

140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366-9317 or (202) 366-9826 before visiting Docket Operations.

## B. Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to [www.regulations.gov](http://www.regulations.gov), as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at [www.dot.gov/privacy](http://www.dot.gov/privacy).

## II. Background

On May 19, 2020, FMCSA published a **Federal Register** notice (85 FR 3006) announcing receipt of an application from one individual treated with an ICD and requested comments from the public. This individual requested an exemption from 49 CFR 391.41(b)(4) which prohibits operation of a CMV in interstate commerce by persons with a current clinical diagnosis of myocardial infarction, angina pectoris, coronary insufficiency, thrombosis, or any other cardiovascular disease of a variety known to be accompanied by syncope, dyspnea, collapse, or congestive heart failure. The public comment period closed on June 18, 2020, and one comment was received.

FMCSA has evaluated the eligibility of the applicant and concluded that granting the exemption request would not provide a level of safety that would be equivalent to, or greater than, the level of safety that would be obtained by complying with § 391.41(b)(4). A summary of the applicant's medical history related to his ICD exemption request was discussed in the May 19, 2020, **Federal Register** notice and will not be repeated here.

The Agency's decision regarding this exemption application is based on information from the Cardiovascular Medical Advisory Criteria, an April 2007, evidence report titled "Cardiovascular Disease and Commercial Motor Vehicle Driver Safety,"<sup>1</sup> and a December 2014, focused research report titled "Implantable Cardioverter Defibrillators and the Impact of a Shock in a Patient When

Deployed." Copies of these reports are included in the docket.

FMCSA has published advisory criteria to assist medical examiners in determining whether drivers with certain medical conditions are qualified to operate a CMV in interstate commerce.<sup>2</sup> The advisory criteria for § 391.41(b)(4) indicates that coronary artery bypass surgery and pacemaker implantation are remedial procedures and thus, not medically disqualifying. Implantable cardioverter defibrillators are disqualifying due to risk of syncope.

## III. Discussion of Comments

FMCSA received one comment which was out of scope for this proceeding.

## IV. Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315(b), FMCSA may grant an exemption from the FMCSRs for no longer than a 5-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 Agency's decision regarding exemption applications is based on an individualized assessment of each applicant's medical information, available medical and scientific data concerning ICDs, and any relevant public comments received.

In the case of persons with ICDs, the underlying condition for which the ICD was implanted places the individual at high risk for syncope or other unpredictable events known to result in gradual or sudden incapacitation. ICDs may discharge, which could result in loss of ability to safely control a CMV. The December 2014 focused research report discussed earlier upholds the findings of the April 2007 report and indicates that the available scientific data on persons with ICDs and CMV driving does not support that persons with ICDs who operate CMVs are able to meet an equal or greater level of safety.

## V. Conclusion

The Agency has determined that the available medical and scientific literature and research provides insufficient data to enable the Agency to conclude that granting an exemption would achieve a level of safety equivalent to, or greater than, the level of safety maintained without the

<sup>2</sup> These criteria may be found in 49 CFR part 391, APPENDIX A TO PART 391—MEDICAL ADVISORY CRITERIA, section D. *Cardiovascular: § 391.41(b)(4)*, paragraph 4, which is available on the internet at <https://www.gpo.gov/fdsys/pkg/CFR-2015-title49-vol5/pdf/CFR-2015-title49-vol5-part391-appA.pdf>.

exemption. Therefore, the following applicant has been denied an exemption from the physical qualification standards in § 391.41(b)(4):

Kenneth Randolph (FL)

The applicant has, prior to this notice, received a letter of final disposition regarding his exemption request. The decision letter fully outlined the basis for the denial and constitutes final action by the Agency. The notice published today summarizes the Agency's recent denials as required under 49 U.S.C. 31315(b)(4).

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2020-19952 Filed 9-9-20; 8:45 am]

BILLING CODE 4910-EX-P

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2018-0346]

### Proposed Pilot Program To Allow Persons Ages 18, 19, and 20 To Operate Commercial Motor Vehicles in Interstate Commerce

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

**ACTION:** Notice of proposed pilot program; request for comments.

**SUMMARY:** On May 15, 2019, FMCSA published a **Federal Register** notice requesting public comments on a possible new pilot program to allow drivers aged 18, 19, and 20 to operate commercial motor vehicles in interstate commerce. The May 2019 notice asked specific questions regarding training; qualifications; driving limitations; operational and participation requirements; insurance; research and data; and vehicle safety systems that should be considered in developing a second pilot program for younger drivers. This notice addresses the comments received and proposes a pilot program to allow 18-, 19-, and 20-year-old drivers to operate commercial motor vehicles in interstate commerce.

