

information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.48.

Issued on: January 3, 2007.

James R. Kabel,

Chief, Management Programs and Analysis Division.

[FR Doc. E7-80 Filed 1-8-07; 8:45 am]

BILLING CODE 4910-22-P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA-2006-26715]

Agency Information Collection Activities: Notice of Request for Extension of Currently Approved Information

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice and request for comments.

SUMMARY: The FHWA invites public comments about our intention to request the Office of Management and Budget's (OMB) approval for renewal of an existing information collection, which is summarized below under **SUPPLEMENTARY INFORMATION**. We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995.

DATES: Please submit comments by March 12, 2007.

ADDRESSES: You may submit comments identified by DOT DMS Docket Number FHWA-2006-26715 by any of the following methods:

- **Web Site:** <http://dms.dot.gov>.

Follow the instructions for submitting comments on the DOT electronic docket site.

- **Fax:** 1-202-493-2251.

- **Mail:** Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL-401, Washington, DC 20590-0001.

- **Hand Delivery:** Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Docket: For access to the docket to read background documents or comments received, go to <http://dms.dot.gov> at any time or to Room 401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

Guan Xu, 202-366-5892, Office of Safety Design, Federal Highway Administration, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 8 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION: Title: Developing and Recording Costs for Railroad Adjustments.

OMB Control #: 2125-0521.

Background: Under 23 U.S.C. 130, the FHWA reimburses the State highway agencies when they have paid for the cost of projects that (1) Eliminate hazards at railroad/highway crossings, or (2) adjust railroad facilities to accommodate the construction of highway projects. The FHWA requires the railroad companies to document their costs incurred for adjusting their facilities. The railroad companies must have a system for recording labor, materials, supplies, and equipment costs incurred when undertaking the necessary railroad work. This record of costs forms the basis for payment by the State highway agency to the railroad company, and in turn FHWA reimburses the State for its payment to the railroad company.

Respondents: Approximately 135 railroad companies.

Frequency: Nearly 135 railroad companies are involved in an average of 10 railroad/highway projects per year, so the total frequency is 1,350 railroad adjustments.

Estimated Average Burden per Response: The average number of hours required to calculate the railroad adjustment costs and maintain the required records per adjustment is 12 hours.

Estimated Total Annual Burden Hours: The FHWA estimates that the total annual burden imposed on the public by this collection is 16,200 hours.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for the FHWA's performance; (2) the accuracy of the estimated burdens; (3) ways for the FHWA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized, including the use of electronic technology, without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Authority: 23 U.S.C. 121, 130; 23 CFR 140 Subpart I; the Paperwork Reduction Act of

1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.48.

Issued on: December 29, 2006.

James R. Kabel,

Chief, Management Programs and Analysis Division.

[FR Doc. E7-81 Filed 1-8-07; 8:45 am]

BILLING CODE 4910-22-P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2006-26066]

Qualification of Drivers; Exemption Applications; Vision

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

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to exempt 75 individuals from the vision requirement in the Federal Motor Carrier Safety Regulations (FMCSRs). The exemptions will enable these individuals to operate commercial motor vehicles (CMVs) in interstate commerce without meeting the prescribed vision standard. The Agency has concluded that granting these exemptions will provide a level of safety that is equivalent to, or greater than, the level of safety maintained without the exemptions for these CMV drivers.

DATES: The exemptions are effective January 9, 2007. The exemptions expire on January 8, 2009.

FOR FURTHER INFORMATION CONTACT: Dr. Mary D. Gunnels, Chief, Physical Qualifications Division, (202) 366-4001, maggi.gunnels@dot.gov, FMCSA, Department of Transportation, 400 Seventh Street, SW., Room 8301, Washington, DC 20590-0001. Office hours are from 8:30 a.m. to 5 p.m., 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>.

Docket: For access to the docket to read background documents or comments received, go to <http://dms.dot.gov> and/or Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act: Anyone may search the electronic form of all comments received into any of DOT's dockets by the name of the individual submitting

the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, or other entity). You may review DOT's complete Privacy Act Statement in the **Federal Register** (65 FR 19477, Apr. 11, 2000). This statement is also available at <http://dms.dot.gov>.

