

*Description:* Application of Mokulele Flight Service, Inc. requesting a certificate of public convenience and necessity authorizing scheduled air transportation of persons, property and mail to the following airports: Honolulu International Airport, Kahului International Airport and Kona International Airport.

*Docket Number:* OST-1995-297.

*Date Filed:* November 8, 2005.

*Due Date for Answers, Conforming Applications, or Motion to Modify Scope:* November 29, 2005.

*Description:* Application of American Airlines, Inc. requesting renewal of segment 4 of its certificate for Route 389, authorizing scheduled foreign air transportation of persons, property, and mail between the coterminal points New York, New York/Newark, New Jersey and Miami, FL and the coterminal points Rio de Janeiro and Sao Paulo, Brazil.

*Docket Number:* OST-2000-8515.

*Date Filed:* November 8, 2005.

*Due Date for Answers, Conforming Applications, or Motion to Modify Scope:* November 29, 2005.

*Description:* Application of American Airlines, Inc. requesting renewal of its certificate for Route 583, authorizing scheduled foreign air transportation of persons, property, and mail between San Jose, CA, and Tokyo, Japan.

*Docket Number:* OST-2000-8910.

*Date Filed:* November 8, 2005.

*Due Date for Answers, Conforming Applications, or Motion to Modify Scope:* November 29, 2005.

*Description:* Application of American Airlines, Inc. requesting renewal of its certificate for Route 804, authorizing scheduled foreign air transportation of persons, property, and mail between Miami, FL and Medellin, Colombia.

**Renee V. Wright,**

*Program Manager, Docket Operations, Federal Register Liaison.*

[FR Doc. E5-6891 Filed 12-5-05; 8:45 am]

**BILLING CODE 4910-62-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

#### Environmental Impact Statement; Sullivan County, TN

**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 will be prepared for the proposed extension of SR-357 in Sullivan County, Tennessee.

**FOR FURTHER INFORMATION CONTACT:** Mr. Walter Boyd, P.E., Field Operations Team Leader, Federal Highway Administration, Tennessee Division, 640 Grassmere Park Road, Suite 112, Nashville, Tennessee 37211, Telephone: (615) 781-5774.

**SUPPLEMENTARY INFORMATION:** The FHWA, in cooperation with the Tennessee Department of Transportation, will prepare an environmental impact statement (EIS) on a proposal to provide an extension to SR-357 in Sullivan County, Tennessee. The proposed project would involve the extension of SR-357 from existing SR-357 west of the Tri-Cities Airport to the U.S. 11E/19W-U.S. 19E intersection near Bluff City, Tennessee.

The proposed project is considered necessary to provide for the existing and projected traffic demand on the surrounding transportation network. The proposed project is anticipated to provide a multi-lane facility with the number of lanes and access control to be determined depending on forecasted traffic volumes. The EIS will address environmental, social, and economic impacts associated with the development of the proposed action.

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. Public meetings will be held in the vicinity of the project throughout the development of the EIS. 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 related 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 directed 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: November 29, 2005.

**Walter Boyd,**

*Field Operations Team Leader, Nashville, Tennessee.*

[FR Doc. 05-23651 Filed 11-5-05; 8:45 am]

**BILLING CODE 4910-22-M**

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2005-22194]

#### 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 49 individuals from the vision requirement in the Federal Motor Carrier Safety Regulations (FMCSRs). The exemptions will enable these individuals to qualify as drivers of commercial motor vehicles (CMVs) in interstate commerce without meeting the vision standard in one eye for various reasons, including amblyopia, macular and retinal scars, and loss of an eye due to trauma.

**DATES:** The exemptions are effective December 6, 2005.

**FOR FURTHER INFORMATION CONTACT:** Dr. Mary D. Gunnels, Chief, Physical Qualifications Division, (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:

##### Electronic Access

You may see all the comments online through the Document Management System (DMS) at <http://dmeses.dot.gov>.