**DATES:** Comments must be received on or before November 9, 2020.

**ADDRESSES:** You may submit comments on this notice identified by docket number FMCSA-2018-0346 using any one of the following methods:

- **Federal eRulemaking Portal:** [www.regulations.gov](http://www.regulations.gov). Follow the online instructions for submitting comments.
- **Mail:** Docket Operations, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building,

<sup>1</sup> The reports are available on the internet at <https://rosap.ntl.bts.gov/view/dot/16462>; <https://rosap.ntl.bts.gov/view/dot/21199>.

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 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays.

- *Fax:* 1-202-493-2251.

Each submission must include the Agency name and the docket number for this notice. Note that DOT posts all comments received without change to [www.regulations.gov](http://www.regulations.gov), including any personal information included in a comment. Please see the Privacy Act heading below.

*Privacy Act:* DOT solicits comments from the public to better inform its rulemaking and pilot program process. DOT posts these comments, without edit, including any personal information the commenter provides, to [www.regulations.gov](http://www.regulations.gov), as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at [www.dot.gov/privacy](http://www.dot.gov/privacy).

**FOR FURTHER INFORMATION CONTACT:** Ms. Nikki McDavid, Commercial Driver's License Division, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590-0001, [nikki.mcdavid@dot.gov](mailto:nikki.mcdavid@dot.gov), (202) 366-0831. If you have questions about viewing or submitting material to the docket, call DOT Docket Operations, (202) 366-9826.

#### **SUPPLEMENTARY INFORMATION:**

#### **I. Public Participation and Request for Comments**

FMCSA encourages you to participate by submitting comments and related materials. In this notice, FMCSA requests certain information, but comments are not limited to responses to those requests.

##### *A. Submitting Comments*

If you submit a comment, please include the docket number for this notice (FMCSA-2018-0346), indicate the specific section of this document to which the comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online, by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so the Agency can contact you if it has questions regarding your submission.

To submit your comment online, go to [www.regulations.gov](http://www.regulations.gov), put the docket number, "FMCSA-2018-0346" in the

"Keyword" box, and click "Search." When the new screen appears, click on the "Comment Now!" button and type your comment into the text box in the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope. FMCSA will consider all comments and material received during the comment period.

*Confidential Business Information:* Confidential Business Information (CBI) is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this notice contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this notice, it is important that you clearly designate the submitted comments as CBI. FMCSA will treat such marked submissions as confidential under the Freedom of Information Act, and they will not be placed in the public docket for this rulemaking. Please mark each page of your submission that constitutes CBI as "PROPIN" to indicate it contains proprietary information. Submissions containing CBI should be sent to Mr. Brian Dahlin, Chief, Regulatory Analysis Division, FMCSA, 1200 New Jersey Avenue SE, Washington, DC 20590. Any comments FMCSA receives that are not specifically designated as CBI will be placed in the public docket for this rulemaking.

FMCSA will consider all comments and material received during the comment period and may make changes based on your comments.

##### *B. Viewing Comments and Documents*

To view comments, as well as documents mentioned in this notice as being available in the docket, go to [www.regulations.gov](http://www.regulations.gov) and insert the docket number, "FMCSA-2018-0346" in the "Keyword" box and click "Search." Next, click the "Open Docket Folder" button and choose the document listed to review. If you do not have access to the internet, you may view the docket online by visiting Docket Operations in Room W12-140 on the ground floor of the DOT West

Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays.

#### **II. Legal Basis**

The Secretary of Transportation has authority under 49 U.S.C. 31315(c) to conduct pilot programs and to allow one or more exemptions for the testing of innovative alternatives to certain Federal Motor Carrier Safety Regulations (FMCSRs) (§ 31315(c)(1)). The regulatory standards for pilot programs are codified at 49 CFR part 381, subparts D and E.

FMCSA must publish in the **Federal Register** a detailed description of each pilot program, including the exemptions being considered, and provide notice and an opportunity for public comment before the effective date of the program. The Agency is required to ensure that the safety measures in the pilot programs are designed to achieve a level of safety that is equivalent to, or greater than, the level of safety that would be achieved through compliance with the safety regulations. The maximum duration of pilot programs is 3 years from the starting date.

In the May 9, 2011, final rule on "Commercial Driver's License Testing and Commercial Learner's Permit Standards" (76 FR 26854), the Agency set a minimum age of 18 for an individual to obtain a commercial learner's permit (CLP) prior to obtaining a commercial driver's license (CDL) (49 CFR 383.25(a)(4)).

