

**DEPARTMENT OF TRANSPORTATION****Federal Aviation Administration****Notice of Intent To Rule on Application 05-04-C-00-VCT To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Victoria Regional Airport, Victoria, TX**

**AGENCY:** Federal Aviation Administration, (FAA), DOT.

**ACTION:** Notice of Intent to Rule on Application.

**SUMMARY:** The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Victoria Regional Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101-508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

**DATES:** Comments must be received on or before March 24, 2005.

**ADDRESSES:** Comments on this application may be mailed or delivered in triplicate copies to the FAA at the following address: Mr. G. Thomas Wade, Federal Aviation Administration, Southwest Region, Airports Division, Planning and Programming Branch, ASW-611, Fort Worth, TX 76193-0610.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Patrick Rhoes, Manager of Victoria Regional Airport at the following address: Airport Manager, Victoria Regional Airport, 609 Foster Field Drive, Victoria, TX 77904.

Air carriers and foreign air carriers may submit copies of the written comments previously provided to the Airport under § 158.23 of Part 158.

**FOR FURTHER INFORMATION CONTACT:** Mr. G. Thomas Wade, Federal Aviation Administration, Southwest Region, Airports Division, Planning and Programming Branch, ASW-611, Fort Worth, TX 76193-0610, (817) 222-5613.

The application may be reviewed in person at this same location.

**SUPPLEMENTARY INFORMATION:** The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Victoria Regional Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101-508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On February 14, 2005, the FAA determined that the application to impose and use the revenue from a PFC

submitted by the Airport was substantially complete within the requirements of § 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than May 20, 2005.

The following is a brief overview of the application.

*Level of the proposed PFC:* \$4.50.

*Proposed charge effective date:* July 1, 2005.

*Proposed charge expiration date:* January 1, 2010.

*Total estimated PFC revenue:* \$281,617.

*PFC application number:* 05-04-C-00-VCT.

*Brief description of proposed project(s):*

Projects To Impose and Use PFC's

1. Rehabilitate Runway 12L/30L (Phase II)

2. Improve Runway Safety Areas

3. Improve Airport Drainage

4. Rehabilitate Taxiways E and F (Partial)

5. Install Security Fencing

Proposed class or classes of air carriers to be exempted from collecting PFC's: None

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA regional Airports office located at: Federal Aviation Administration; Southwest Region, Airports Division, Planning and Programming Branch, ASW-610, 2601 Meacham Blvd., Fort Worth, TX 76137-4298.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at Victoria Regional Airport.

Issued in Fort Worth, Texas on February 14, 2005.

**D. Cameron Bryan,**

*Acting Manager, Airports Division.*

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**BILLING CODE 4910-13-M**

**DEPARTMENT OF TRANSPORTATION****Federal Motor Carrier Safety Administration**

[Docket No. FMCSA-2002-12423]

**Qualification of Drivers; Exemption Applications; Vision**

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

**ACTION:** Notice of renewal of exemption; request for comments.

**SUMMARY:** This notice publishes the FMCSA decision to renew the

exemption from the vision requirements in the Federal Motor Carrier Safety Regulations (FMCSRs) for Mr. Jerry W. Parker. Mr. Parker does not meet the vision requirements because of severe vision loss in his right eye. He meets the alternative physical qualification standards in the FMCSRs for the loss of a limb by holding a Skill Performance Evaluation (SPE) certificate. In order for Mr. Parker to continue to operate a commercial motor vehicle (CMV) in interstate commerce, he must continue to hold an SPE certificate and be granted a renewal exemption from the vision requirements.

**DATES:** This decision is effective February 25, 2005. Comments from interested persons should be submitted by March 24, 2005.

**ADDRESSES:** You may submit comments identified by DOT DMS Docket Number FMCSA-2002-12423 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., 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 on-line instructions for submitting comments.

*Instructions:* All submissions must include the agency name and docket number for this notice. For detailed instructions on submitting comments and additional information on the rulemaking process, see the Public Participation heading of the

**SUPPLEMENTARY INFORMATION** section of this document. 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 under Regulatory Notices.

*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 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.

**FOR FURTHER INFORMATION CONTACT:** Maggi 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: Public Participation:** The DMS is available 24 hours each day, 365 days each year. You can get electronic submission and retrieval help guidelines under the "help" section of the DMS Web site. 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 online.

**Privacy Act:** 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 the Department of Transportation's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477-78) or you may visit <http://dms.dot.gov>.

### Background

Mr. Jerry W. Parker applied for a waiver from the Federal standards for vision at 49 CFR 391.41(b)(10) in 1996 under criteria established under the agency's former Vision Waiver Program. The criteria included a provision that vision waiver applicants must be otherwise medically qualified under all other physical qualification requirements at 49 CFR 391.41. When the Federal Highway Administration (FHWA) (FMCSA's predecessor agency) discovered that Mr. Parker's left arm had been amputated at the shoulder, it denied his application for a vision waiver after concluding there was insufficient evidence to determine if someone with both a vision impairment and an amputated limb could safely operate a CMV.

