

conditions tax visual capacity and driver response just as intensely as interstate driving conditions. The veteran drivers in this proceeding have operated CMVs safely under those conditions for at least 3 years, most for much longer. Their experience and driving records lead us to believe that each applicant is capable of operating in interstate commerce as safely as he or she has been performing in intrastate commerce. Consequently, the FMCSA finds that exempting these applicants from the vision standard in 49 CFR 391.41(b)(10) is likely to achieve a level of safety equal to that existing without the exemption. For this reason, the agency is granting the exemptions for the 2-year period allowed by 49 U.S.C. 31315 and 31136(e) to the 40 applicants listed in the notice of August 19, 2005 (70 FR 21711).

We recognize that the vision of an applicant may change and affect his/her ability to operate a commercial vehicle as safely as in the past. As a condition of the exemption, therefore, the FMCSA will impose requirements on the 40 individuals consistent with the grandfathering provisions applied to drivers who participated in the agency's vision waiver program.

Those requirements are found at 49 CFR 391.64(b) and include the following: (1) That each individual be physically examined every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the standard in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy in his/her driver's qualification file if he/she is self-employed. The driver must also have a copy of the certification when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

Discussion of Comments

The FMCSA received two comments in this proceeding. The comments were considered and are discussed below.

An individual, wishing to remain anonymous, commented that they have been driving with a vision exemption for several years safely and does not believe that vision impaired drivers

pose any additional danger to the public because of their vision impairment. This individual believes drivers who are granted a vision exemption perform better than those with normal vision, and hopes that those who oppose the Federal exemption program understand that its mere existence is to focus on safety on the highways.

The second comment was received by Advocates for Highway and Auto Safety (Advocates) expressing continued opposition to the FMCSA's policy to grant exemptions from the FMCSRs, including the driver qualification standards. Specifically, Advocates: (1) Objects to the manner in which the FMCSA presents driver information to the public and makes safety determinations; (2) objects to the agency's reliance on conclusions drawn from the vision waiver program; (3) claims the agency has misinterpreted statutory language on the granting of exemptions (49 U.S.C. §§ 31315 and 31136(e)); and finally (4) suggests that a 1999 Supreme Court decision affects the legal validity of vision exemptions. The issues raised by Advocates were addressed at length in 70 FR 16887 (April 1, 2005). We will not address these points again here, but refer interested parties to those earlier discussions.

Conclusion

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

In accordance with 49 U.S.C. 31315 and 31136(e), each exemption will be valid for 2 years unless revoked earlier by the FMCSA. The exemption will be

revoked if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31315 and 31136. If the exemption is still effective at the end of the 2-year period, the person may apply to the FMCSA for a renewal under procedures in effect at that time.

Issued on: October 18, 2005.

Rose A. McMurray,

Associate Administrator, Policy and Program Development.

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BILLING CODE 4910-EX-P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

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

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

ACTION: Notice.

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

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

REPORTING BURDEN

Emergency order item No.	Respondent universe	Total annual responses	Average time per response	Total annual burden hours	Total annual burden cost
(1)—Instruction On Railroad Operating Rule—Operation of manual main track in non-signal territory.	685 Railroads; 100,000 employees.	100,000 instruction sessions.	60 minutes	100,000	\$4,700,000.
—Instruction Records	685 Railroads	100,000 records ...	2 minutes	3,333	126,654.
(2) Hand-Operated Main Track Switches—Confirmation of Switch Position.	6,000 Dispatchers	60,000 verbal confirmations.	30 seconds	500	20,500.
—Review of SPAF by Train Dispatcher.	6,000 Dispatchers	15,000 reviews	10 seconds	42	1,974.
(3) Switch Position Awareness Form (SPAF).	100,000 employees.	20,000 forms	3 minutes	1,000	47,000.
(4) Job Briefings	100,000 employees.	60,000 briefings ...	1 minute	1,000	47,000.
(5) Radio Communication—Crew-member communication with engineer.	100,000 employees.	60,000 verbal communications.	15 seconds	250	11,750.
—Notation of Inoperable Radio on SPAF.	900,000 Crew members.	500 form entries ...	5 seconds	3	141.
(6) Operational Tests and Inspections	685 Railroads	Burden Covered Under OMB No. 2130-0035.	Burden Covered Under OMB No. 2130-0035.	Burden Covered Under OMB No. 2130-0035.	Burden Covered Under OMB No. 2130-0035.
(7) Distribution of Emergency Order—Copies to Employees.	685 Railroads; 100,000 Employees.	100,000 copies ...	2 seconds	56	2,128.
—Written Receipt and Acknowledgment of Copy.	685 Railroads; 100,000 Employees.	100,000 receipts + 100,000 records.	1 second + 1 second.	56	2,380.
(8) Relief—Petitions For Special Approval.	685 Railroads	10 petitions	60 minutes	10	380.