Drivers of commercial motor vehicles (CMVs), as defined in 49 CFR 383.5 and 390.5T, engaged in interstate commerce, must be at least 21 years of age (§ 391.11(b)(1)). An 18-year-old CLP or CDL holder may drive in intrastate commerce only.

The proposed pilot program would provide participating drivers with relief from sections of 49 CFR parts 383 and 391 concerning minimum age requirements. In addition, this pilot program would provide relief from the effect of the intrastate only (or "K") restriction that appears on a CDL at § 383.153(a)(10)(vii) and an exemption from the requirement in § 391.11(b)(1) that a CMV driver operating in interstate commerce be at least 21 years of age.

At the conclusion of each pilot program, FMCSA must report to Congress its findings, conclusions, and recommendations, including suggested amendments to laws and regulations, to include lowering the minimum driving age of interstate drivers, that would enhance motor carrier, CMV, and driver safety, and improve compliance with the FMCSRs.

### III. Background

As documented in the May 15, 2019, **Federal Register** notice (84 FR 21895), changing the driving age has been studied by various organizations and previously proposed by the Federal Highway Administration, FMCSA's predecessor agency. FMCSA received specific direction to conduct a limited pilot program in section 5404 of the Fixing America's Surface Transportation Act (FAST Act) (Pub. L. 114–94, 129 Stat. 1312, 1549, Dec. 4, 2015).

#### *Military Under-21 Pilot Program*

On August 22, 2016, FMCSA proposed a pilot program to meet the requirements of section 5404 of the FAST Act and allow a limited number of individuals ages 18, 19, and 20 to operate CMVs in interstate commerce, if they received specified heavy-vehicle driver training while in military service and were hired by a participating motor carrier (81 FR 56745). In addition, the Agency asked specific questions and requested comments on the proposed pilot program. During this pilot program, the safety records of these younger drivers (the study group) would be compared to the records of a control group of comparable size, comprised of drivers who are between 21 and 24 years old and who have comparable training and experience in driving vehicles requiring a CDL. The comparison of the two groups' performance would help to determine whether the age difference was a critical safety factor.

In response to comments received on the August 22, 2016, proposal, FMCSA published a **Federal Register** notice on July 6, 2018, titled, "Pilot Program to Allow Persons Between the Ages of 18 and 21 With Military Driving Experience to Operate Commercial Motor Vehicles in Interstate Commerce" (83 FR 31633). This pilot program is currently underway, and its results will be reported not later than 1 year after the pilot program concludes.

#### *Entry Level Driver Training*

On December 8, 2016, FMCSA published a final rule titled "Minimum Training Requirements for Entry-Level Commercial Motor Vehicle Operators" (81 FR 88732). This rule was required by section 32304 of the Moving Ahead for Progress in the 21st Century Act, Public Law 112–141, see 49 U.S.C. 31305(c), and was the result of a negotiated rulemaking. The rule on entry-level driver training (ELDT) established minimum training standards for certain individuals applying for their CDL. CDL applicants subject to the rule

must complete a prescribed program of instruction presented by an entity listed on FMCSA's Training Provider Registry, prior to taking the State-administered CDL skills test, or, for the Hazardous Materials endorsement, prior to taking the knowledge test. The final rule outlined the topics that must be covered during classroom and behind-the-wheel training; however, it did not require a minimum number of hours for either classroom or behind-the-wheel training.

On February 4, 2020, FMCSA published an interim final rule titled "Extension of Compliance Date for Entry-Level Driver Training" (84 FR 6088). The rule amended the compliance date from February 7, 2020, to February 7, 2022; however, it did not change the minimum training standards for certain individuals applying for their CDL.

#### *Recent Legislative Proposals*

On February 27, 2019, companion bills were introduced in the U.S. House of Representatives and the U.S. Senate called the "Developing Responsible Individuals for a Vibrant Economy Act" (DRIVE-Safe Act) (H.R. 1374), which proposed to lower the age requirement for interstate drivers to 18, as long as drivers under the age of 21 participated in an apprenticeship program. The apprenticeship would include separate 120-hour and 280-hour probationary periods, during which younger drivers would operate CMVs under the supervision of an experienced driver and must achieve specific performance benchmarks before advancing. Under the proposal, study group participants would also drive vehicles equipped with active-braking collision mitigation systems, forward-facing video event capture, and speed limiters set to 65 miles per hour. To date, the DRIVE-Safe Act has not been enacted.

### IV. Discussion of Comments and Responses on the Notice of Proposed Pilot Program

In the May 15, 2019 **Federal Register** notice, FMCSA requested comments on the training and experience, operational requirements, participation requirements, technology requirements, insurance requirements, and research and data that FMCSA should consider in developing options or approaches for a second pilot program for younger drivers.

