I or III of chapter 135, title 49, U.S.C., must agree to offer arbitration to HHGs shippers as a means of settling disputes concerning damage or loss to the household goods transported. Under 49 U.S.C. 14708(g)), the Secretary is required to complete an assessment of the dispute settlement program and if, after notice and comment, it is determined that changes to the program are necessary, the Secretary will implement such changes and provide a report to Congress on the changes made. The General Accountability Office (GAO) recommended such an assessment in their March 2001 review (Report Number GAO–01–318). The Secretary has delegated authority pertaining to these registrations and arbitration matters to FMCSA.

Since the passage of the ICCTA, the level of Federal involvement in mitigating interstate HHGs disputes has been significantly reduced. FMCSA is responsible for overseeing the arbitration process, but has provided only limited attention, staffing, and resources to this non-safety related function. Shippers of household goods unhappy about loss or damage to property during their move with an interstate HHGs carrier may follow one of several paths to settle disputes: (1) File a complaint with consumer assistance organizations or FMCSA; (2) agree to participate in a binding arbitration process with the American Moving and Storage Association (AMSA) or some other organization that runs an arbitration process; or (3) pursue civil litigation. Each carrier providing transportation of household goods must agree to offer to shippers of HHGs neutral arbitration, as well as a concise easy-to-read, accurate summary of the arbitration procedure, any applicable costs, and disclosure of the legal effects of election to utilize arbitration and inform shippers about the availability of this process to resolve complaints (49 U.S.C. 14708 (a) and (b)(2)). As mandated by Congress, FMCSA is required to determine the effectiveness of arbitration as a means of settling HHGs disputes from the point of view of both interstate household goods shippers and carriers. The increasing number of consumer complaints related to HHGs shipments received by FMCSA and other consumer protection organizations demonstrates the current need for such an assessment.

Type of Information Collection Request: New collection.

Title of Information Collection: Assessing the Effectiveness of the Arbitration Program as a Means of Settling Household Goods Disputes.

OMB Approval Number: 2126–XXXX.

Frequency: Annually.

Use: This collection will be used by FMCSA to assess the effectiveness of the arbitration program as a means of settling disputes from the perspective of the household goods shippers and carriers.

Estimated Number of Respondents: 300 [100 respondents × 3 surveys = 300 respondents].

Respondents: Household goods shippers and carriers.

Total Annual Hours Requested: The estimated total annual burden is 150 hours for the information collection comprised of three arbitration satisfaction surveys—one for HHGs carriers, one for HHGs shippers who have used arbitration, and one for HHGs shippers who have filed claims (or complaints with FMCSA). Each survey requires 100 responses to achieve statistical significance of the results [100 respondents per survey × ½ hour per respondent × 3 surveys = 150 hours].

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C. chapter 35, as amended; 49 U.S.C. 13901, 13902, 13903, 13904 and 14708; the ICC Termination Act of 1995 (Pub. L. 104–88, 109 Stat. 803 (December 29, 1995)); and 49 CFR § 1.73.

Issued on: October 17, 2005.

Annette M. Sandberg,

Administrator.

[FR Doc. 05–21202 Filed 10–21–05; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[FMCSA Docket No. FMCSA–2005–21711]

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 grant exemptions from the vision requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) for 40 individuals. The exemptions will enable these individuals to qualify as drivers of commercial motor vehicles (CMVs) in interstate commerce without meeting the vision standard prescribed in 49 CFR 391.41(b)(10).

DATES: This decision is effective October 24, 2005.

FOR FURTHER INFORMATION CONTACT: Dr. Mary D. Gunnels, Office of Bus and Truck Standards and Operations, (202) 366–4001, FMCSA, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590–0001. Office hours are from 8 a.m. to 5 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

On August 19, 2005, the FMCSA published a notice of receipt of exemption applications from 40 individuals, and requested comments from the public (70 FR 48797). The 40 individuals petitioned the FMCSA for exemptions from the vision requirement in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce. They are: Roy L. Allen, Calvin D. Atwood, Gregory W. Babington, Lennie D. Baker, Jr., John E. Breslin, Arturo Cardozo, William P. Doolittle, Steve R. Felks, William M. Gales, III, Jonathan M. Gentry, John N. Guilford, Benny D. Hatton, Jr., Robert W. Healey, Jr., Nathaniel H. Herbert, Jr., Thomas D. Lambert, Thomas (Tom) W. Markham, Eugene P. Martin, Raul Martinez, Joseph L. Mast, Randy G. McCloud, Richard L. McEwen, David McKinney, Ralph L. Means, Kevin L. Moody, Woody M. Moore, William G. Mote, Charles W. Mullenix, James R. Murphy, Kenneth R. Murphy, Gary S. Partridge, Nathan (Nate) D. Peterson, John N. Poland, Neal A. Richard, Chris A. Ritenour, Brent L. Seaux, Gerald M. Smith, James T. Smith, Nicholas J. Turpin, Gary M. Wolff, and George R. Zenor.

