

Discussion of Comments

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

A letter was received from Babette E. Hosier, stating that drivers who have been driving in the past with visual impairment should be allowed to continue operating a CMV as long as their eye doctors report that they are capable of operating a CMV. FMCSA does not believe that vision exemptions should rest solely on the certification of an ophthalmologist or optometrist, for the reasons stated above under the heading "Basis for Exemption Determination."

Two individuals wrote in support of granting Mr. Hosier a vision exemption.

The Advocates for Highway and Auto Safety (AHAS) expresses continued opposition to FMCSA's policy to grant exemptions from the Federal Motor Carrier Safety Regulations, including the driver qualification standards. Specifically, AHAS: (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. 31315 and 31136(e)); and finally (4) suggests that a recent Supreme Court decision affects the legal validity of vision exemptions.

The issues raised by AHAS 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.

Conclusion

After considering the comments to the docket and based upon its evaluation of the 36 exemption applications in accordance with *Rauenhorst v. United States Department of Transportation*, 95 F.3d 715 (8th Cir. 1996), FMCSA exempts Louis N. Adams, Guy M. Alloway, Lyle H. Banser, Paul R. Barron, Lloyd J. Botsford, Joseph E. Buck, Sr., Ronald M. Calvin, Rusbel P. Contreras, Timothy J. Droege, Robert A. Fogg, Paul D. Gaither, David L. Grajiola, David L. Gregory, Walter D. Hague, Jr., Sammy K. Hines, Jeffrey J. Hoffman, Marshall L. Hood, Edward W. Hosier, Edmond L. Inge, Sr., James A. Johnson, Charles F. Koble, Robert W. Lantis, Lucio Leal, Terry W. Lytle, Earl R. Mark, James J.

McCabe, Richard W. Neyens, Anthony G. Parrish, Bill L. Percy, Robert H. Rogers, Bobby C. Spencer, Mark J. Stevwing, Clarence C. Trump, Jr., Dennis R. Ward, Frankie A. Wilborn, and Jeffrey L. Wuollett from the vision requirement in 49 CFR 391.41(b)(10), subject to the following conditions: (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, so it may be presented to a duly authorized Federal, State, or local enforcement official.

In accordance with 49 U.S.C. 31315 and 31136(e), 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. 31315 and 31136. 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: April 18, 2002.

Brian M. McLaughlin,

Associate Administrator for Policy and Program Development.

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[U.S. DOT Docket No. NHTSA-02-11585]

Reports, Forms, and Record Keeping Requirements

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Request for public comment on proposed collection of information.

SUMMARY: Before a Federal agency can collect certain information from the public, it must receive approval from the Office of Management and Budget (OMB). Under new procedures established by the Paperwork Reduction Act of 1995, before seeking OMB approval, Federal agencies must solicit public comment on proposed collections of information, including extensions and reinstatements of previously approved collections.

This document describes one collection of information for which NHTSA intends to seek OMB approval.

DATES: Comments must be received on or before June 24, 2002.

ADDRESSES: Direct all written comments to U.S. Department of Transportation Dockets, 400 Seventh Street, SW, Plaza 401, Washington, DC 20590. Docket No. NHTSA-02-11585.

FOR FURTHER INFORMATION CONTACT: Mr. Alan Block, Contracting Officer's Technical Representative, Office of Research and Traffic Records (NTS-31), National Highway Traffic Safety Administration, 400 Seventh Street, SW, Room 6240, Washington, DC 20590.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995, before an agency submits a proposed collection of information to OMB for approval, it must publish a document in the **Federal Register** providing a 60-day comment period and otherwise consult with members of the public and affected agencies concerning each proposed collection of information. The OMB has promulgated regulations describing what must be included in such a document. Under OMB's regulations (at 5 CFR 1320.8(d)), an agency must ask for public comment on the following:

(i) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) How to enhance the quality, utility, and clarity of the information to be collected; and

(iv) How to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

In compliance with these requirements, NHTSA asks public

comment on the following proposed collection of information:

Misuse of Child Restraints

Type of Request—New information collection requirement.

OMB Clearance Number—None.

Form Number—This collection of information uses no standard forms.

Requested Expiration Date of Approval—December 31, 2003.

Summary of the Collection of Information—NHTSA proposes to collect information on misuse of child restraint systems (CRS) among the general public. The information collection would be conducted at public places frequently visited by drivers transporting infants and young children (age 8 and younger). Information would be collected from sites in six States selected to be representative of the nation as a whole. A total sample of 4,000 target vehicles (drivers with young children) would be used for the study. Participation by drivers would be voluntary. Initial contact would involve a project staff member asking drivers transporting one or more children in the selected public setting to participate in the information collection, which would take place immediately within that public setting if the driver agrees to participate. The information collection would consist of checking child restraint use in the vehicle, and interviewing the drivers. The interview would be comprised of questions to drivers relating to child passenger characteristics, driver socio-demographic characteristics, and knowledge of proper CRS use.