FMCSA received 1,118 comments to the docket; 504 commenters favored the proposal, while 486 opposed it. Other commenters offered conditional support, provided responses to the questions posed in the notice, or offered other suggestions. More than 1,000

individuals and 95 organizations commented. FMCSA received more than 750 unique comments, while the remaining comments were form letters (four types) in support of the pilot program or urging FMCSA to initiate a pilot program focused on short-haul drivers operating within a certain air-mile radius or in accordance with the proposed DRIVE-Safe Act.

The organizations that favored the pilot program included the Agricultural Retailers Association, American Bakers Association, Arkansas State Highway Commission, American Trucking Associations (ATA), Commercial Vehicle Training Association, DriverReach, Hudson Insurance Group, Intermodal Association of North America, International Association of Movers, International Foodservice Distributors Association, International Franchise Association, National Association of Publicly Funded Truck Driving Schools, National Interstate Insurance, National Propane Gas Association, National Ready Mixed Concrete Association, National Retail Federation (NRF), National Tank Truck Carriers, Towing and Recovery Association of America, and Truckload Carriers Association (TCA). In addition, numerous private citizens, motor carriers, training schools, State trucking associations, logistics companies, risk assessment companies, information technology companies, and other professional trade associations offered full or conditional support for the initiation of a younger driver pilot program.

Commenters including the American Association of Motor Vehicle Administrators (AAMVA), Commercial Vehicle Safety Alliance, Greyhound Bus Company, Inc., International Brotherhood of Teamsters, National Safety Council, Oregon Department of Transportation, United Motorcoach Association (UMA), and several motor carriers, private citizens, and other professional trade associations asked for clarification, provided data, and offered recommendations.

Those opposing the initiation of a younger driver pilot program included Advocates for Highway and Auto Safety (Advocates), Citizens for Reliable and Safe Highways, Governors Highway Safety Association, the Insurance Institute of Highway Safety (IIHS), the Owner-Operator Independent Drivers Association, Parents Against Tired Truckers, the Trucking Alliance, and several private citizens, motor carriers, and other professional trade associations. These opponents focused on safety, noting that truck and bus crashes, injuries, and fatalities continue

to rise, and that drivers 18 to 20 years old are overrepresented in crashes.

In addition, opponents also mentioned that the Agency has not analyzed data from the States that could provide information on the safety records of 18- to 20-year-old drivers who currently operate in intrastate commerce. Some argued that the Agency should complete the Under-21 Military CDL driver pilot program and analyze that data before initiating this pilot program.

#### *Training and Experience*

The 2019 **Federal Register** notice asked several questions related to the training and experience that a younger driver should be required to have to participate. Several commenters, including Advocates and UMA, believe that the drivers should have extensive experience operating a CMV to ensure public safety. The length of experience suggested by AAMVA, NRF, and UMA, for example, ranged from 1 to 2 years, while others, such as ATA, DriverReach, and TCA, did not believe any experience was necessary since the drivers would be subject to the minimum training requirements of the ELDT rule.

Some commenters believe that drivers aged 18 to 20 should be required to be supervised by a qualified trainer physically present at all times, or for a limited period (e.g., for 6 months), while operating a CMV on public roads. As for training, commenters cited the training required by the proposed DRIVE-Safe Act, the CLP standards in 49 CFR part 383, and the ELDT rule.

#### *Operational Requirements*

The majority of commenters agreed that younger drivers should drive fewer hours than are currently permitted in the regulations. However, ATA and TCA believe that no limitations should be placed on younger drivers since they currently operate in intrastate commerce without any time or distance restrictions. In addition, ATA cited the FMCSA-sponsored Large Truck Crash Causation study which found that only 28 percent of large truck crashes occurred between 6:00 p.m. and 6:00 a.m. There was no consensus among commenters on whether to prohibit drivers from transporting hazardous materials, passengers, and/or operating tank trucks or special configuration vehicles.

#### *Participation Requirements*

The 2019 **Federal Register** notice asked what requirements motor carriers and drivers should be required to meet to participate in a younger driver pilot

program. The majority of commenters believed the qualification standards established for FMCSA's Under-21 Military CDL Pilot Program were sufficient, while others believed the previously proposed DRIVE-Safe Act should be the minimum requirements for participation in a younger driver pilot program.

#### *Technology Requirements*

The 2019 notice asked what safety equipment or on-board recording systems should be required, mentioning automatic manual or automatic transmissions; active-braking collision mitigation systems; forward-facing video event capture; and speed limiters set to 65 miles per hour.