Under 49 U.S.C. 31315 and 31136(e), the FMCSA may grant an exemption for a 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.'' The statute also allows the agency to renew exemptions at the end of the 2-year period. Accordingly, the FMCSA has evaluated the 40 applications on their merits and made a determination to grant exemptions to all of them. The comment period closed on September 19, 2005. Two comments were received, and their contents were carefully considered by the FMCSA in reaching the final decision to grant the exemptions.

Vision and Driving Experience of the Applicants

The vision requirement in the FMCSRs 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)).

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 40 applicants fall into this category. They are unable to meet the vision standard in one eye for various reasons, including amblyopia, macular and retinal scars, and loss of an eye due to trauma. In most cases, their eye conditions were not recently developed. All but thirteen of the applicants were either born with their vision impairments or have had them since childhood. The thirteen individuals who sustained their vision conditions as adults have had them for periods ranging from 4 to 32 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.

While possessing a valid CDL or non-CDL, these 40 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 45 years. In the past 3 years, four of the drivers have had convictions for traffic violations. Three of these convictions were for speeding. One involved a collision but the driver did not receive a citation.

The qualifications, experience, and medical condition of each applicant were stated and discussed in detail in the August 19, 2005, notice (70 FR 48797). Since there were no substantial docket comments on the specific merits or qualifications of any applicant, we have not repeated the individual profiles here.

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 each of these drivers to drive in interstate commerce as opposed to restricting him or her 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 crashes and traffic violations. Copies of the studies may be found at docket number FMCSA–98–3637.

We believe we can properly apply the principle to monocular drivers, because data from a former FMCSA waiver study program clearly demonstrates that 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 crash 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 crash proneness from crash 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 crashes. (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 crash 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 40 applicants receiving an exemption, we note that the applicants have had only one collision and three speeding 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 between them are more compact. 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 is granting the exemptions for the 2-year period allowed by 49 U.S.C. 31315 and 31136(e) to the 40 applicants listed in the notice of August 19, 2005 (70 FR 21711).

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 40 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 individual, wishing to remain anonymous, commented that they have been driving with a vision exemption for several years safely and does not believe that vision impaired drivers pose any additional danger to the public because of their vision impairment. This individual believes drivers who are granted a vision exemption perform better than those with normal vision, and hopes that those who oppose the Federal exemption program understand that its mere existence is to focus on safety on the highways.

The second comment was received by Advocates for Highway and Auto Safety (Advocates) expressing continued opposition to the FMCSA's policy to grant exemptions from the FMCSRs, including the driver qualification standards. Specifically, Advocates: (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 1999 Supreme Court decision affects the legal validity of vision exemptions. The issues raised by Advocates were addressed at length in 70 FR 16887 (April 1, 2005). We will not address these points again here, but refer interested parties to those earlier discussions.

Conclusion

Based upon its evaluation of the 40 exemption applications, the FMCSA exempts Roy L. Allen, Calvin D. Atwood, Gregory W. Babington, Lennie D. Baker, Jr., John E. Breslin, Arturo Cardozo, William P. Doolittle, Steve R. Felks, William M. Gales, III, Jonathan M. Gentry, John N. Guilford, Benny D. Hatton, Jr., Robert W. Healey, Jr., Nathaniel H. Herbert, Jr., Thomas D. Lambert, Thomas (Tom) W. Markham, Eugene P. Martin, Raul Martinez, Joseph L. Mast, Randy G. McCloud, Richard L. McEwen, David McKinney, Ralph L. Means, Kevin L. Moody, Woody M. Moore, William G. Mote, Charles W. Mullenix, James R. Murphy, Kenneth R. Murphy, Gary S. Partridge, Nathan (Nate) D. Peterson, John N. Poland, Neal A. Richard, Chris A. Ritenour, Brent L. Seaux, Gerald M. Smith, James T. Smith, Nicholas J. Turpin, Gary M. Wolff, and George R. Zenor, from the vision requirement in 49 CFR 391.41(b)(10), subject to the requirements cited above (49 CFR 391.64(b)).

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: October 18, 2005.

Rose A. McMurray,

Associate Administrator, Policy and Program Development.

[FR Doc. 05–21203 Filed 10–21–05; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Agency Request for Emergency Processing of Collection of Information by the Office of Management and Budget

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

ACTION: Notice.

SUMMARY: FRA hereby gives notice that it has submitted the following information collection request (ICR) to the Office of Management and Budget (OMB) for emergency processing under the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). FRA requests that OMB authorize the collection of information identified below on or before October 31, 2005, for a period of 180 days after the date of issuance of this notice in the **Federal Register**. A copy of this individual ICR, with applicable supporting documentation, may be obtained by calling FRA's clearance officers, Robert Brogan (telephone number (202) 493–6292) or Victor Angelo (telephone number (202) 493–6470; these numbers are not toll-free), or by contacting Mr. Brogan via facsimile at (202) 493–6270 or Mr. Angelo via facsimile at (202) 493–6170, or via e-mail by contacting Mr. Brogan at *robert.brogan@fra.dot.gov.* or by contacting Mr. Angelo at *victor.angelo@fra.dot.gov.* Comments and questions about the ICR identified below should be directed to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for FRA.

Title: FRA Emergency Order No. 24, Notice No. 1.