rauenhorst's vision but also his driving record and experience. Mr. Rauenhorst has been self-employed as a commercial truck driver since 1974. During this time, he has driven tractor-trailer combinations more than 2 million miles to transport sugar beets and bulk commodities for seed companies. In the last ten years, with his limited vision, he has driven 1 million miles without an accident. Most significantly, his driving record for the past 3 years reflects no traffic violations as well as no accidents. This driving history demonstrates that Mr. Rauenhorst's vision deficiency has not compromised his ability to safely

operate a commercial vehicle and that he has adapted his driving techniques to accommodate the limited vision in his right eye.

Mr. Rauenhorst's ability to operate a commercial vehicle is also evidenced by his possession of a valid commercial driver's license (CDL). Before issuing a CDL, States subject the driver to knowledge and performance tests designed to evaluate the driver's qualifications to drive the vehicle to be operated. Mr. Rauenhorst satisfied the testing standards for the State of Minnesota and holds a current CDL that was issued on April 10, 1995 and is valid until February 22, 1999. The current license was preceded by another Minnesota CDL which was effective from January 31, 1991, until February 22, 1995. By meeting his State's licensing requirements, Mr. Rauenhorst demonstrated his ability to operate a commercial vehicle with his limited vision to the satisfaction of the State.

#### **Basis for Waiver Determination**

To waive application of 49 CFR 391.41(b)(10) to Mr. Rauenhorst, the FHWA must find the waiver to be consistent with the public interest and the safe operation of commercial motor vehicles. (49 U.S.C. 31136(e)). We find that granting the waiver is consistent with the public interest. Mr. Rauenhorst has earned his living as a commercial truck driver since 1974, notwithstanding a vision deficiency which disqualifies him from operating a vehicle in interstate commerce. This waiver will allow him to broaden his employment opportunities by enabling him to operate commercial vehicles in interstate commerce. As a result, the economic viability of his business may be enhanced. In that regard, the waiver will allow the employment of a person with a disability, which is consistent with the public policies expressed in the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1992.

The waiver is also consistent with the safe operation of commercial motor vehicles. In reaching this determination, the FHWA has relied upon research studies designed to correlate past and future driving performance. Copies of the several studies relied upon here have been added to the docket.

The first major research in this area 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 California study used three consecutive years of data, comparing the experience of drivers in the first two years with the experience of those same drivers the final year.

Results of these studies support the principle that the best predictor of future performance by a driver is his past record of accidents and traffic violations. Mr. Rauenhorst's driving record reflects that he has had no accidents or traffic violations in the past three years. He established this record while driving with the limited vision caused by the retinal detachment in 1976, a fact which demonstrates that he has adapted his driving skills to accommodate his eye condition. Because Mr. Rauenhorst's driving history is the best predictor of future performance, absent any information indicating any reduction in visual capacity or other factor essential to the driving task, the FHWA has determined that his ability to drive safely can be projected into the future and that waiving application of the vision standard is consistent with the safe operation of commercial motor vehicles.

In granting this waiver, the FHWA is mindful that vision changes. A deterioration of Mr. Rauenhorst's vision in the future could affect his ability to operate a commercial vehicle as safely as he has in the past. For that reason, the FHWA will impose conditions on the waiver to ensure that Mr. Rauenhorst's vision is monitored annually. These conditions are consistent with the grandfathering provisions applied to drivers who participated in the vision waiver study program. They are found at 49 CFR 391.64(b) and include the following: (1) That Mr. Rauenhorst be physically examined every year (a) by an ophthalmologist or optometrist who attests to the fact that his vision continues to measure at least 20/40

(Snellen) in the better eye; and (b) by a medical examiner who attests to the fact that he is otherwise physically qualified under 49 CFR 391.41; (2) that he provide a copy of the ophthalmologist or optometrist report to the medical examiner at the time of the annual medical examination; and (3) that he keep a copy of the annual medical certification in his driver qualification file as long as he is self-employed or provide a copy to his employer for retention in the driver's qualification file, and retain a copy of the certification on his person while driving for presentation to a duly authorized Federal, State, or local enforcement official.