Mr. Parker filed a petition for review with the United States Court of Appeals for the Sixth Circuit. The Sixth Circuit reversed FHWA's denial of Mr. Parker's exemption application and remanded the case to the agency with instructions to create a functional capacity test which would enable the agency to evaluate Mr. Parker's driving skills based upon his individual capabilities (*Jerry W. Parker v. United States Department of Transportation*, 207 F. 3d 359 (6th Cir. 2000)).

On February 25, 2003, the FMCSA published a notice of final disposition (68 FR 8794) announcing its decision to

exempt Mr. Parker from the vision requirements in the FMCSRs. In response to the Court's decision, the FMCSA determined that Mr. Parker's request for a vision exemption would be considered on its own merits as outlined within the vision exemption program and the regulations found in 49 CFR part 381. Additionally, the FMCSA decided it would evaluate Mr. Parker's amputation under the alternative physical qualification standards for the loss of limbs found in 49 CFR 391.41(b)(1) and 391.49. Under 49 CFR 391.49, a person who is not physically qualified to drive because of the loss of a limb, and who is otherwise qualified to drive a CMV, may drive a CMV if FMCSA grants a Skill Performance Evaluation (SPE) Certificate to that person. In other words, each impairment that would preclude Mr. Parker from complying with the physical qualification standards would be considered and evaluated separately under the agency's process for granting or denying the vision exemption application and the SPE certificate.

Although the FMCSA granted Mr. Parker a vision exemption, this did not allow him to drive in interstate commerce until he met the alternative physical qualification standards for the loss of limbs and the use of a prosthetic device as outlined within 49 CFR 391.41(b)(1) and 391.49 (SPE certificate). With the decision to grant a vision exemption (68 FR 8794), Mr. Parker was "otherwise" qualified to drive a CMV, when he met the alternate physical qualification procedures under the SPE certification program. The FMCSA deferred making a decision regarding Mr. Parker's qualification under the Federal standards for loss of limbs until he obtained a prosthetic device, became proficient in using the device, and successfully completed the SPE certification process.

Mr. Parker obtained a prosthetic device and successfully completed the SPE process. The FMCSA granted him an SPE certificate effective April 30, 2004, for not more than 2 years, subject to strict adherence to the provisions of the certificate. Mr. Parker may renew the certificate at the end of the 2-year period by submitting a renewal application. The certificate requires Mr. Parker to use a left arm prosthetic with a modified terminal device consisting of a ball mounted on a piece of a bar that protrudes from his prosthetic. The certificate limits Mr. Parker to the operation of a power unit of a tractor-trailer combination that has a steering wheel adapter to receive the modified terminal device on his prosthetic. In addition, the power unit must have right

side-mounted controls for turn signals, washer operation, and tractor-trailer marker lights. As a condition of the certificate, Mr. Parker's employing motor carrier must report in writing to the FMCSA all accidents, arrests, suspensions, revocations, withdrawals of driver licenses or permits, and convictions involving Mr. Parker within 30 days after occurrence.

### Exemption Decision

Mr. Parker does not meet the vision requirements of 49 CFR 391.41(b)(10) because of severe vision loss in his right eye. He meets the alternative physical qualification standards of 49 CFR 391.49 by holding an SPE certificate. In order for Mr. Parker to continue to operate a CMV in interstate commerce, he must continue to hold an SPE certificate and be granted a renewal exemption from the vision requirements.

Mr. Parker has requested renewal of his vision exemption in a timely manner and in accordance with the procedures for requesting an exemption (including renewals) set out in 49 CFR part 381. The FMCSA has evaluated his application for renewal on its merits and decided to extend the exemption for a renewable 2-year period.

The exemption is extended subject to the following conditions: (1) Mr. Parker must have a physical exam every year by (a) 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) a medical examiner who attests that Mr. Parker is otherwise physically qualified under 49 CFR 391.41; (2) Mr. Parker must 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) Mr. Parker must provide a copy of the annual medical certification to his employer for retention in his driver's qualification file and retain a copy of the certification on his person while driving for presentation to a duly authorized Federal, State, or local enforcement official.

The exemption will be valid for 2 years unless rescinded earlier by the FMCSA. The exemption will be rescinded if: (1) Mr. Parker 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 31316(e).

### Basis for Renewing the Exemption

Under 49 U.S.C. 31315(b)(1), an exemption may be granted for no longer than 2 years from its approval date and may be renewed upon application for additional 2-year periods. In accordance with 49 U.S.C. 31315 and 31136(e), Mr. Parker has satisfied the entry conditions for obtaining an exemption from the vision requirements (67 FR 54525, 68 FR 8794 and 68 FR 10583). He has requested timely renewal of the vision exemption and has submitted evidence showing that the vision in the better eye continues to meet the standard specified at 49 CFR 391.41(b)(10) and that the vision impairment is stable. In addition, a review of his record of safety while driving with the vision deficiency over the past two years indicates he continues to meet the vision exemption standards. He is "otherwise" qualified to drive a CMV because he meets the alternative physical qualification standards for the loss of a limb under 49 CFR 391.49. These factors provide an adequate basis for predicting his ability to continue to drive safely in interstate commerce. Therefore, the FMCSA concludes that extending the exemption for Mr. Parker for a period of two years is likely to achieve a level of safety equal to that existing without the exemption.