Background

On October 30, 2006, FMCSA published a notice of receipt of exemption applications from 75 individuals, and requested comments from the public (71 FR 63380). The 75 individuals applied for exemptions from the vision requirement in 49 CFR 391.41(b)(10), for drivers who operate CMVs in interstate commerce. They are: Lucas R. Aleman, Michael L. Allen, Jose C. Azuara, Felipe Bayron, Dennis M. Boggs, Daniel D. Bradshaw, Roy L. Brown, Richard A. Brown, Jr., David S. Brumfield, Fabian L. Burnett, David L. Cattoor, Roger E. Clark, Steven J. Clark, Gary C. Cone, Timothy E. Coultas, Cesar A. Cruz, Arthur Dolengewicz, Myron R. Durham, Wayne A. Elkins II, Barry Ferdinando, Leon C. Flynn, David G. Guldan, Richard G. Gruber, Larry W. Hancock, Guadalupe J. Hernandez, James L. Houser, Richard G. Isenhardt, Ricky G. Jacks, Damir Kocijan, Timothy P. Keogh, Joe E. Jones, William S. LaMar, Sr., Robert T. Lantry, John W. Laskey, Johnny L. Lindsey, Calvin E. Lloyd, Kenneth Liuzza, Samson B. Margison, Terrence L. McKinney, Michael W. McClain, Ellis T. McKneely, Dennis N. McQuiston, Garth R. Mero, Donald G. Meyer, Ross W. Mockler, Ronald C. Morris, Harry M. Oxendine, Kenneth E. Parrott, Charles R. Patten, Lionel Payne, Jr., Randel G. Pierce, Darrol W. Rippee, Edgardo Rivera, Myriam Rodriguez, Raymond E. Royer, James E. Savage, Steven M. Scholfield, Randal C. Schmude, Raymond C. Simpkins, Dennis J. Smith, W.C. Sparks, James A. Strickland, David C. Stitt, Jesse J. Sutton, Gary L. Taylor, Kevin L. Truxell, Brian S. Tuttle, Humberto A. Valles, Earl M. Vaughan, Bruce A. Walker, Harold R. Wallace, Lee A. Wiltjer, John H. Wisner, Harold E. White, and Theron L. Wood.

Under 49 U.S.C. 31136(e) and 31315, 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, FMCSA has evaluated the 75 applications on their merits and made a determination to grant

exemptions to all of them. The comment period closed on Nov 29, 2006.

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 a 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)).

FMCSA 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 75 exemption applicants listed in this Notice are in this category. They are unable to meet the vision standard in one eye for various reasons, including amblyopia, glaucoma, macular scar, aphakia, retinal detachment, optic neuropathy, esotropia, choroidal hemangioma, corneal scarring, prosthesis, corneal opacity, optic atrophy, macular hemorrhage, and loss of vision due to trauma. In most cases, their eye conditions were not recently developed. All but twenty-two of the applicants were either born with their vision impairments or have had them since childhood. The twenty-two individuals who sustained their vision conditions as adults have had them for periods ranging from 3 to 45 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. 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 skills 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 75 drivers have been authorized to drive a CMV in intrastate commerce, even though their vision disqualified 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, seven of the drivers have had convictions for traffic violations and two of them were involved in crashes.

The qualifications, experience, and medical condition of each applicant were stated and discussed in detail in the October 30, 2006 Notice (71 FR 63380).

Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315, 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, 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, FMCSA requires a person to present verifiable evidence that he/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 the Federal Highway Administration's (FHWA) former waiver study 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 demonstrated safe driving records in the waiver program 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 75 applicants, three of the applicants had traffic violations for speeding, three applicants failed to obey a traffic sign, one applicant failed to drive within the proper lane, and two of the applicants were involved in crashes. 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, 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/she has been performing in intrastate commerce. Consequently, 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. 31136(e) and 31315 to the 75 applicants listed in the notice of October 30, 2006 (71 FR 63380).

We recognize that the vision of an applicant may change and affect his/her ability to operate a CMV as safely as in the past. As a condition of the exemption, therefore, FMCSA will impose requirements on the 75 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

Advocates for Highway and Auto Safety (Advocates) expressed opposition to FMCSA’s policy to grant exemptions from the FMCSR, including the driver qualification standards. Specifically, Advocates: (1) Objects to the manner in which 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. 31136(e) and 31315); 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 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.

A representative from the Wisconsin Department of Transportation reported that two of the drivers from the State of Wisconsin were given interstate Medical Examiner Certificates by medical examiners although they did not qualify due to their vision deficiency. However, this did not result in improper licensure by the State of Wisconsin. FMCSA will follow up on this reported medical examiner certification issue. These two drivers will be required, as a condition of the exemption to obtain new Medical Examiner Certificates that reflect the need for a Federal exemption from the vision standard.

Nine letters of recommendation were received in favor of granting the Federal vision exemption to Mr. Edgardo Rivera and Mr. Ricky Jacks due to their high level of professionalism and safety while driving. Two comments were received in support of the Federal vision exemption program.

Two individuals oppose the granting of vision exemptions to vision impaired drivers. They believe that granting vision exemptions to drivers makes the roads more dangerous.

In regard to the last two comments, the discussion under the heading, “Basis for Exemption Determination,” explains in detail the evaluation methods the Agency utilizes prior to granting an exemption to ensure that the granting of an exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. To evaluate the effect of these exemptions on safety, 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, 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.