#### Discussion of Comments

The FHWA received four (4) comments to the docket in response to its July 2, 1997, notice of intent to grant Mr. Rauenhorst's application for a waiver. Each comment has been considered by the FHWA in reaching its final determination and is discussed below.

The International Brotherhood of Teamsters (IBT) supported the FHWA's determination to grant the waiver. Although favoring a conservative approach to waiving safety standards, the IBT agreed that Mr. Rauenhorst's stable medical condition, driving history, and agreement to periodic monitoring support a finding that the waiver is consistent with the public interest and the safe operation of commercial motor vehicles.

The comment filed by the Insurance Institute for Highway Safety (IIHS) did not address Mr. Rauenhorst's waiver but instead urged the FHWA, in this proceeding and two others in which its comment was filed, to thoroughly verify all reports of crash rates made by drivers or motor carriers. Noting that self-reporting has, in the past, resulted in under reporting, the IIHS observed that drivers seeking waivers from medical qualifications have an economic incentive to understate their crashes and overstate their annual mileage. Those concerns are not a factor in this proceeding, however, because the FHWA did not rely on Mr. Rauenhorst's report of his accidents and traffic violations. Instead the agency required, and relied on, a certified copy of Mr. Rauenhorst's driving record from the State of Minnesota to prove that he has had no accidents or traffic violations in the past three years.

The American Trucking Associations (ATA) opposes granting waivers to drivers who cannot meet the existing medical standards. It believes that the current standards ensure that drivers are

in sufficiently good health to drive safely and that the vision standard is particularly important because driving responses are based primarily on what is seen. If the waiver is granted, however, the ATA agrees that Mr. Rauenhorst should be subject to the same annual examination requirements that were imposed on the "grandfathered" drivers in FHWA Docket MC-96-2. Additionally, it believes that Mr. Rauenhorst should be required to report his involvement in any DOT-recordable accident directly to the FHWA and be prohibited from driving until he has undergone a medical and vision examination following the accident.

Except for his vision, Mr. Rauenhorst's health is not at issue because he meets all other medical qualification standards in 49 CFR 391.31(b). Moreover, the clean driving record he has established over the last three years with his limited vision reflects Mr. Rauenhorst's ability to make safe and appropriate driving responses to visual stimuli. Therefore, applying the Court's decision in *Rauenhorst v. United States Department of Transportation, Federal Highway Administration*, the FHWA is satisfied that Mr. Rauenhorst qualifies under 49 U.S.C. 31136 for a waiver of the vision requirements, subject to the conditions enumerated in this decision. One of those conditions requires him to undergo annual vision examinations which will disclose any deterioration in his visual capacity and will affect his qualifications for the waiver. In view of his driving record and stable vision over the last three years, there is no reason to believe that his vision will play any greater role in a potential accident than the vision of a driver who meets the vision standard. For that reason, the FHWA does not agree that special conditions regarding accident reporting and driving suspension are warranted.

In the fourth comment to the Docket, the Advocates for Highway and Auto Safety (AHAS) questions whether the administrative record in this case adequately addresses issues that are relevant to the merits of Mr. Rauenhorst's waiver application. Four particular issues are raised in its comment.

First, the AHAS does not think the record adequately reflects the magnitude of the retinal detachment, describes the extent to which the detachment has adversely affected Mr. Rauenhorst's vision, or provides any analysis of other aspects of his vision such as depth perception, peripheral vision, and visual acuity in the injured eye. But Mr. Rauenhorst's medical

reports for 1995, 1996, and 1997 are part of the record in this case and indicate that he can count fingers, and see movement, colors, and gross objects with his right eye. They also reflect his doctor's opinion that the eye condition is stable, an opinion which necessarily considers the severity of the retinal detachment. Furthermore, the reports confirm that Mr. Rauenhorst has 20/20 corrected vision in his left eye and, therefore, provide an overview of his vision which the FHWA believes adequate to support its action in this case.