All commenters who responded to these questions supported the use of safety technology on vehicles operated by younger drivers. Some commenters proposed additional requirements, including adaptive cruise control, artificial intelligence, automatic emergency braking, Global Positioning Systems, lane centering, lane departure warning systems, and on-board rear-facing video event recorders.

#### *Insurance*

FMCSA asked for information on the ability of motor carriers to secure insurance for 18- to 20-year-old drivers. ATA felt that there would be no insurance problems, noting that trucking companies must currently obtain insurance for drivers under the age of 21 who operate in intrastate commerce. ATA said its membership includes 19 insurance companies and that they have expressed a willingness to work with motor carriers to offer insurance coverage for 18- to 20-year-old interstate drivers. The Hudson Insurance Group responded to this question and noted that training, retraining, and driver development are more critical than a driver's age and experience.

Of the insurance companies that provided comments to the docket, Hudson Insurance Group and National Interstate Insurance expressed their willingness to insure companies that are approved to participate in a younger driver pilot program. Other commenters recognized that self-insured motor carriers would be willing and able to participate in a younger driver pilot program.

#### *Research and Data*

The 2019 **Federal Register** requested research and data to evaluate the safety performance of drivers under 21 years of age. Specifically, FMCSA asked if data on traffic violations, crashes, and

inspection violations were adequate to allow a comparison of the safety records of younger and older drivers; and what research the Agency should consider to assess the safety impacts of younger interstate CMV drivers.

Regarding the data available on the safety performance of 18- to 20-year-old drivers, commenters to this rule offered several suggestions. Advocates, ATA, IIHS, and TCA provided several examples of available data. As sources of safety performance data for 18- to 20-year-old drivers, commenters cited the Fatality Analysis Reporting System (FARS); the Trucks Involved in Fatal Accidents data; several studies, including the Governors Highway Safety Association study on teen driving; the National Transportation Safety Board's (NTSB) 2019–2020 Most Wanted List of safety changes; State intrastate data; the Agency's Under-21 Military CDL Pilot Program; and other data systems. Further, ATA presented comparison data from 18- to 20-year-old intrastate drivers in several States and data from drivers ages 21 years or older.

The data and research that commenters cited provided contradictory information on the safety of 18- to 20-year-old drivers.

ATA cited NHTSA's annual report titled "Traffic Safety Facts: A Compilation of Motor Vehicle Crash Data." According to the report, in the 6 years studied (2012–2017), male drivers in the 16 to 20 age range had a lower involvement rate in fatal crashes than male drivers in the 21 to 24 age range. For example, during 2017, the male driver involvement rate in fatal crashes per 100,000 licensed drivers was 49.02 for drivers aged 16 to 20, and 50.32 for drivers aged 21 to 24. In addition, the intrastate data from 13 States shows that in 12 of the 13 States, 18- to 20-year-old CDL holders had crash rates that were on the whole lower than, or at worst, functionally equivalent to, that of their 21- to 24-year-old counterparts.

The IIHS analyzed the 2017 FARS data for drivers aged 18 and 19. The data shows that these drivers are 2.3 times more likely than drivers aged 20 and older to be in a fatal crash and nearly 3.5 times more likely to be involved in any police-reported crash. In addition, the IIHS cited the Governors Highway Safety Association study titled, "Mission Not Accomplished: Teen Safe Driving, the Next Chapter." The study indicated that 19-year-olds accounted for the greatest number of teen drivers killed during the study period, followed by 20- and 18-year-olds.

Without recreating the report or analysis, FMCSA believes the

differences between the NHTSA Report and IIHS' analysis can be attributed to the different age groups studied and the fact that the NHTSA Report took into account data over a 6 year period, whereas IIHS analyzed 1 year of FARS data.

Commenters generally agreed that traffic violations, crashes, and inspection violations were adequate standards with which to compare the safety records of drivers, but cautioned against using indicators of violations, such as parking tickets, that are not indicative of unsafe driving behavior. Several commenters believe that FMCSA must conduct this pilot program to collect the needed data to determine the safety impacts of younger drivers operating in interstate commerce.

## V. Pilot Program Proposal

Using the input from commenters to the 2019 **Federal Register** notice, FMCSA proposes the following structure for a new pilot program for younger drivers. The Agency seeks feedback on the details of this specific proposal.

### *Participant Age and Experience for Study Group Drivers*

FMCSA proposes to allow drivers to participate in a younger driver pilot program if they fall within one of the following categories.

