

DEPARTMENT OF TRANSPORTATION**Federal Motor Carrier Safety Administration****49 CFR Part 391****[Docket No. FHWA-97-2267 Formerly MC 96-4]****RIN 2126-AA05****Physical Qualification of Drivers; Vision Standard****AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.**ACTION:** Advance notice of proposed rulemaking (ANPRM); withdrawal.

SUMMARY: FMCSA (formerly the Federal Highway Administration's Office of Motor Carriers) withdraws its 1992 advance notice of proposed rulemaking (ANPRM) on the vision standard for commercial motor vehicle drivers in interstate commerce. The agency sought comment on whether it should revise its driver qualification requirements relating to the vision standard, including visual acuity, field of vision and color perception. After reviewing the public comments received in response to the ANPRM, the agency believes there is insufficient data to support moving forward with a proposal to change the vision standard at this time. FMCSA has long term plans to reevaluate all of its commercial driver health standards and guidelines and will review the current vision standard at that time.

DATES: The ANPRM with request for comments published on February 28, 1992, is withdrawn effective immediately.

FOR FURTHER INFORMATION CONTACT: Dr. Mary D. Gunnels, Chief, Physical Qualifications Division (MC-PSP), (202) 366-4001, Federal Motor Carrier Safety Administration, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 8 a.m. to 4:30 p.m. ET, Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:**Background**

The Federal Motor Carrier Safety Administration (FMCSA) is authorized by statute to establish minimum qualification requirements for drivers of commercial motor vehicles (CMVs) in interstate commerce. This authority was originally granted to the Interstate Commerce Commission (ICC) in the Motor Carrier Act of 1935,¹ and then

transferred to the U.S. Department of Transportation in 1966 when the Department was created.²

In 1984,³ Congress further directed the Secretary to establish minimum safety standards to ensure "the physical condition of operators of commercial motor vehicles is adequate to enable them to operate such vehicles safely * * *."

In several of the congressional committee reports for the Americans with Disabilities Act of 1990 (ADA),⁴ Congress expressly stated that while it expected persons who wish to drive CMVs to meet Federal Highway Administration (FHWA) minimum physical qualification standards, it expected FHWA to review its standards in light of the ADA within 2 years of its enactment.

Efforts To Reassess the Vision Standard

The agency has used considerable resources in assessing its requirements for driver vision. The principal agency initiatives were the Ketron Panel (1991), an ANPRM requesting comments on the vision standard (1992), the FHWA Vision Research Plan (1996), and the Berson Panel (1997-98). Each is discussed briefly below.

Ketron Panel. In the early 1990s, FHWA began examining the relationship between visual disorders and the performance of CMV drivers. In 1991, FHWA retained Ketron, a division of the Bionetics Corporation, to analyze this issue. The study had four objectives: (1) To assess the basis for the current vision standard, (2) to define the acceptable level of vision for CMV drivers, (3) to recommend revised vision tests if needed, and (4) to assess the risk associated with establishing objective measurements of visual acuity, field of vision (FOV), and color perception.

The Ketron Panel recommended clarifying the horizontal FOV standard in § 391.41(b)(10). FOV refers to the ability to see peripherally and measures the ability to detect the presence of an object or shape in the periphery without moving the head or eyes.

Individuals tested for FOV focus on a point directly in front of them. It could be a spot on the wall. It is referred to as the "point of fixation." The individual is directed not to move his or her head or eyes at any time during the test. An object is then presented at several locations in the periphery, one at a time, at irregular intervals, and at

varying angles, from the eye of the individual. The individual signals the examiner when he or she first detects the object. The various points at which the object is detected are noted, and formal measurement is made in degrees. Normal horizontal FOV in each eye is 60 degrees inward toward the nose, and 100 to 110 degrees outward toward the ear, or a total of 160 to 170 degrees.