AHAS next points out that the record contains nothing to support the agency's statement that Mr. Rauenhorst has adapted his driving skills to accommodate his limited vision. We think the statement is supported by Mr. Rauenhorst's driving record. That he has driven the last three years without having an accident or being convicted of a traffic violation demonstrates that he has developed driving techniques to compensate for his vision impairment.

As its third issue, the AHAS objects that the record does not explain how Mr. Rauenhorst obtained a CDL in view of his legally disqualifying vision deficiency. Moreover, it wonders why the waiver is necessary if he holds a valid CDL. In raising this issue, the AHAS has misconstrued the relationship between a CDL and the driver qualification standards in 49 CFR 391.41. To operate a commercial motor vehicle in interstate commerce, a driver must have both a CDL and a medical card. The medical card is issued by a medical examiner who certifies that the driver meets the physical qualification standards in 49 CFR 391.41(b). Mr. Rauenhorst cannot meet those physical standards due to his vision, and, therefore, does not possess the medical card required to operate in interstate commerce. On the other hand, the CDL is issued by the driver's State and authorizes a person to drive a particular kind of commercial vehicle. Although States have physical qualification requirements compatible with those in 49 CFR 391.41(b), a State may waive those requirements for intrastate operations under certain conditions. Thus, it is possible for a driver to obtain a CDL but not be physically qualified to drive in interstate commerce. Mr. Rauenhorst falls into this category, and consequently his driving has been limited to intrastate commerce even though he holds a valid CDL. With a waiver of the vision requirement in 49 CFR 391.41(b)(10), he will be able to obtain a medical card and operate in interstate commerce.

Finally, the AHAS notes that the record contains no assessment of the character of mileage driven by Mr. Rauenhorst. It asserts that intrastate operations involve different driving conditions than interstate operations so Mr. Rauenhorst's mileage must be categorized in order to properly evaluate his experience and driving record. Such an approach would create a Catch-22 for persons seeking a waiver. Drivers like Mr. Rauenhorst do not physically qualify to drive in interstate commerce. If interstate driving experience is required before obtaining a waiver, a physically challenged driver would never qualify for a waiver, or, alternatively, would be compelled to drive illegally in interstate commerce to acquire the experience necessary to be evaluated for a waiver. The FHWA cannot sanction a standard that yields such a result. Moreover, intrastate driving amply tests the skills and capability of a driver.

Intrastate driving could very well expose the driver to more congested urban areas, narrower rural roads, a greater variety of vehicles, more pedestrians, and more vehicle traffic than exists on interstate highways. Intrastate driving also involves substantial driving on highways on the interstate system and on other roads built to interstate standards. These conditions tax visual capacity and driver response just as intensely as interstate driving conditions. For this reason, we believe Mr. Rauenhorst's intrastate driving experience provides an adequate basis for evaluating his ability to safely operate a CMV in interstate commerce.

#### Conclusion

After considering the comments to the Docket and based upon its evaluation of Mr. Rauenhorst's waiver application in accordance with *Rauenhorst v. United States Department of Transportation, Federal Highway Administration*, the FHWA waives application of the vision requirement in 49 CFR 391.41(b)(10) as it applies to Mr. Rauenhorst subject to the following conditions: (1) That Mr. Rauenhorst be physically examined every year (a) by an ophthalmologist or optometrist who attests to the fact that his vision continues to measure at least 20/40 (Snellen) in the better eye; and (b) by a medical examiner who attests to the fact that he is otherwise physically qualified under 49 CFR 391.41; (2) that he provide a copy of the ophthalmologist or optometrist report to the medical examiner at the time of the annual medical examination; and (3) that he keep a copy of the annual medical certification in his driver

qualification file as long as he is self-employed or provide a copy to his employer for retention in the driver's qualification file, and retain a copy of the certification on his person while driving for presentation to a duly authorized Federal, State, or local enforcement official.