The proposed information collection would be anonymous and confidential. Drivers would not be asked their name nor asked for any other information that could be used to identify them or their passengers. No information would be recorded that could be used to identify study participants.

Description of the Need for the Information and Proposed Use of the Information—The National Highway Traffic Safety Administration (NHTSA) was established to reduce the number of deaths, injuries and economic losses resulting from motor vehicle crashes. As part of this statutory mandate, NHTSA is authorized to conduct research as a foundation for the development of motor vehicle standards and traffic safety programs.

Research on the effectiveness of child safety seats has found them to reduce fatal injury by 71 percent for infants and by 54 percent for toddlers in passenger cars. For infants and toddlers in light trucks, the corresponding reductions are 58 percent and 59 percent, respectively.

In the late 1970s and early 1980s, studies showed CRS use for infants and toddlers well below 50 percent. By the mid 1980s, all States had child restraint laws that required children below a certain age to travel in approved CRSs. The combination of State laws and public information and education programs was effective to some extent: by the mid 1990s restraint use by infants exceeded 80 percent and restraint use by toddlers had reached 60 percent. Yet while more infants and toddlers were being put into CRSs, studies conducted in the past decade have shown alarmingly high rates of misuse of these restraints (80 to over 95 percent). Studies have also found that many toddlers were being put prematurely into adult seat belts rather than staying in convertible seats or graduating to booster seats. Children are at greater risk of injury when improperly restrained in CRSs or prematurely placed into adult seat belts. In one study, crash-involved children ages 2 to 5 who were in adult seat belts were 3.5 times more likely to suffer significant injury and 4 times more likely to suffer head injury when compared to crash-involved children in the same age group who used child safety seats or booster seats.

The last major (multi-State) data collection effort to measure CRS misuse in a randomly selected general population at unadvertised site locations was conducted over six years ago. The environment for child passenger safety has changed significantly since then as a result of technological advances, new seating products, regulatory activity, educational activity, and other factors. It is important for NHTSA to identify the current status of CRS use and misuse among the public. The information will help NHTSA to identify areas where efforts need to be targeted and where new public information and education campaign strategies may be needed.

Description of the Likely Respondents (Including Estimated Number, and Proposed Frequency of Response to the Collection of Information)—Under this proposed effort, information would be collected from 4000 randomly selected drivers transporting young children. Information collection would be conducted in public settings in six different States. Each driver would go through the information collection a single time.

Estimate of the Total Annual Reporting and Record Keeping Burden Resulting from the Collection of Information—For each vehicle in the study, information collection would consist of checking the restraint use of children in the vehicle, and

interviewing the driver. NHTSA estimates that the information collection would average 8.5 minutes per vehicle. This equates to an estimated 567 burden hours (4,000 driver participants multiplied by 8.5 minutes multiplied by 1 information collection). During part of that time, the driver would be a passive participant in the information collection as the study team checks the restraint use of the child(ren). The driver interview during the information collection would average 5 minutes in length (the interview would collect demographic information as well as information concerning drivers' knowledge, acquisition, and use of child safety seats). Thus the number of estimated reporting burden hours a year on the general public (4,000 driver participants multiplied by 5 minutes by 1 interview) would be 333 for the proposed study. The respondents would not incur any reporting cost from the information collection. The respondents also would not incur any record keeping burden or record keeping cost from the information collection.

Issued on: April 8, 2002.

Rose A. McMurray,
Associate Administrator, Traffic Safety Programs.

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA 2001-10382; Notice 2]

International Truck and Engine Corporation; Denial of Application for Decision That Noncompliance Is Inconsequential to Motor Vehicle Safety

International Truck and Engine Corporation (International) of Fort Wayne, Indiana, has determined that approximately 801 vehicles produced from January 1, 1986, through January 16, 2001, do not comply with paragraph S5.1 of Federal Motor Vehicle Safety Standard (FMVSS) No. 120, "Tire Selection and Rims for Motor Vehicles other than Passenger Cars." Pursuant to 49 U.S.C. 30118(d) and 30120(h), International petitioned for a determination that this noncompliance is inconsequential to motor vehicle safety and filed an appropriate report pursuant to 49 CFR part 573, "Defect and Noncompliance Reports."

Notice of receipt of the application was published on August 24, 2001, with a 30-day comment period (66 FR 44663).