In a rule adopted in 1952, the ICC required CMV drivers to have a horizontal FOV of at least 140 degrees.⁵ Responsibility for motor carrier safety activities, including establishment of driver physical qualification standards, was transferred to the FHWA in 1966. In a 1970 final rule,⁶ FHWA changed the horizontal FOV standard to 70 degrees in each eye. Other than a general statement that the physical qualification requirements for drivers were being changed based upon "discussions with the Administration's medical advisors," the 1970 final rule provided no insight into why the agency changed the FOV standard from 140 degrees in each eye, to 70 degrees in each eye. The 1969 Notice of Proposed Rulemaking (NPRM)⁷ did not mention a proposed FOV standard change at all.

Ketron concluded the 1971 amendment to the vision standard had misstated the appropriate minimum horizontal FOV. Ketron recommended the horizontal FOV be at least 120 degrees in each eye. However, the Ketron Report included no data indicating a driver with a horizontal FOV less than 120 degrees in each eye is at greater risk for CMV crash involvement or a link between diminished FOV and higher probability of crash involvement.

Request for Comments on the Vision Standard. On February 28, 1992, FHWA published an ANPRM⁸ requesting comment on whether the vision standard for drivers should be revised. The agency believed a review of the vision standard was appropriate in light of medical, scientific, and technological advances. The ANPRM also was in response to enactment of the ADA. The agency's review of the vision standard was part of the review of CMV driver physical qualification standards recommended in several congressional committee reports accompanying the ADA. The ANPRM asked 14 specific questions on the vision standard,

⁵ 49 CFR 191.2(b), 17 FR 4422, at 4425, May 15, 1952.

⁶ "Qualifications of Drivers of Commercial Motor Vehicles," 35 FR 6463, April 22, 1970, effective January 1, 1971.

⁷ "Qualifications of Drivers," 34 FR 9084, June 7, 1969.

⁸ "Qualifications of Drivers; Vision," 57 FR 6793.

¹ Motor Carrier Act of 1935 (49 U.S.C. 31502(b)).

² Department of Transportation Act, Sec. 6(e)(6)(C), Pub. L. 89-670, 80 Stat. 931, at 939.

³ Motor Carrier Safety Act of 1984 (49 U.S.C. 31136(a)(3)).

⁴ Americans with Disabilities Act of 1990 (ADA) (42 U.S.C. 12101, Pub. L. 101-336, 104 Stat. 327).

including whether the current 70-degree horizontal FOV standard should remain. Readers were advised medical experts believe 120 degrees in each eye is the appropriate standard and asked to comment on the FOV standard, specifically on the effect devices such as mirrors might have on assisting persons with restricted FOV.

There were approximately 100 comments to the ANPRM. The majority of the commenters discussed concerns about the proposed FHWA Federal vision exemption program, as well as key issues and research related to monocular vision and visual acuity testing.

A small group of commenters focused specifically on field of vision. Three commenters were physicians who directly addressed discrepancies in the FOV standards. Other commenters included two State agencies, several safety advocate organizations, the American Trucking Associations and the American Optometric Association. This group of commenters focused on the inadequacy of the FOV measurement, but no commenter offered data or relevant information to support changing this standard.

FHWA Vision Research Plan. FHWA initiated a program to develop a vision research plan resulting in a complete list of visual performance parameters serving as the basis for a new CMV driver vision standard. In 1995, Star Mountain, Inc., under contract to the agency, conducted a literature review on this issue. FHWA also consulted with a panel of medical and technical experts to obtain their views on the design of the research plan.

On June 5, 1996,⁹ FHWA requested public comment on its proposed vision research plan. On August 9, 1996, the agency held a public hearing on the subject in Chicago. FHWA evaluated the oral testimony and written comments and concluded the best course of action was to postpone vision research. First, it was generally agreed development of predictive vision tests would require substantial agency resources. Furthermore, validation of the tests could require using driving simulators, whose scientific validity was highly uncertain. FHWA also concluded it would need a large number of drivers to validate the new vision tests.