**Category One:** FMCSA proposes to allow 18- to 20-year-old CDL holders to operate CMVs in interstate commerce while taking part in a 120-hour probationary period and a subsequent 280-hour probationary period under an apprenticeship program established by an employer, as introduced in the DRIVE-Safe Act. The 120-hour probationary period would include 120 hours of on-duty time, with at least 80 hours of driving time in a CMV. In order to complete the 120-hour probationary period, the employer must make sure the younger driver is competent in each of the following areas: Interstate, city traffic, rural 2-lane, and evening driving; safety awareness; speed and space management; lane control; mirror scanning; right and left turns; and logging and complying with rules relating to hours of service. The 280-hour probationary period would include 280 hours of on-duty time, with at least 160 hours of driving time in a CMV. In order to complete the 280-hour probationary period, an employer must ensure that the younger driver is competent in each of the following areas: Backing and maneuvering in close quarters; pre-trip inspections; fueling procedures; weighing loads, weight

distribution, and sliding tandems; coupling and uncoupling procedures; and trip planning, truck routes, map reading, navigation, and permits. Driver training and apprenticeship programs have been proven to provide valuable driving experience; to reduce recklessness; to help prepare the driver for real-life driving situations that he or she may experience on the road; and identify and correct poor driving behaviors. Through this probationary program, the Agency believes these drivers will obtain the necessary experience skills to operate safely in interstate commerce. Forty-eight States and the District of Columbia already allow 18- to 20-year-old CDL holders to operate CMVs in intrastate commerce.

**Category Two:** FMCSA proposes to permit 19- and 20-year-old commercial drivers who have operated CMVs in intrastate commerce for a minimum of 1 year and 25,000 miles to participate in the younger driver CDL pilot program. The Agency believes these drivers have the requisite experience to operate safely, assuming they meet certain safety performance standards; and therefore, would not be required to complete any probationary periods. Forty-nine States and the District of Columbia already allow 19- and 20-year-old CDL holders to operate CMVs in intrastate commerce.

To have a statistically valid sample, approximately 200 drivers aged 18, 19 and 20 are needed. When these individuals reach the age of 21, they would no longer participate in the pilot program and would be have to be replaced by additional 18-, 19- and 20-year-old drivers by the motor carriers. FMCSA may continue to track the safety records of study group drivers who continue to drive for participating motor carriers when they are 21 or older.

### *Driving Limitations for Study Group Drivers*

FMCSA proposes to limit the types of vehicles a driver in the pilot program may operate. Consistent with the limitations FMCSA established in the Under-21 Military CDL Pilot Program, study group drivers would not be allowed to operate vehicles hauling passengers or hazardous materials or special configuration vehicles (e.g., doubles, triples, cargo tanks).

### *Training and Experience Requirements for Study Group Drivers*

In keeping with the Agency's ELDT final rule, FMCSA proposes to require study group drivers to have taken CDL training that meets the ELDT rule standards before obtaining their CDL. This will ensure that drivers admitted to

the younger driver CDL pilot program have minimum training and sufficient experience necessary to operate safely on our Nation's highways.

### *Other Study Group Driver Requirements*

To participate in the pilot program, FMCSA proposes that the study group driver be required to complete an application. In addition, the study group driver must have no disqualifications, suspensions, or license revocations within the past 2 years and not be under any out-of-service (OOS) order. To qualify as a study group participant, the driver must not have:

1. Had more than one license;
2. Had his or her intrastate CDL suspended, revoked, cancelled, or disqualified for a violation related to 49 CFR 383.51 in the home State of record or any State;
3. Had any conviction for a violation of State or local law relating to motor vehicle traffic control (other than a parking violation) arising in connection with any traffic crash and have no record of a crash in which he or she was at fault;
4. Been convicted of any of the following violations while operating a motor vehicle; or
  - Been under the influence of alcohol as prescribed by State law;
  - Been under the influence of a controlled substance;
  - Had an alcohol concentration of 0.04 or greater while operating a CMV;
  - Refused to take an alcohol test as required by a State under its implied consent laws or regulations as defined in 49 CFR 383.72;
  - Left the scene of a crash;
  - Used the vehicle to commit a felony;
  - Driven a CMV while his or her intrastate CDL or other license was revoked, suspended, or cancelled or while he or she was disqualified from operating a CMV; or
  - Caused a fatality through the negligent operation of a CMV (including motor vehicle manslaughter, homicide by motor vehicle, or negligent homicide).
5. Had more than one conviction for any of the violations described below in any type of motor vehicle:
  - Driving recklessly, as defined by State or local law or regulation (including offenses of driving a motor vehicle in willful or wanton disregard for the safety of persons or property);
  - Driving a CMV without obtaining a CDL;
  - Violating a State or local law or ordinance on motor vehicle traffic control prohibiting texting while driving; or

○ Violating a State or local law or ordinance on motor vehicle traffic control restricting or prohibiting the use of a hand held mobile telephone while driving.

