

Issued in Washington, DC, on July 17, 2006.

Joe Hebert,

Manager, Financial Analysis and Passenger Facility Charge Branch.

[FR Doc. 06-6378 Filed 7-19-06; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA-2004-19058; FAA Order 5050.4B]

National Environmental Policy Act (NEPA) Implementing Instructions for Airport Actions

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of Minor Changes to Order 5050.4B.

SUMMARY: On April 28, 2006, the Federal Aviation Administration's Office of Airports (ARP) issued a Notice of Availability for Order 5050.4B, *National Environmental Policy Act (NEPA) Implementing Instructions for Airport Actions* (71 FR 25279). Today's Notice alerts interested parties that ARP has posted an edited version of the Order at: http://www.faa.gov/airports_airtraffic/airports/resources/publications/orders/environmental_5050_4/. The newly posted Order corrects minor grammatical and spelling errors and incorrect paragraph citations present in the Order issued on April 28, 2006. The revisions do not change the Order's content.

FOR FURTHER INFORMATION CONTACT: Mr. Ed Melisky, FAA Office of Airports Planning and Environmental Division, FAA, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-5869. His e-mail address is: edward.melisky@faa.gov.

Dated: June 28, 2006.

Dennis E. Roberts,

Director, Office of Airport, Planning and Programming, APP-1.

[FR Doc. E6-11564 Filed 7-19-06; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Hamilton County, OH and Kenton County, KY

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement (EIS) will be prepared for a proposed highway project in Hamilton County, Ohio and Kenton County, Kentucky. This Notice of Intent is a follow-up to a notice published in the **Federal Register** on June 1, 2000 which advised the public that a Major Investment Study for the I-75 Corridor (completed in 2004) served as the formal scoping process for the preparation of one or more Environmental Assessments or EISs.

FOR FURTHER INFORMATION CONTACT:

Mark L. Vonder Embse, Senior Transportation Engineer, Federal Highway Administration, 200 North High Street, Room 328, Columbus, Ohio 43215, Telephone: (614) 280-6854.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Ohio Department of Transportation (ODOT) and the Kentucky Transportation Cabinet (KYTC), will prepare an EIS for proposed improvements to I-75/I-71 and connecting routes in the vicinity of the existing Ohio River crossing (Brent Spence Bridge) and the Cities of Cincinnati, Ohio and Covington, Kentucky. The project termini are approximately the Kyles Lane Interchange in Covington to the Western Hills Viaduct Interchange in Cincinnati. The study area is approximately 6.5 miles in length.

The purpose and need of the project are to improve traffic flow and level of service, improve safety, correct geometric deficiencies, and maintain links in key mobility, trade, and national defense transportation corridors. Alternatives under consideration include: (1) Taking no action; and (2) rehabilitation/upgrading of the existing infrastructure combined with construction of new facilities on new alignment; (3) replacement infrastructure on new alignment; and (4) other alternatives that may be developed during the NEPA process. FHWA, ODOT, KYTC, and local agencies will be invited to participate in defining the alternatives to be evaluated in the EIS, and any significant social, economic, or environmental issues related to the alternatives.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State, and local agencies, and to private organizations and citizens who have previously expressed or are known to have interest in this proposal. Comments received previously will be considered during the EIS process. A series of public meetings will be held in the project area. In addition, a public hearing will

be held. Public notice will be given of the time and place of the meetings and hearing. The draft EIS will be available for public and agency review and comment prior to the public hearing.

To ensure that the full range of issues relating to this proposed action are addressed, and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be sent to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued On: June 27, 2006.

Victoria Peters,

Engineering & Operations Office Director, Federal Highway Administration, Columbus, Ohio.

[FR Doc. E6-11519 Filed 7-19-06; 8:45 am]

BILLING CODE 4910-22-P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2005-24783]

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 47 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 July 20, 2006. The exemptions expire on July 21, 2008.

