DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2015–0124]

Beyond Compliance Program

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

ACTION: Notice; request for public comment.

SUMMARY: The U.S. Department of Transportation and motor carriers have invested millions of dollars in research, development, and implementation of strategies and technologies to reduce truck and bus crashes. FMCSA is evaluating the impacts of considering a company's proactive voluntary implementation of state-of-the-art best practices and technologies when evaluating the carrier's safety. FMCSA requests responses to specific questions and any supporting data the Agency should consider in the potential development of a Beyond Compliance program. Beyond Compliance would include voluntary programs implemented by motor carriers that exceed regulatory requirements, and improve the safety of commercial motor vehicles and drivers operating on the Nations' roadways by reducing the number and severity of crashes. Beyond Compliance would not result in regulatory relief.

DATES: Comments must be received on or before June 22, 2015.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket No. FMCSA–2015–0124 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal Holidays.
- *Fax:* 1–202–493–2251.

Each submission must include the Agency name and the docket number for this notice. Note that DOT posts all comments received without change to *www.regulations.gov,* including any personal information included in a comment. Please see the *Privacy Act* heading below.

Docket: For access to the docket to read background documents or comments, go to *www.regulations.gov* at any time or visit Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. The online Federal document management system is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgment page that appears after submitting comments on-line.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy*.

FOR FURTHER INFORMATION CONTACT: Mr. Bill Mahorney, Chief, Enforcement Division, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590, Telephone 202–493–0000, E-Mail: *Bill.Mahorney@dot.gov*.

SUPPLEMENTARY INFORMATION:

FMCSA Research

During the past 10 years, FMCSA, Canada, Australia, and other countries have completed studies that provided information on Beyond Compliance programs and technology. For example, the FMCSA ''Driver Notification Feasibility Study,'' tested the use of an Employer Notification System (ENS) versus the current annual requirement for obtaining a driver motor vehicle record and reviewing the driver qualification files for violations. This report found that when registered carriers in that study received near real-time notification that a driver had been issued a citation, conviction or commercial driver's license disqualification, they took action. This study estimated that Nationwide implementation of ENS could prevent 6,828 crashes and 88 fatalities annually.[1] In addition, in 2005, the Agency completed additional studies on roll stability control systems [2] and tire pressure sensors [3] that demonstrate the safety benefits of these technologies. Likewise, a 2009 FMCSA study, ''Analysis of Benefits and Costs of Lane Departure Warning Systems for the Trucking Industry,'' [4] predicted a reduction of 1,973 injuries and 100 fatalities annually through use of that technology. This report projected that for each $1 spent on this technology, the return on investment was $1.98.

Additionally, in development of the Agency's Compliance, Safety, Accountable program, FMCSA conducted six listening sessions. In those sessions, it was agreed that an incentive-based approach to improving carrier safety would be a more effective tool than the current penalty-based system.

Transportation Research Board (TRB)

In 2007, the TRB explored the potential for integrating certification programs with regulatory frameworks.[5] The TRB research suggested that a pilot program for Beyond Compliance activities, certification, and identification of best practices be conducted. The 2007 report concluded that Beyond Compliance programs could provide significant incentives for carriers to adopt best practices. However, that study recommended additional research was needed to determine the level of effectiveness that a Beyond Compliance approach would have on safety.

On April 3, 2014, TRB's Truck and Bus Safety Research Committee published its ''Overview of Truck and Bus Safety Research Needs,'' which included a request for implementation of a Beyond Compliance pilot test to ''Develop, evaluate and promote new safety strategies, including technology applications, for appropriate carriers using discrete incentives or inducements, such as tax credits or exemptions relating to FMCSA's

[1] Smith, M., Owens, N., Stock, D., Lantz, B., Murray, D. and Sensiba, G. 2005. Driver Violation Notification Service Feasibility Study. Prepared by Science Applications International Corporation for the Federal Motor Carrier Safety Administration, USDOT.

[2] Murray, D., S. Shackelford and A. Houser. *Analysis of Benefits and Costs of Roll Stability Control Systems for the Trucking Industry.* Publication FMCSA–RRT–09–020. Federal Motor Carrier Safety Administration, U.S. Department of Transportation, 2009.

[3] FMCSA. July 2005. Technical Brief: Commercial Motor Vehicle Tire Pressure Sensors. Federal Motor Carrier Safety Administration, U.S. Department of Transportation.

[4] Murray, D., S. Shackelford and A. Houser. *Analysis of Benefits and Costs of Lane Departure Warning Systems for the Trucking Industry.* Publication FMCSA–RRT–09–022. Federal Motor Carrier Safety Administration, U.S. Department of Transportation, 2009.

[5] Bergoffen, G., Short, J., Inderbitzen, B. and Daecher, C. 2007. Commercial Truck and Bus Safety Synthesis 12: Commercial Motor Vehicle Carrier Safety Management Certification. Transportation Research Board.