To stay in the pilot program, the younger drivers would be required to agree to the release of specific information to FMCSA for purposes of the pilot program; meet all FMCSR requirements (except age) for operating a CMV in interstate commerce; operate primarily in interstate commerce; and, if selected; maintain a good driving record (e.g., free of any § 383.51 violations). A driver may be removed from the pilot program if he or she is disqualified for a major offense, serious traffic violation, railroad-highway grade crossing, or violation of an OOS order, as outlined in § 383.51 of the FMCSRs.

#### *Vehicle Safety Technology for Study Group Drivers*

Vehicle safety technology continues to increase and FMCSA recognizes the value of these systems. These tools can help prevent, or significantly reduce the number and severity of, crashes on our Nation's highways. FMCSA is proposing to require the following vehicle safety technologies on the CMVs operated by the study group drivers: Active-braking collision mitigation systems; forward-facing video event recorders; and automatic or automatic-manual transmissions; and speed limiters set to 65 miles per hour. FMCSA believes that requiring these technologies on the CMVs operated by younger drivers will assist in preventing crashes. As an added benefit, FMCSA will be able to analyze the data received from these technologies to determine if one safety feature is more beneficial to safety.

Although not required, FMCSA would also prioritize approval of those motor carriers that equip their vehicles with additional technologies, such as various collision avoidance systems, lane centering, etc.

#### *Control Group Drivers*

A control group of older drivers is needed to form a baseline of comparison for the safety records of the younger study group drivers. The control group participants would be between 21 and 24 years of age. These control group drivers would work for the participating carriers.

#### *Motor Carrier Qualification Requirements*

To qualify for participation, a motor carrier would have to meet the following minimum standards, which match the minimum standards of the Under-21 Military CDL Pilot:

1. Have proper operating authority registration, if required, and USDOT number;
2. Have evidence of the minimum levels of financial responsibility;
3. Not be a high or moderate risk motor carrier as defined in the Agency's **Federal Register** notice titled, "Notification of Changes to the Definition of a High Risk Motor Carrier and Associated Investigation" published on March 7, 2016 (81 FR 11875);
4. Not have a conditional or unsatisfactory safety rating;
5. Not have any open enforcement actions based on an imminent hazard OOS order (49 CFR 386.72) or a suspension or revocation based on a pattern of safety violations (49 CFR part 385 Subpart K);
6. Not have a crash rate above the national average;
7. Not have a driver OOS rate above the national average; and
8. Not have a vehicle OOS rate above the national average.

In addition, unpaid civil penalties would be grounds to deny participation in the pilot program.

Throughout the pilot program, the motor carrier would be expected to maintain an excellent safety record. Motor carriers may be disqualified from the pilot program if the carrier:

1. Does not have proper operating authority registration, where required, and USDOT number;
2. Does not have the minimum levels of financial responsibility;
3. Is prioritized as a high risk;
4. Is prioritized as a moderate risk for 2 consecutive months;
5. Receives a conditional or unsatisfactory safety rating;
6. Is the subject of an open Federal enforcement action based on an imminent hazard OOS order (49 CFR 386.72) or a suspension or revocation based on a pattern of safety violations (49 CFR part 385 Subpart K). Enforcement actions resulting in civil penalties will be reviewed on a case-by-case basis;
7. Has a crash rate above the national average for 3 consecutive months;
8. Has a driver OOS rate above the national average for 3 consecutive months;
9. Has a vehicle OOS rate above the national average for 3 consecutive months; or
10. Fails to report monthly data as required.

FMCSA would reserve the right to remove a carrier from the program at its discretion if it is determined there is a safety risk.

#### *Motor Carrier Application and Participation Requirements*

Carriers would be required to complete an application for participation in the pilot program and submit monthly data on study group and/or control group driver activity (e.g., vehicle miles traveled, duty hours, driving hours, off-duty time, or breaks), safety outcomes (e.g., crashes, violations, and safety-critical events) and any additional supporting information (e.g., onboard monitoring systems or investigative reports from previous crashes). In addition, carriers would be required to notify FMCSA within 24 hours of: (1) Any injury or fatal crash involving a participating study group pilot program driver; (2) a study group driver receiving an alcohol-related citation (e.g., driving under the influence or driving while intoxicated); (3) a study group driver choosing to leave the pilot program; (4) a study group driver leaving the carrier; or (5) a study group driver failing a random or post-crash drug/alcohol test.

