

that for purposes of administrative efficiency and to promote safety in their operations, Mayflower and United Van Lines included all of the commercial motor vehicle drivers, including the non-CDL drivers, in the company controlled substance and alcohol testing programs conducted under the Department of Transportation (DOT) regulations. This request for exemptions was prompted as a result of a compliance review conducted by FMCSA during which Mayflower was cited for including non-CDL drivers in its controlled substances and alcohol testing program. Consequently, Mayflower and United Van Lines requested exemptions from certain controlled substance and alcohol testing requirements specifically, 49 CFR 382.105, 49 CFR 382.305(I)(1), and 49 CFR 40.13(a), (b), (c) and (d).

Sections 31315 and 31136 of title 49 of the United States Code provide the authority to grant exemptions from certain portions of the Federal Motor Carrier Safety Regulations (FMCSRs). Exemptions provide time-limited regulatory relief from one or more FMCSRs given to a person or class of persons subject to the regulations, or who intend to engage in an activity that would make them subject to the regulations. Exemptions provide the person or class of persons with relief from the regulations for up to two years and may be renewed. These sections also require the agency to ensure that the terms and conditions for the exemptions would achieve a level of safety that is equivalent to, or greater than, the level of safety that would be obtained by complying with the regulations when evaluating applications for exemptions.

Discussion of Docket Comments

The FMCSA received eight comments to the notice announcing the FMCSA's receipt of the application from Mayflower and United Van Lines. The Drug and Alcohol Testing Industry Association (DATIA), Lawrence C. Hartung, Ronald K Edwards, Michael Silverman, Renee Lane, and Thomas E. Swayne were opposed to granting exemptions to Mayflower and United Van Lines. These commenters believe the management of two pools within the same company, one regulated and one not regulated, is a relatively common task, which can be managed easily by someone within the company, by Third Party Administrators (TPA), or Medical Review Officers (MROs). This is currently done on a daily basis with little additional administrative work, and the overall effort to manage the two pools is negligible. In addition,

commenters noted that the overall size of these two employers could potentially skew statistical data for the entire industry if they were allowed to include non-CDL employees in with CDL employees. It was noted that for the safety of the general public, the DOT has set standards requiring all CDL drivers to be tested at a certain rate each year. Adding all the non-CDL drivers and employees to the same random pool would prevent them from achieving the required rate of testing. DATIA stated, "to allow employers to include non-covered employees in the same pool as FMCSA covered employees would have far reaching negative effects on the FMCSA drug and alcohol testing program."

Another commenter, Joe Kroening, appeared to be in favor of granting the request and noted that he fully supported the testing of all drivers and helpers in the industry whether or not they hold CDLs. The remaining commenter did not express opposition or support for granting Mayflower and United Van Lines an exemption.

FMCSA Decision

The FMCSA has carefully reviewed the Mayflower and United Van Lines application for exemptions from certain Federal controlled substance and alcohol testing requirements. The agency agrees with certain commenters that the administrative burden is not overwhelming, and the management of two pools within the same company is a relatively common task managed easily either within the company, or by TPAs and MROs. Federal controlled substances and alcohol testing requirements (49 CFR 382.105, 49 CFR 382.305(I)(1), and 49 CFR 40.13(a), (b)(c) and (d)) are designed to keep testing standards high in the interest of public safety. Mayflower and United Van Lines have not demonstrated how their proposal would achieve a level of safety that is equivalent to, or greater than, the levels of safety that would be obtained by complying with the controlled substances and alcohol testing requirements. Consequently, the FMCSA is denying the Mayflower and United Van Lines request for exemptions from the Federal requirements for controlled substance and alcohol testing.

Issued on: January 6, 2004.

Rose A. McMurray,

Associate Administrator, Policy and Program Development.

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DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Special Approval of Alternate Standard

In accordance with Section 21, Part 238 of Title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) received a request for special approval of an alternate standard of compliance for certain requirements of railroad 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.

National Railroad Passenger Corporation (Amtrak) Special Approval Petition Docket Number FRA-2003-16666

The National Railroad Passenger Corporation (Amtrak) seeks approval for use of an alternate standard to comply with section 311 of the *Passenger Equipment Safety Standards* (49 CFR part 238) for single car testing of passenger car brakes. Section 311 requires single car brake tests to be performed in accordance with either APTA Standard SS-M-005-98, "Code of Tests for Passenger Car Equipment Using Single Car Testing Device," published March 1999, or with an alternative procedure approved by FRA pursuant to 49 C.F.R. 238.21. Amtrak requests an alternate standard for single car brake tests on "Talgo" train sets utilized by Amtrak.