Conclusion

Based upon its evaluation of the 75 exemption applications, FMCSA exempts Lucas R. Aleman, Michael L. Allen, Jose C. Azuara, Felipe Bayron, Dennis M. Boggs, Daniel D. Bradshaw, Roy L. Brown, Richard A. Brown, Jr., David S. Brumfield, Fabian L. Burnett, David L. Cattoor, Roger E. Clark, Steven J. Clark, Gary C. Cone, Timothy E. Coultas, Cesar A. Cruz, Arthur Dolengewicz, Myron R. Durham, Wayne A. Elkins II, Barry Ferdinando, Leon C. Flynn, David G. Guldán, Richard G. Gruber, Larry W. Hancock, Guadalupe J. Hernandez, James L. Houser, Richard G. Isenhardt, Ricky G. Jacks, Damir Kocijan, Timothy P. Keogh, Joe E. Jones, William S. LaMar, Sr., Robert T. Lantry, John W. Laskey, Johnny L. Lindsey, Calvin E. Lloyd, Kenneth Liuzza, Samson B. Margison, Terrence L. McKinney, Michael W. McClain, Ellis T. McKneely, Dennis N. McQuiston, Garth R. Mero, Donald G. Meyer, Ross W. Mockler, Ronald C. Morris, Harry M. Oxendine, Kenneth E. Parrott, Charles R. Patten, Lionel Payne, Jr., Randel G. Pierce, Darrol W. Rippee, Edgardo Rivera, Myriam Rodriguez, Raymond E. Royer, James E. Savage, Steven M. Scholfield, Randal C. Schmude, Raymond C. Simpkins, Dennis J. Smith, W.C. Sparks, James A. Strickland, David C. Stitt, Jesse J. Sutton, Gary L. Taylor, Kevin L. Truxell, Brian S. Tuttle, Humberto A. Valles, Earl M. Vaughan, Bruce A. Walker, Harold R. Wallace, Lee A. Wiltjer, John H. Wisner, Harold E. White, and Theron L. Wood 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. 31136(e) and 31315, each exemption will be valid for 2 years unless revoked earlier by

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. 31136 and 31315.

If the exemption is still effective at the end of the 2-year period, the person may apply to FMCSA for a renewal under procedures in effect at that time.

Issued on: January 3, 2007.

Larry W. Minor,

Office Director, Bus and Truck Standards and Operations.

[FR Doc. E7-96 Filed 1-8-07; 8:45 am]

BILLING CODE 4910-EX-P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-02-12844]

Qualification of Drivers; Exemption Applications; Vision

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

ACTION: Notice of renewal of exemptions; request for comments.

SUMMARY: FMCSA announces its decision to renew the exemptions from the vision requirement in the Federal Motor Carrier Safety Regulations for 15 individuals. FMCSA has statutory authority to exempt individuals from the vision requirement if the exemptions granted will not compromise safety. The Agency has concluded that granting these exemptions will provide a level of safety that will be equivalent to, or greater than, the level of safety maintained without the exemptions for these commercial motor vehicle (CMV) drivers.

DATES: This decision is effective January 17, 2007. Comments must be received on or before February 8, 2007.

ADDRESSES: You may submit comments identified by DOT Docket Management System (DMS) Docket Number FMCSA-02-12844, using any of the following methods.

- *Web site:* <http://dmses.dot.gov>.

Follow the instructions for submitting comments on the DOT electronic docket site.

- *Fax:* 1-202-493-2251.

- *Mail:* Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building,

Room PL-401, Washington, DC 20590-0001.

- *Hand Delivery:* Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.

Instructions: All submissions must include the Agency name and docket numbers for this Notice. Note that all comments received will be posted without change to <http://dms.dot.gov>, including any personal information provided. Please see the Privacy Act heading for further information.

Docket: For access to the docket to read background documents or comments received, go to <http://dms.dot.gov> at any time or Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The DMS is available 24 hours each day, 365 days each year. If you want us to notify you that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review the Department of Transportation's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477; Apr. 11, 2000). This information is also available at <http://dms.dot.gov>.

FOR FURTHER INFORMATION CONTACT: Dr. Mary D. Gunnels, Chief, Physical Qualifications Division, (202) 366-4001, maggi.gunnels@dot.gov, FMCSA, Department of Transportation, 400 Seventh Street, SW., Room 8301, Washington, DC 20590-0001. Office hours are from 8:30 a.m. to 5 p.m., E.T., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Exemption Decision

Under 49 U.S.C. 31136(e) and 31315, FMCSA may renew an exemption from the vision requirements in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce, for a two-year period if it finds "such exemption would likely achieve a level