### Comments

The FMCSA will review comments received at any time concerning Mr. Parker's safety record and determine if the continuation of the exemption is consistent with the requirements at 49 U.S.C. 31315 and 31136(e). However, the FMCSA requests that interested parties with specific data concerning Mr. Parker's safety record submit comments by March 24, 2005.

In the past, the FMCSA has received comments from Advocates for Highway and Auto Safety (Advocates) expressing continued opposition to the FMCSA's procedures for renewing exemptions from the vision requirement in 49 CFR 391.41(b)(10). Specifically, Advocates objects to the agency's extension of the exemptions without any opportunity for public comment prior to the decision to renew and its reliance on a summary statement of evidence to make its decision to extend the exemption of each driver.

The issues raised by Advocates were addressed at length in 69 FR 51346 (August 18, 2004). The FMCSA continues to find its exemption process appropriate and in accordance with the statutory and regulatory requirements.

Issued on: February 14, 2005.

**Rose A. McMurray,**

*Associate Administrator, Policy and Program Development.*

[FR Doc. 05-3256 Filed 2-18-05; 8:45 am]

**BILLING CODE 4910-EX-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

#### Proposed Agency Information Collection Activities; Comment Request

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

**ACTION:** Notice.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995 and its implementing regulations, the Federal Railroad Administration (FRA) hereby announces that it is seeking renewal of the following currently approved information collection activities. Before submitting these information collection requirements for clearance by the Office of Management and Budget (OMB), FRA is soliciting public comment on specific aspects of the activities identified below.

**DATES:** Comments must be received no later than April 25, 2005.

**ADDRESSES:** Submit written comments on any or all of the following proposed activities by mail to either: Mr. Robert Brogan, Office of Safety, Planning and Evaluation Division, RRS-21, Federal Railroad Administration, 1120 Vermont Ave., NW., Mail Stop 17, Washington, DC 20590, or Ms. Debra Steward, Office of Information Technology and Productivity Improvement, RAD-20, Federal Railroad Administration, 1120 Vermont Ave., NW., Mail Stop 35, Washington, DC 20590. Commenters requesting FRA to acknowledge receipt of their respective comments must include a self-addressed stamped postcard stating, "Comments on OMB control number 2130-0552." Alternatively, comments may be transmitted via facsimile to (202) 493-6230 or (202) 493-6170, or E-mail to Mr. Brogan at [robert.brogan@fra.dot.gov](mailto:robert.brogan@fra.dot.gov), or to Ms. Steward at [debra.steward@fra.dot.gov](mailto:debra.steward@fra.dot.gov). Please refer to the assigned OMB control number in any correspondence submitted. FRA will summarize comments received in response to this notice in a subsequent notice and include them in its information collection submission to OMB for approval.

**FOR FURTHER INFORMATION CONTACT:** Mr. Robert Brogan, Office of Planning and Evaluation Division, RRS-21, Federal

Railroad Administration, 1120 Vermont Ave., NW., Mail Stop 17, Washington, DC 20590 (telephone: (202) 493-6292) or Debra Steward, Office of Information Technology and Productivity Improvement, RAD-20, Federal Railroad Administration, 1120 Vermont Ave., NW., Mail Stop 35, Washington, DC 20590 (telephone: (202) 493-6139). (These telephone numbers are not toll-free.)

**SUPPLEMENTARY INFORMATION:** The Paperwork Reduction Act of 1995 (PRA), Pub. L. 104-13, § 2, 109 Stat. 163 (1995) (codified as revised at 44 U.S.C. 3501-3520), and its implementing regulations, 5 CFR Part 1320, require Federal agencies to provide 60-days notice to the public for comment on information collection activities before seeking approval for reinstatement or renewal by OMB. 44 U.S.C. 3506(c)(2)(A); 5 CFR 1320.8(d)(1), 1320.10(e)(1), 1320.12(a). Specifically, FRA invites interested respondents to comment on the following summary of proposed information collection activities regarding (i) whether the information collection activities are necessary for FRA to properly execute its functions, including whether the activities will have practical utility; (ii) the accuracy of FRA's estimates of the burden of the information collection activities, including the validity of the methodology and assumptions used to determine the estimates; (iii) ways for FRA to enhance the quality, utility, and clarity of the information being collected; and (iv) ways for FRA to minimize the burden of information collection activities on the public by automated, electronic, mechanical, or other technological collection techniques (e.g., permitting electronic submission of responses). See 44 U.S.C. 3506(c)(2)(A)(i)-(iv); 5 CFR 1320.8(d)(1)(i)-(iv). FRA believes that soliciting public comment will promote its efforts to reduce the administrative and paperwork burdens associated with the collection of information mandated by Federal regulations. In summary, FRA reasons that comments received will advance three objectives: (i) Reduce reporting burdens; (ii) ensure that it organizes information collection requirements in a "user friendly" format to improve the use of such information; and (iii) accurately assess the resources expended to retrieve and produce information requested. See 44 U.S.C. 3501.

Below are brief summaries of the three currently approved information collection activities that FRA will