Compliance, Safety, Accountability (CSA) system.'' [6]

American Transportation Research Institute (ATRI)

In January 2011, the American Transportation Research Institute (ATRI) released a report titled, ''Assessing the Benefits of Alternative Compliance.'' [7] The ATRI research was premised on the hypothesis that new approaches were needed to achieve the next significant improvement in the national highway safety statistics. The ATRI report identified possible alternatives for giving credit against things like Behavior Analysis System Improvement Category (BASIC) scores, based on motor carrier activities that are believed to provide safety and/or crash reduction benefits. In its analysis, ATRI considered carrier safety data for pre- and post-Compliance Review time periods. These were cross-factored by fleet sizes to determine the safety impact and significance of existing versus emerging safety compliance. Carrier Compliance Reviews and out-of-service rates were examined based on the safety rating received and carrier size to determine whether a Beyond Compliance program would benefit certain fleet sizes. Previous pre- and post-Compliance Review crash rate data were examined to identify carriers most affected by traditional compliance activities.

The ATRI report also considered implementation methods such as the Inspection Selection System (ISS). ATRI hypothesized that participation in a Beyond Compliance program could mean that a carrier would be provided with a 20 point leeway on the ISS inspection value. For example, an original ISS score of 60 would be modified by 20 points resulting in a new value of 40. Therefore, the Beyond Compliance program would be used as a reward system for carriers. The ATRI report also proposed credit in FMCSA's Safety Measurement System (SMS) for voluntary participation. ATRI also proposed other incentives beyond FMCSA's jurisdiction, including insurance costs decreases and tax credits.

Other Programs

FMCSA is aware of other non-governmental safety-related programs that have been voluntarily implemented by some motor carriers because they resulted in cost savings and safety benefits. These include, but are not limited to:

- North American Fatigue Management Program;
- ISO 9000;
- National Private Truck Council's Best Practices Program;
- North American Transportation Management Institute's (NATMI) Certification Program;
- Partners in Compliance (PIC);

Outside of the United States, FMCSA is aware of the successful implementation of the Maintenance Management Accreditation Scheme, the Australian Trucking Association's TruckSafe Program, and the Canadian Standards Association Safety Management System, which all encourage voluntary best practices and safety improvement programs.

FMCSA's Waiver, Exemption, and Pilot Programs

FMCSA is not considering regulatory relief as part of the Beyond Compliance program, because the Agency already has an existing process for seeking waivers for up to 90 days, applying for exemptions of up to 2 years (which can be renewed), and pilot programs that may run for up to 3 years. Through each of these processes, the Agency can provide relief from certain safety regulations as long as the terms and conditions of the waiver, exemption or pilot program ensure a level of safety equivalent to or greater than what would be achieved through compliance with the safety regulations. These processes are explained in 49 CFR part 381.

A pilot program is a formal project established by FMCSA in accordance with Part 381 to test the effectiveness of certain safety strategies or technologies, using a group of carriers and/or drivers. A pilot program includes relief from specified regulations during the life of the pilot program, up to 3 years, to allow testing of alternatives. Part 381 includes formal requirements for a pilot program.

While FMCSA is not considering waivers, exemptions, and pilot programs as Beyond Compliance, the Agency welcomes the opportunity to work with the private sector to conduct demonstration projects. A demonstration project is an informal effort, to show that certain safety strategies can be effective in reducing crashes. Individual carriers or groups of carriers may design and implement their own demonstration projects, or voluntarily participate in any sponsored by FMCSA.

Motor Carrier Safety Advisory Committee (MCSAC) Tasking

On March 30, 2015, FMCSA tasked the MCSAC with providing recommendations to the Agency on the potential benefits and feasibility of voluntary compliance and ways to credit carriers and drivers who initiate and establish programs that promote safety beyond the standards established in FMCSA regulations.

The Agency specifically asked for the views of the MCSAC on this concept, with any data or analysis to support it with regard to 3 basic areas:

1. What voluntary technologies or safety program best practices would be appropriate for beyond compliance?

2. What type of incentives would encourage motor carriers to invest in technologies and best practices programs?

3. How would FMCSA verify the voluntary technologies or safety programs were being implemented?

Per the tasking to the MCSAC, a letter report should be provided to the Administrator outlining recommendations on incentives for increased safety compliance by the MCSAC's June 2015 meeting.

Request for Comments

In determining possible development of a Beyond Compliance program, FMCSA seeks responses to the following specific questions and encourages the submission of any other reports or data on this issue.

1. What voluntary technologies or safety program best practices would be appropriate for a Beyond Compliance program?

2. What safety performance metrics should be used to evaluate the success of voluntarily implemented technologies or safety program best practices?

3. What incentives would encourage motor carriers to invest in technologies and best practices programs?

a. Credit on appropriate SMS scores (*e.g.,* credit in Driver Fitness for use of an employer notification system)?

b. Credit on ISS scores?

c. Reduction in roadside inspection frequency?

d. Other options?

4. What events should cause the incentives to be removed?

a. If safety goals for the carrier are not consistently achieved, what is the benefit to the motoring public?

5. Should this program be developed by the private sector like PrePass, ISO 9000, or Canada's Partners in Compliance (PIC)?