Form Number(s): N/A.

Respondent Universe: 685 Railroads; 100,000 Railroad Employees.

Frequency of Submission: One-time; On occasion.

Total Responses: 715,510.

Total Annual Estimated Burden: 106,250 hours.

Status: Emergency Review.

Description: FRA has determined that public safety compels the issuance of Emergency Order No. 24 and necessitates this collection of information in order that railroads modify their operating rules and take certain other actions necessary to ensure that their employees who operate hand-operated main track switches in non-signal territory restore the switches to their proper (normal) position after use. The Emergency Order is intended to reduce the risk of serious injury or death both to railroad employees and the general public.

Pursuant to 44 U.S.C. 3507(a) and 5 CFR 1320.5(b), 1320.8(b)(3)(vi), FRA informs all interested parties that it may not conduct or sponsor, and a respondent is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Authority: 44 U.S.C. 3501-3520.

Issued in Washington, DC, on October 19, 2005.

Belinda Ashton,

Acting Director, Office of Budget, Federal Railroad Administration.

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BILLING CODE 4910-06-P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[FRA Emergency Order No. 24; Docket No. FRA-2005-22796, Notice No. 1]

Emergency Order Requiring Special Handling, Instruction and Testing of Railroad Operating Rules Pertaining to Hand-Operated Main Track Switches

SUMMARY: The Federal Railroad Administration (FRA) of the United States Department of Transportation (DOT) has determined that public safety compels issuance of this Emergency Order (EO) requiring railroads to modify their operating rules and take certain other actions necessary to ensure that railroad employees who dispatch non-signal territory or who operate hand-operated main track switches (switches) in non-signal territory, ensure the switches are restored to their proper (normal) position after use. For purposes of this EO, "employee" means an individual who is engaged or

compensated by a railroad or by a contractor to a railroad to perform any of the duties defined in this EO. This EO is intended to reduce the risk of serious injury or death both to railroad employees and the general public.

FOR FURTHER INFORMATION CONTACT:

Douglas H. Taylor, Staff Director, Operating Practices Division, Office of Safety Assurance and Compliance, FRA, 1120 Vermont Avenue, NW., RRS-11, Mail Stop 25, Washington, DC 20590 (telephone 202-493-6255); or Alan H. Nagler, Senior Trial Attorney, Office of Chief Counsel, FRA, 1120 Vermont Avenue, NW., RCC-11, Mail Stop 10, Washington, DC 20590 (telephone 202-493-6038).

AUTHORITY: Authority to enforce Federal railroad safety laws has been delegated by the Secretary of Transportation to the Federal Railroad Administrator. 49 CFR 1.49. Railroads are subject to FRA's safety jurisdiction under the Federal railroad safety laws. 49 U.S.C. 20101, 20103. FRA is authorized to issue emergency orders where an unsafe condition or practice "causes a hazard of death or personal injury." 49 U.S.C. 20104. These orders may immediately impose "restrictions and prohibitions * * * that may be necessary to abate the situation." (Ibid.)