Berson Panel. In September 1997, FHWA contracted with the Beth Israel Deaconess Medical Center in Boston to establish a panel of medical experts to develop medically-based recommendations for amending the

current vision standard. The agency directed the panel to assess the FHWA vision standard and to make recommendations for changes, with specific limits to the scope of the panel's work:

- Recommendations must ensure drivers operating CMVs are physically qualified.
- Recommendations must be consistent with national policy objectives expressed in the ADA and the Rehabilitation Act of 1973,¹⁰ as amended.
- Recommendations must be based on the most current technology in visual assessment.

• Recommendations should include any screening protocols found reliable for the examination of drivers.

• The panel must rely upon sound medical judgment concerning the demands placed on the eyes of drivers as they operate CMVs on a daily basis.

The Berson Panel endorsed the Ketron Panel recommendation to change the horizontal FOV standard from 70 degrees in each eye to at least 120 degrees in each eye. The Berson experts agreed the 70-degree FOV standard is insufficient. They cited the unique visual demands placed upon CMV drivers while stopping, accelerating, changing lanes, and responding to signage. The Berson experts believed the poor maneuverability of the typical CMV and the potential for severe injury and extensive property damage in a CMV crash justify a more stringent vision standard. Nevertheless, like the Ketron Panel Report, the Berson Report included no data indicating a driver with a horizontal FOV less than 120 degrees in each eye is at greater risk for CMV crash involvement or a link between diminished FOV and higher probability of crash involvement.

Withdrawal of Proposal

Although considerable resources have been expended on assessing the vision standard in general and the FOV provision in particular, FMCSA believes there are insufficient crash data to support initiating an FOV rulemaking at this time. It is clear 70 degrees horizontal FOV represents only a portion of the "normal" FOV for most individuals. However, there are no data concerning the relationship between a specific horizontal FOV value(s) and crash causation. There also are no data available to help identify the minimum horizontal FOV necessary to safely operate a CMV. Therefore, FMCSA is

withdrawing its ANPRM dated February 28, 1992, on the vision standard for CMV drivers.

FMCSA has a long-term plan of reevaluating CMV driver health and wellness issues, including physical qualifications, medical advisory criteria, and safety research and policy. The agency plans to review the horizontal FOV standard under that initiative.

Issued on: August 22, 2005.

Warren E. Hoemann,
Deputy Administrator.

[FR Doc. 05-17102 Filed 8-26-05; 8:45 am]

BILLING CODE 4910-EX-P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA-2005-21649]

RIN 2127-A153

Federal Motor Vehicle Safety Standards; Rearview Mirrors

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

ACTION: Notice of termination of rulemaking.

SUMMARY: On September 5, 2000, AM General Corporation submitted a petition for rulemaking seeking to amend the Federal motor vehicle safety standard for rearview mirrors to permit certain vehicles with a gross vehicle weight rating (GVWR) of more than 4,536 kilograms (kg) (10,000 pounds) to be equipped with passenger-side convex mirrors. The standard currently requires vehicles in that weight class to be equipped with mirrors of unit magnification in that location. The agency granted the petition on May 23, 2001 and began to gather data to evaluate the request, including information obtained from a January 22, 2003 Request for Comments. Based on analysis of the available data, NHTSA is terminating this rulemaking proceeding, because we have determined that convex mirrors are not an adequate substitute for mirrors of unit magnification in terms of providing safety benefits associated with allowing the driver to better judge the distance and speed of oncoming vehicles, particularly during lane change maneuvers.

FOR FURTHER INFORMATION CONTACT: Mr. John Lee, Office of Crash Avoidance Standards, NVS-123, National Highway

⁹ "Proposed Research Plan on Vision Standard," 61 FR 28547, June 5, 1996.

¹⁰ Rehabilitation Act of 1973 (Pub. L. 93-112, 87 Stat. 355, September 26, 1973) (29 U.S.C. 681 *et seq.*).