

the Office of Management and Budget (OMB) to approve a current information collection. This rule generates a need for new designated pilot examiners and designated airworthiness representatives to support the certification of these new aircraft, pilots, flight instructors, and ground instructors.

**DATES:** Please submit comments by August 9, 2010.

**FOR FURTHER INFORMATION CONTACT:** Carla Scott on (202) 267-9895, or by e-mail at: [Carla.Scott@faa.gov](mailto:Carla.Scott@faa.gov).

**SUPPLEMENTARY INFORMATION:**

**Federal Aviation Administration (FAA)**

*Title:* Certification of Airmen for the Operation of Light-Sport Aircraft.

*Type of Request:* Extension without change of an approved collection.

*OMB Control Number:* 2120-0690.

*Forms(s):* FAA forms 337, 8610-2, 8110-14, 8110-28, 8710-11.

*Affected Public:* A total of 57,214 Respondents.

*Frequency:* The information is collected on occasion.

*Estimated Average Burden per Response:* Approximately 1.27 hours per response.

*Estimated Annual Burden Hours:* An estimated 72,582 hours annually.

*Abstract:* This rule generates a need for new designated pilot examiners and designated airworthiness representatives to support the certification of these new aircraft, pilots, flight instructors, and ground instructors.

**ADDRESSES:** Send comments to the FAA at the following address: Ms. Carla Scott, Room 712, Federal Aviation Administration, IT Enterprises Business Services Division, AES-200, 800 Independence Ave., SW., Washington, DC 20591.

*Comments Are Invited On:* Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimates of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on June 3, 2010.

**Carla Scott,**

*FAA Information Collection Clearance Officer, IT Enterprises Business Services Division, AES-200.*

[FR Doc. 2010-13993 Filed 6-9-10; 8:45 am]

**BILLING CODE 4910-13-P**

**DEPARTMENT OF TRANSPORTATION**

**Federal Motor Carrier Safety Administration**

**[Docket No. FMCSA-2007-28480]**

**Commercial Driver's License (CDL) Standards: Exemption**

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice of final dispositions.

**SUMMARY:** FMCSA has denied National Agricultural Aviation Association's (NAAA) application for exemption, and, in a separate action, has denied U.S. Custom Harvesters, Inc.'s (USCHI) suggestion for a pilot program. Each request asked FMCSA to permit the transportation of hazardous materials (HM) by drivers who have not obtained an HM endorsement for their commercial driver's license (CDL) as required by current regulations. FMCSA reviewed NAAA's application for exemption and the public comments received on it, and also reviewed USCHI's suggestion for a pilot program, and rendered each decision upon its merits.

**DATES:** The NAAA application was denied on August 7, 2009, and the USCHI suggestion for a pilot program was denied on August 11, 2009.

*Dockets:* For access to the dockets to read background documents or comments received, go to <http://www.regulations.gov> at any time, or to Room W12-140, DOT Building, 1200 New Jersey Ave., SE., Washington, DC, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Mr. Thomas Yager, Chief, Driver and Carrier Operations Division, Office of Bus and Truck Standards and Operations; Telephone 202-366-4325, E-mail: [MCPSD@dot.gov](mailto:MCPSD@dot.gov).

**SUPPLEMENTARY INFORMATION:**

**Background**

Under 49 U.S.C. 31315 and 31136(e), FMCSA may grant an exemption from certain of its regulations 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." On July 5, 2007, FMCSA published in the **Federal Register** a notice of NAAA's application for exemption (72 FR 36748). The complete docket of the NAAA request, including public comments, can be examined at Docket No. FMCSA-2007-28480 (*see* "Dockets" above). A suggestion for a pilot program, such as that filed by USCHI, is only published for public comment if the FMCSA Administrator accepts the proposal (49 CFR 381.405(b)).

**FMCSA Decision**

NAAA failed to demonstrate alternatives its members would employ to ensure that their commercial motor vehicle (CMV) drivers operating under the requested exemption would achieve a level of safety equivalent to, or greater than, the level of safety that would be obtained if they had to comply with the regulations, as required by 49 CFR 381.305(c)(5). USCHI's proposed pilot program, while potentially collecting useful data for evaluating alternatives to the Federal Motor Carrier Safety Regulations (FMCSRs), failed to recommend alternative safety measures that would ensure that the safety of its CMV pilot drivers would be equivalent to, or greater than, the level of safety of CMV drivers operating without the pilot exemptions in place, as required by 49 CFR 381.410(c)(8).

**NAAA**

NAAA is a trade association representing those engaged in the commercial application of fertilizer and other agricultural products by airplane. It states that the requested exemption would relieve the difficulty its members experience in finding CMV drivers qualified to transport aircraft fuel, a hazardous material. The exemption would allow NAAA drivers to operate under the limited exception from the CDL rules provided for those engaged in certain "farm-related service industries" (49 CFR 383.3(f)). States may allow a driver so engaged to operate under a "restricted CDL" without successfully completing the CDL knowledge and skills tests required by 49 CFR 393.135. The operations of NAAA members appear to satisfy several of the prerequisites for this restricted CDL. However, States are required by 49 CFR 393.3(f)(3)(v) to restrict the HM operations conducted by those granted restricted CDLs to the transport of solid fertilizers and limited quantities of diesel fuel or liquid fertilizer. NAAA wants FMCSA, by exemption, to allow its drivers holding this restricted CDL to transport the HM fuels used to power aircraft engines.