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 June 2, 2006, FMCSA published a Notice of receipt of exemption applications from 47 individuals, and requested comments from the public (71 FR 32183). The 47 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: Jawad K. Al-Shaibani, Kenneth J. Bernard, Allen G. Bors, Douglas, L. Brazil, John E. Breslin, Marcus S. Burkholder, Raymond L. Brush, Scott F. Chalfant, Leroy A. Chambers, Harvis P. Cosby, Joseph H. Fowler, Francisco Espinal, Brian G. Hagen, Edward J. Hess, Jr., Ralph E. Holmes, Timothy B. Hummel, Larry L. Jarvis, Charles E. Johnston, Volga Kirkwood, Richard M. Kriege, David C. Leoffler, John C. Lewis, Patrick E. Martin, Leland K. McAlhaney, Willam C. Mohr, Roger Moody, Larry A. Nienhuis, Corey L. Paraf, John J. Pribanic, Ronald M. Price, John P. Raftis, Matthew B. Richardson, Bruce G. Robinson, Alton M. Rutherford, Wayne N. Savoy, Richard A. Schneider, Joseph B. Shaw, Jr., David W. Skillman, Thomas G. Smith, Sandra J. Sperling, Kenneth C. Steele, Ryan K. Steelman, Paul D. Totty, Charles V. Tracey, Duane L. Tysseling, Richard A. Westfall, and Leonard R. Wilson.

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 47 applications on their merits and made a determination to grant exemptions to all of them. The comment period closed on July 3, 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 47 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, coloboma, macular scar, aphakia, keratoconus, retinal detachment, cataract, corneal scarring, prosthesis, and loss of vision due to trauma. In most cases, their eye conditions were not recently developed. All but twelve of the applicants were either born with their vision impairments or have had them since childhood. The twelve individuals who sustained their vision conditions as adults have had them for periods ranging from 4 to 28 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 47 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, five of the drivers have had convictions for traffic violations and none of them were involved in crashes.

The qualifications, experience, and medical condition of each applicant were stated and discussed in detail in the June 2, 2006 Notice (71 FR 32183).

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 47 applicants, one applicant had a traffic violation for speeding, two applicants failed to obey a traffic sign, one applicant failed to drive within the proper lane, one applicant violated his license restriction, and no 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 47 applicants listed in the Notice of June 2, 2006 (71 FR 32183).

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 47 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.

Two letters of recommendation were received in favor of granting the Federal vision exemption to two of the applicants. The first was concerning Harvis Cosby and it was written by Andrew Johnson, who is a transportation supervisor at Toys R Us where Mr. Cosby is currently employed. The second letter was regarding Duane L. Tysseling and it was written by the Iowa Department of Transportation. Both letters suggest that these applicants be granted Federal vision exemption due to their high level of professionalism and safety while driving.

Conclusion

Based upon its evaluation of the 47 exemption applications, FMCSA exempts Jawad K. Al-Shaibani, Kenneth J. Bernard, Allen G. Bors, Douglas, L. Brazil, John E. Breslin, Marcus S. Burkholder, Raymond L. Brush, Scott F. Chalfant, Leroy A. Chambers, Harvis P. Cosby, Joseph H. Fowler, Francisco Espinal, Brian G. Hagen, Edward J. Hess, Jr., Ralph E. Holmes, Timothy B. Hummel, Larry L. Jarvis, Charles E. Johnston, Volga Kirkwood, Richard M. Kriege, David C. Leoffler, John C. Lewis, Patrick E. Martin, Leland K. McAlhaney, Willam C. Mohr, Roger Moody, Larry A. Nienhuis, Corey L. Paraf, John J. Pribanic, Ronald M. Price, John P. Raftis, Matthew B. Richardson, Bruce G. Robinson, Alton M. Rutherford, Wayne N. Savoy, Richard A. Schneider, Joseph B. Shaw, Jr., David W. Skillman, Thomas G. Smith, Sandra J. Sperling,

Kenneth C. Steele, Ryan K. Steelman, Paul D. Totty, Charles V. Tracey, Duane L. Tysseling, Richard A. Westfall, and Leonard R. Wilson 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: July 13, 2006.