##### Background

On September 30, 2005, the FMCSA published a notice of receipt of exemption applications from 49 individuals, and requested comments from the public (70 FR 57353). The 49 individuals petitioned the FMCSA for exemptions from the vision requirement in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce. They are: Francis M. Anzulewicz, James S. Ayers, Bruce Barrett, Norm Braden, Levi A. Brown, Henry L. Chastain, Thomas R. Crocker, Cling Edwards, Neil G. Finegan, Jr., Gerald W. Fox, Ronald Fultz, Henke Galloway, Richard L. Gande, Raymond A. Gravel, John C. Holmes, John L. Hynes, Kevin Jacoby, Fran E. Johnson, Jr., Vladimir Kats, John G. Kaye, Alfred Keehn, Richard H. Kind, Paul Laffredo, Jr., Bobby G. LaFleur, Robert S. Larrance, Earnest W. Lewis, John D. McCormick, Thomas C. Meadows, Timothy S. Miller, Roger D. Mollak, Michael R. Moore, Jade D. Morrical,

David A Morris, Leigh E. Moseman, Gary T. Murray, Larry D. Neely, Jorge L. Osuna, Joseph B. Peacock, Scott D. Russell, Louis R. Saalinger, James L. Schmidt, Richard P. Stanley, Paul Stoddard, Robert L. Tankersley, Jr., Scott Tetter, Benny R. Toothman, Dewayne Washington, Kris Wells, James T. Wortham, Jr.

Under 49 U.S.C. 31315 and 31136(e), the 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, the FMCSA has evaluated the 49 applications on their merits and made a determination to grant exemptions to all of them. The comment period closed on October 31, 2005. Two comments were received, and fully considered by FMCSA in reaching the final decision to grant the exemptions.

#### **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 at 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)).

Since 1992, the agency has undertaken studies to determine if this vision standard should be amended. The final report from our medical panel recommends changing the field of vision standard from 70 to 120 degrees, while leaving the visual acuity standard unchanged. (See Frank C. Berson, M.D., Mark C. Kuperwasser, M.D., Lloyd Pual Aiello, M.D., and James W. Rosenberg, M.D., "Visual Requirements and Commercial Drivers," October 16, 1998, filed in the docket, FMCSA-98-4334.) The panel's conclusion supports the agency's view that the present visual acuity standard is reasonable and necessary as a general standard to ensure highway safety. FMCSA also 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 49 exemption applicants listed in this notice fall into this category. They are unable to meet the vision standard in one eye for various reasons, including amblyopia, macular and retinal scars, and loss of an eye due to trauma. In most cases, their eye conditions were not recently developed. All but twenty of the applicants were either born with their vision impairments or have had them since childhood. The twenty individuals who sustained their vision conditions as adults have had them for periods ranging from 3 to 40 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 49 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 40 years. In the past 3 years, five of the drivers have had six convictions for traffic violations. Five of these convictions were for speeding, and one was for disregarding a traffic control light. Five applicants were involved in crashes but none received citations.

The qualifications, experience, and medical condition of each applicant were stated and discussed in detail in the September 30, 2005 notice (70 FR 57353).

#### **Basis for Exemption Determination**

Under 49 U.S.C. 31315 and 31136(e), 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 interstate 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 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.

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 with good driving records in the waiver program demonstrated their ability to drive safely 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 40 applicants receiving an exemption, we note that the applicants have had only one collision and three traffic violations in the last 3 years. 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 or 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. 31315 and 31136(e) to the 49 applicants

listed in the notice of September 30, 2005 (70 FR 57353).

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 49 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

FMCSA received two comments from one individual in this proceeding. The comments were considered and discussed below.

Ms. Barb Sachau believes that two fully functional eyes, as well as peripheral vision, are needed to drive safely. Ms. Sachau believes that the approval of vision exemptions make the roads much more dangerous.

In regard to these 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 49 exemption applications, the FMCSA exempts Francis M. Anzulewicz, James S. Ayers, Bruce Barrett, Norm Braden, Levi A. Brown, Henry L. Chastain, Thomas R. Crocker, Cling Edwards, Neil G. Finegan, Jr., Gerald W. Fox, Ronald Fultz, Henke Galloway, Richard L. Gandee, Raymond A. Gravel, John C. Holmes, John L. Hynes, Kevin Jacoby, Fran E. Johnson, Jr., Vladimir Kats, John G. Kaye, Alfred Keehn, Richard H. Kind, Paul Laffredo, Jr., Bobby G. LaFleur, Robert S. Larrance, Earnest W. Lewis, John D. McCormick, Thomas C. Meadows, Timothy S. Miller, Roger D. Mollak, Michael R. Moore, Jade D. Morrical, David A. Morris, Leigh E. Moseman, Gary T. Murray, Larry D. Neely, Jorge L. Osuna, Joseph B. Peacock, Scott D. Russell, Louis R. Saalinger, James L. Schmidt, Richard P. Stanley, Paul Stoddard, Robert L. Tankersley, Jr., Scott Tetter, Benny R. Toothman, Dewayne Washington, Kris Wells, James T. Wortham, Jr., 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: November 28, 2005.

**Rose A. McMurray,**

*Associate Administrator, Policy and Program Development.*

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