FMCSA received 17 comments. Nine commenters supported NAAA, primarily because they are experiencing the same shortage of qualified CDL drivers described by NAAA in its application. Five commenters opposed NAAA's application, including Advocates for Highway and Auto Safety and safety agencies of three States. The commenters pointed out that if this exemption were in place, NAAA drivers would be transporting hazardous materials more dangerous than those permitted by Section 393.3(f)(3)(v), and would be doing so without demonstrating basic competency in CMV operations. The drivers would also avoid two requirements for the HM endorsement: Successful completion of the written HM test required by 49 CFR 383.135, and a determination of "not a security threat," by the Transportation Security Administration (TSA) pursuant to 49 CFR 383.141(b). The commenters also pointed out that NAAA failed to propose an alternative method of assessing the knowledge and skills of these CMV drivers, as required by 49 CFR 381.415(c)(6)–(c)(8). FMCSA found that NAAA failed to demonstrate how it would ensure that the operations of its members under the exemption would achieve a level of safety equivalent to, or greater than, the level of safety that would be obtained in the absence of the exemption.

### USCHI

U.S. Custom Harvesters Inc. (USCHI) is a trade association whose members engage in specialized farming operations during the harvest season. Custom harvesters typically travel from farm to farm using diesel-powered farm machinery to harvest crops for clients. Due to the time-sensitive nature of harvesting operations, custom harvesters typically operate for only a day or two at a farm and move quickly on to the next farm. In some localities, diesel fuel distributors are not equipped to transport diesel fuel, a hazardous material, to the fields as frequently as these operations require, so custom-harvesters bring commercial motor vehicles (CMVs) with them to transport the diesel fuel. They hire drivers to operate the CMVs, but the FMCSRs require that those operating CMVs transporting placardable quantities of diesel fuel have an HM endorsement on their CDL. USCHI asserts that the seasonal nature of custom-harvesting operations provides a very limited timeframe for the recruitment of the number of CDL drivers, with HM endorsement, needed by the custom-harvesting industry. Many potential drivers lack only an HM endorsement

on their CDL. USCHI asserts that too much time is consumed in taking the HM test, and obtaining TSA's "not-a-security-threat" clearance, to allow them to be available to drive HM CMV's when the custom-harvesting season begins.

USCHI asked FMCSA to conduct a pilot program under 49 CFR part 381 (subparts C and D) so that its members could demonstrate that their CMV drivers can transport placardable quantities of diesel fuel in support of custom-harvesting operations safely without obtaining an HM endorsement; but the USCHI pilot proposal failed to include alternative measures to ensure that safety would not deteriorate if their CMV drivers were allowed to haul HM without an HM endorsement. The design of the pilot program proposed by USCHI failed to satisfy the safety performance goals of the FMCSRs, as required by 49 CFR 381.400(c).

### Conclusion

FMCSA carefully reviewed NAAA's application for exemption and the public comments received on it, and also carefully reviewed USCHI's suggestion for a pilot program. The Agency concluded that the NAAA application failed to demonstrate how it would ensure that the operations of its members under the exemption would achieve a level of safety equivalent to, or greater than, the level of safety that would be obtained in the absence of the exemption. The Agency concluded that the USCHI suggestion for a pilot program failed to satisfy the safety performance goals of the FMCSRs, as required by 49 CFR 381.400(c). Accordingly, FMCSA denied NAAA's application for exemption, and USCHI's suggestion for a pilot program.

Issued on: June 4, 2010.

**Larry W. Minor,**

*Associate Administrator for Policy and Program Development.*

[FR Doc. 2010-13903 Filed 6-9-10; 8:45 am]

**BILLING CODE 4910-EX-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2010-0168]

#### Policy on the Retention of Supporting Documents and the Use of Electronic Mobile Communication/Tracking Technology in Assessing Motor Carriers' and Commercial Motor Vehicle Drivers' Compliance With the Hours of Service Regulations

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice of Regulatory Guidance and Policy Change.

**SUMMARY:** The Federal Motor Carrier Safety Administration (FMCSA) provides notice to the motor carrier industry and the public of regulatory guidance and policy changes regarding the retention of supporting documents and the use of electronic mobile communication/tracking technology in assessing motor carriers' and commercial motor vehicle drivers' compliance with the hours of service regulations.

**DATES:** *Effective Date:* This change in policy is effective July 12, 2010. Comments should be submitted on or before July 9, 2010. Late-filed comments will be considered to the extent practicable.

**ADDRESSES:** You may submit comments (identified by Docket Number FMCSA-2010-0168) using any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building, Ground Floor, Room W12-140, Washington, DC 20590-0001.
- *Hand Delivery or Courier:* West Building, Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., between 9 a.m. and 5 p.m. E.T., Monday through Friday, except Federal holidays.
- *Fax:* 202-493-2251.

*Privacy Act:* 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 Privacy Act Statement for the Federal Docket Management System published in the **Federal Register** on January 17, 2008 (73 FR 3316), or you may visit <http://edocket.access.gpo.gov/2008/pdf/E8-785.pdf>.

**FOR FURTHER INFORMATION CONTACT:** Mr. David Mancl, Team Leader, Enforcement and Compliance Division, MC-ECE, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590. Telephone: 202-493-0442. Web site address: <http://www.fmcsa.dot.gov>.

### SUPPLEMENTARY INFORMATION:

#### Background

In 1997, the Federal Highway Administration (FHWA), FMCSA's predecessor agency, issued a policy memorandum recognizing that advanced technologies, which were