[6] *http://rns.trb.org/dproject.asp?n=36343.*

[7] ''Assessing the Benefits of Alternative Compliance,'' January 2011, Daniel C. Murray, Steve Keppler, Micah Lueck, Katie Fender, American Transportation Research Institute, St. Paul, MN.

6. How would FMCSA verify that the voluntary technologies or safety programs were being implemented?

Issued on: April 17, 2015.

T.F. Scott Darling, III,

Chief Counsel.

[FR Doc. 2015–09463 Filed 4–22–15; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2012–0154; FMCSA–2012–0332]

Qualification of Drivers; Application for Exemptions; Hearing

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

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to grant requests from 4 individuals for exemptions from the Agency's physical qualifications standard concerning hearing for interstate drivers. The current regulation prohibits individuals who do not meet the standard from operating CMVs in interstate commerce. After notice and opportunity for public comment, the Agency concluded that granting exemptions for these CMV drivers will provide a level of safety that is equivalent to or greater than the level of safety maintained without the exemptions. The exemptions are valid for a 2-year peiod and may be renewed, and the exemptions preempt State laws and regulations.

DATES: The exemptions are effective April 23, 2015. The exemptions expire on April 24, 2017.

FOR FURTHER INFORMATION CONTACT: Charles A. Horan, III, Director, Office of Carrier, Driver and Vehicle Safety, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are 8:30 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

A. Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at: *www.regulations.gov.*

Docket: For access to the docket to read background documents or comments, go to *www.regulations.gov* and/or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

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B. Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the safety regulations 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. The current provisions of the FMCSRs concerning hearing state that a person is physically qualified to drive a CMV if that person:

> First perceives a forced whispered voice in the better ear at not less than 5 feet with or without the use of a hearing aid or, if tested by use of an audiometric device, does not have an average hearing loss in the better ear greater than 40 decibels at 500 Hz, 1,000 Hz, and 2,000 Hz with or without a hearing aid when the audiometric device is calibrated to American National Standard (formerly ASA Standard) Z24.5—1951.

49 CFR 391.41(b)(11). This standard was adopted in 1970, with a revision in 1971 to allow drivers to be qualified under this standard while wearing a hearing aid, 35 FR 6458, 6463 (April 22, 1970) and 36 FR 12857 (July 3, 1971).

FMCSA grants 4 individuals an exemption from the regulatory requirement in § 391.41(b)(11) allowing individuals who do not meet the hearing requirements to operate CMVs in interstate commerce for a 2-year period. The Agency's decision on these exemption applications is based on the current medical literature and information and the ''Executive Summary on Hearing, Vestibular Function and Commercial Motor Driving Safety'' (the 2008 Evidence Report) presented to FMCSA on August 26, 2008. The evidence report reached two conclusions regarding the matter of hearing loss and CMV driver safety: (1) No studies that examined the relationship between hearing loss and crash risk exclusively among CMV drivers were identified; and (2) evidence from studies of the private driver license holder population does not support the contention that individuals with hearing impairment are at an increased risk for a crash. In addition, the Agency reviewed the applicant's driving record found in the CDLIS,[1] for CDL holders, and interstate and intrastate inspections recorded in MCMIS.[2] The Agency acknowledges there could be potential consequences of a driver being hearing impaired and/or deaf while operating a CMV under some scenarios. However, the Agency believes the drivers covered by the exemptions do not pose a risk to public safety.

C. Comments

FMCSA announced the exemption applications and requested public comment for each of the applicants in the notices below. For those applicants discussed in a previous notice but who are not mentioned in this notice, the Agency has announced its decision in a previous notice.

Docket # FMCSA–2012–0154

On May 25, 2012, FMCSA published a notice of receipt of exemption applications and requested public comment on 45 individuals. The comment period ended on July 30, 2012. This application was in response to a request from the National Association of the Deaf (NAD). In response to this notice, FMCSA received 570 comments and granted 40 exemptions. The 570 comments were addressed in the Agency's notice published on February 1, 2013 (78 FR 7479).

Docket # FMCSA–2012–0332

On July 16, 2013, FMCSA published a notice of receipt of exemption applications and requested public comment on 9 individuals. The comment period ended on August 15, 2013. In response to the notice, FMCSA received seven comments. All seven commenters support the idea of granting exemptions.

D. Exemptions Granted

Following individualized assessments of the exemption applications, FMCSA grants exemptions from 49 CFR 391.41(b)(11) to 4 individuals. Under current FMCSA regulations, all of the 4 drivers receiving exemptions from 49 CFR 391.41(b)(11) would have been

[1] *Commercial Driver License Information System* (CDLIS) is an information system that allows the exchange of commercial driver licensing information among all the States. CDLIS includes the databases of 51 licensing jurisdictions and the CDLIS Central Site, all connected by a telecommunications network.

[2] *Motor Carrier Management Information System* (MCMIS) is an information system that captures data from field offices through SAFETYNET, CAPRI, and other sources. It is a source for FMCSA inspection, crash, compliance review, safety audit, and registration data.