Rose A. McMurray,

Associate Administrator, Policy and Program Development.

[FR Doc. E6-11556 Filed 7-19-06; 8:45 am]

BILLING CODE 4910-EX-P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waiver of Compliance

In accordance with part 211 of Title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) received a request for a waiver of compliance with certain requirements of its safety standards. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being requested, and the petitioner's arguments in favor of relief.

The National Railroad Passenger Corporation (Amtrak)

[Waiver Petition Docket Number FRA-2006-25386]

Amtrak seeks a waiver of compliance from certain provisions of 49 CFR part 238, Passenger Equipment Safety Standards. Specifically, § 238.309(d)(2), which provide the clean, oil, test, and stencil (COT&S) requirements for air brake valves.

In the aftermath of the events surrounding Hurricane Katrina, the FRA identified a need to have passenger car equipment readily available for emergency evacuation purposes. Amtrak has responded by making 24 Amfleet I passenger cars, that have been identified and are currently in storage, available to

support this effort. In order to expedite the return of this equipment for service by July 28, 2006, Amtrak requests relief from the COT&S requirements. The range of dates in which these cars last had a COT&S performed is October 2001 to July 2002. The regulation requires a COT&S every 1,476 days. Prior to being placed in-service, Amtrak will perform a single car air brake test on each car to ensure the integrity of the air brake system. Additionally, Amtrak will ensure the integrity of all safety critical systems, as outlined in § 238.303, § 238.305 and § 238.311.

FRA reserves the right to issue a temporary interim waiver if an emergency arises or other conditions warrant, before the comment period ends for this waiver request.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Docket Number FRA-2006-25386) and must be submitted to the Docket Clerk, DOT Docket Management Facility, Room PL-401 (Plaza Level), 400 7th Street, SW., Washington, DC 20590. Communications received within 20 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.-5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at <http://dms.dot.gov>.

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000. (Volume 65, Number 70; Pages 19477-78). The Statement may also be found at <http://dms.dot.gov>.

Issued in Washington, DC, on July 14, 2006.

Grady C. Cothen, Jr.

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. E6-11475 Filed 7-19-06; 8:45 am]

BILLING CODE 4910-06-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34843 (Sub-No. 1)]

Union Pacific Railroad Company— Temporary Trackage Rights Exemption—BNSF Railway Company

BNSF Railway Company (BNSF), pursuant to a written trackage rights agreement entered into between BNSF and Union Pacific Railroad Company (UP), has agreed to grant UP temporary overhead trackage rights, to expire on September 15, 2006, over BNSF's lines between milepost 2.1 (Grand Avenue), St. Louis, MO, and milepost 34.1, Pacific, MO, a distance of 32 miles. The original grant of temporary overhead trackage rights exempted in *Union Pacific Railroad Company—Temporary Trackage Rights Exemption—BNSF Railway Company*, STB Finance Docket No. 34843 (STB served Mar. 24, 2006), covered the same line, but will expire on or about July 31, 2006. The purpose of this transaction is to modify the temporary overhead trackage rights exempted in STB Finance Docket No. 34843 to extend the expiration date from July 31, 2006, to September 15, 2006.

The transaction was scheduled to be consummated on or after July 7, 2006, the effective date of the notice. The purpose of the temporary trackage rights is to facilitate the performance of maintenance work on UP lines.

As a condition to this exemption, any employee affected by the acquisition of the temporary trackage rights will be protected by the conditions imposed in *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980), and any employee affected by the discontinuance of those trackage rights will be protected by the conditions set out in *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979).

This notice is filed under 49 CFR 1180.2(d)(8). If it contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of