**Authority:** 49 U.S.C. 31136; 23 U.S.C. 315; 49 CFR 1.48.

Issued on: December 31, 1997.

**Kenneth R. Wykle,**

*Federal Highway Administrator.*

[FR Doc. 98-568 Filed 1-8-98; 8:45 am]

BILLING CODE 4910-22-P

## DEPARTMENT OF TRANSPORTATION

### Federal Transit Administration

#### Environmental Impact Statement on the Proposed Commuter Rail Project Between Everett and Seattle, WA

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

**ACTION:** Notice of intent to prepare an Environmental Impact Statement.

**SUMMARY:** The Federal Transit Administration (FTA) and the Central Puget Sound Regional Transit Authority (RTA) intend to prepare an Environmental Impact Statement (EIS) in accordance with the National Environmental Policy Act (NEPA). The RTA will ensure that the EIS also satisfies the requirements of the Washington State Environmental Policy Act (SEPA). The FTA will be the NEPA lead agency. The RTA will be the SEPA lead agency. Corridor alternatives were evaluated in a SEPA plan-level EIS (1993) and in a Major Investment Study (1997).

The EIS will evaluate the Everett-Seattle Commuter Rail Project, including station location alternatives and track improvement/expansion design variations design alternatives in sensitive (shoreline and wetland) areas, along the 35-mile long corridor between Everett and Seattle, Washington. The project will generally, though not solely, be located in existing Burlington Northern Sante Fe Railway (BNSF) right-of-way. The proposed Commuter Rail Project is intended to provide peak-hour commuter rail service between key activity centers along the corridor, including two of the region's largest employment centers: Seattle and Everett. The commuter rail line will connect with the proposed Seattle-to-Tacoma/Lakewood commuter rail service, and the proposed Central Light Rail Transit line between north Seattle

and SeaTac, Washington, at the King Street Station in Seattle.

The project will also evaluate site alternatives for a proposed commuter rail vehicle overnight storage and light maintenance facility or facilities. In addition, the EIS will evaluate the no-build alternative and any new reasonable alternatives generated through the scoping process.

Scoping will be accomplished through correspondence with interested persons, organizations, and federal, state, regional, and local agencies, as well as through meetings with interested persons. Five public scoping meetings will be held, as well as one interagency scoping meeting. See **DATES** below for details.

**DATES: Comment Due Date:** Written comments on the scope of alternatives and impacts to be considered should be sent to the RTA by February 20, 1998. See **ADDRESS** below. Oral comments should be made at one of the four public scoping meetings scheduled below. **Scoping Meetings:** Public scoping meetings will be held on the following days and locations:

- Monday, February 2, 1998, from 5:00 p.m. to 8:00 p.m., Everett Senior Center, 3025 Lombard Street, Everett, WA
- Wednesday, February 4, 1998, from 5:00 p.m. to 8:00 p.m., Rosehill Community Center, 304 Lincoln Ave., Mukilteo, WA
- Thursday, February 5, 1998, from 5:00 p.m. to 8:00 p.m., Edmonds Public Library, Library Plaza Room, 650 Main Street, Edmonds, WA
- Monday, February 9, 1998 from 5:00 p.m. to 8:00 p.m., Nordic Heritage Museum Auditorium, 3014 NW 67th St., Seattle, WA
- Tuesday, February 10, 1998, from 5:00 p.m. to 8:00 p.m., Richmond Beach Congregational Church, Pilgrim Room, 1512 NW 195th St., Shoreline, WA

A scoping meeting for governmental agencies will be held on Monday, February 2, 1998, between 10:00 a.m. and 1:00 p.m., at the RTA, 1100 2nd Avenue, Suite 500, Seattle, WA 98101-3423. This meeting for governmental agencies will be held in the RTA's fourth floor Board conference room. All the locations for the scoping meetings are accessible to people with disabilities. People with special needs (such as individuals needing a language translator) should contact the RTA at the address below or by calling (206) 684-6776. A TDD number is also available: (206) 684-1395.

Scoping meetings will be held in an "open-house" format. Project