Amtrak states that although Talgo brake equipment can receive the single car test utilizing the APTA standard, the proposed alternate standard would allow a semi-permanently coupled train set to remain coupled during testing. Amtrak indicates that the proposed alternate procedure on shorter length cars combined with reduced brake pipe volume would produce air flow rates not compatible with the APTA standard. During the brake pipe leakage test, the APTA standard allows for a 5-PSI drop in pressure for one minute in a single car, while the alternate Talgo standard allows only a 4.3-PSI drop in 30 minutes for the entire train set (normally 12 to 14 cars). In the service stability test, the APTA standard allows the brake cylinder pressure to increase by three PSI in one minute. In the alternate Talgo brake test procedure, an increase of 1.5 PSI occurs during the same time frame. The control valve leakage test in the APTA standard

allows a 2-PSI-per-minute leakage rate. In the alternate Talgo procedure, leakage is not allowed.

Amtrak has supplied a copy of the alternate Talgo standard, a statement affirming that Amtrak has served a copy of the petition on designated representatives of its employees, and a list of the names and addresses of the persons served. These documents are available in the docket for this proceeding.

You may participate in this proceeding by submitting written views, data, or comments. Include the basis upon which you are supplying the information or comment and submit a concise statement of your particular interest in the proceeding. FRA does not anticipate scheduling a public hearing in connection with this proceeding because the facts do not appear to warrant a hearing. However, if you desire an opportunity to present an oral comment, please notify FRA, in writing, before the end of the comment period and specify the basis for your request.

Identify all of your communications with the appropriate docket number (FRA-2003-16666) and submit them to the Docket Clerk, DOT Docket Management Facility, Room PL-401 (Plaza Level), 400 7th Street, SW., Washington, DC 20590. Communications received within 30 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. You may examine all written communications concerning this proceeding during regular business hours (9 a.m.-5 p.m.) at the above facility. You also may view all documents in the public docket via the Internet by visiting the docket facility's Web site at <http://dms.dot.gov> and searching by the docket number for this proceeding.

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 January 8, 2004.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 04-704 Filed 1-12-04; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

[Docket RSPA-98-4957; Notice 04-01]

Request for Extension of Existing Information Collection

AGENCY: Research and Special Programs Administration, DOT.

ACTION: Request for OMB approval and public comments.

SUMMARY: As required by the Paperwork Reduction Act of 1995, the Research and Special Programs Administration (RSPA) is publishing this notice seeking public comments on a proposed renewal of an information collection for *Incorporation by Reference of Industry Standard on Leak Detection*. This information collection requires hazardous liquid pipeline operators who have leak detection systems to maintain records of those systems.

DATES: Comments on this notice must be received no later than March 15, 2004 to be assured of consideration.

ADDRESSES: You must identify the docket number RSPA-98-4957; Notice 04-01 at the beginning of your comments. Comments can be mailed to the U.S. Department of Transportation, Dockets Facility, Plaza 401, 400 Seventh St., SW., Washington, DC 20590. Comments can also be sent by e-mail to 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) or you may visit <http://dms.dot.gov>.

FOR FURTHER INFORMATION CONTACT: Marvin Fell, Office of Pipeline Safety, Research and Special Programs Administration, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, (202) 366-6205 or by electronic mail at marvin.fell@rspa.dot.gov.

SUPPLEMENTARY INFORMATION:

Title: Incorporation by Reference of Industry Standard on Leak detection.

OMB Number: 2137-0598.

Type of Request: Extension of an existing information collection.

Respondents: Hazardous liquid pipeline operators that use computational monitoring systems (CPM's) for leak detection.

Estimate of Burden: 2 hours per operator.

Estimated Number of Responses per Respondent: 1.

Estimated Total Burden : 100 hours.

Estimated Number of Respondents: 50.

Abstract: Pipeline safety regulations do not require hazardous liquid pipeline operators to have computer-based leak detection systems. However, if these operators choose to acquire such software-based leak detection systems they must adhere to the American Petroleum Institute API 1130 when operating, maintaining and testing their existing software-based leak detection systems. The testing information of these systems must be maintained by hazardous liquid pipeline operators.

Copies of this information collection can be reviewed at the Dockets Facility, Plaza 401, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590 from 9 a.m. to 5 p.m. Monday through Friday except Federal holidays. They also can be viewed via the Internet at <http://dms.dot.gov>.

Comments are invited on: (a) The need for the proposed collection of information for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) 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; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways 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. Send written comments in duplicate to Dockets Facility, Plaza 401, U.S. Department of Transportation, 400 Seventh St., SW., Washington, DC 20590. Please reference the docket number of this notice (RSPA-98-4957; Notice 04-01) when submitting your comments. Comments can also be sent electronically to dms.dot.gov.