Carriers would be required to ensure drivers meet the requirements to participate in a younger driver pilot program by establishing an apprenticeship program that would mirror the requirements introduced in the proposed DRIVE-Safe Act for study group drivers in group one; ensuring study group drivers in group two meet the requisite experience; and verifying that study group drivers meet all other requirements to participate.

FMCSA would gather additional safety data for all study and control group drivers during the pilot program from the Motor Carrier Management Information System (MCMIS), such as crashes and driving and inspection violations.

FMCSA would prioritize approval of carriers to participate and continue based on these carriers' safety performance records over time, selecting only those with the highest or best relative performance.

Approved carriers would be publicly announced on the Agency's website to encourage potential study group drivers to apply for employment directly with the identified carriers. Approved carriers would be able to assist study group drivers (whom they sponsor) with completion of the application and participation agreement. When a carrier receives notification that a study group driver has been approved to operate in interstate commerce, the carrier would then submit a form and agreement for a control group driver. In this manner, the number of drivers in each group would be similar.

The length of time during which replacement study group drivers will be added will be determined by FMCSA based on the statistical and administrative needs of the pilot data collection plan.

FMCSA would adapt the applications, agreements, forms to be used by interested carriers and potential study and control group drivers, and plans it created for its Under 21 Military CDL Pilot Program for this younger driver pilot program.

In addition to the above requirements, FMCSA is proposing that each motor carrier accepted into the pilot program must agree to comply with all pilot program procedures and requirements, including completing required forms, obtaining driver consent, and attending information sessions.

#### *Control Group Drivers*

Details of each requirement for control group drivers summarized below would be published if the pilot program is approved. Control group drivers would be required to:

- Agree to participate;
- Possess a valid CDL;
- Be a driver for participating motor carrier;
- Have no disqualifications, suspensions, or license revocations within past 2 years; or be under any OOS order;
- Agree to release of specified information for the pilot program;
- Have experience comparable to study group drivers; and
- Be 21 to 24 years old at time of acceptance into the pilot.

#### **VI. Data Collection Plan**

The factors to be collected from each participating driver before and during the pilot program may include, but are not limited to: (1) Details of any past CMV driving experience and employment information to assess qualification for participation in the study and/or control groups; (2) crashes (to be specified); (3) any traffic citations or warnings received while driving a CMV; (4) any violations or warnings listed on a CMV inspection report when the participating driver was operating the vehicle; and (5) detailed 24-hour records of activity to include CMV hours-of-service logs or electronic records. Some of this information would be automatically reported to FMCSA; however, due to possibility of delays in reporting and inaccurate data in some instances, the participating carrier would be asked to collect the information from all participating drivers and report it to FMCSA in a designated format. Other information

that may be needed, such as vehicle miles traveled, would also be collected through the participating carrier. Every effort would be made to minimize the burden on the carrier in collecting and reporting this data.

#### **VII. Paperwork Reduction Act**

The proposed pilot program would require participating motor carriers to collect, maintain, and report to FMCSA certain information about their employed/sponsored drivers who are participating in the pilot program. This would include identifying information and safety performance data for use in analyzing the drivers' safety history. The Agency would revise the forms developed for the Under-21 Military Driver pilot program to promote uniformity in the data collected by the pilot carriers.

The Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) prohibits agencies from conducting information collection (IC) activities until they analyze the need for the collection of information and how the collected data would be managed. Agencies must also analyze whether technology could be used to reduce the burden imposed on those providing the data. The Agency must estimate the time burden required to respond to the IC requirements, such as the time required to complete a particular form. The Agency submits its IC analysis and burden estimate to the Office of Management and Budget (OMB) as a formal information collection request (ICR); the Agency cannot conduct the information collection until OMB approves the ICR. FMCSA asks for comment on the IC requirements of this proposal. The Agency's analysis of these comments would be used in devising the Agency's estimate of the IC burden of the pilot program. Comments can be submitted to the docket as outlined under **ADDRESSES** at the beginning of this notice. Specifically, the Agency asks for comment on: (1) How useful the information is and whether it can help FMCSA perform its functions better; (2) how the Agency can improve the quality of the information being collected; (3) the accuracy of FMCSA's estimate of the burden of this IC; and (4) how the Agency can minimize the burden of collection.

Because this is a proposed pilot program in which certain aspects—such as the content of forms and reports—have not been finalized, the Agency is not posting the possible IC burden data at this time. If the pilot program is to be implemented, this information would be posted at a later date and additional comments would be taken.

#### **VIII. Monitoring and Oversight**

FMCSA would review both monthly data submitted by approved motor carriers and its own databases including, but not limited to, MCMIS, Safety Measurement System, Commercial Driver's License Information System, the Licensing and Insurance system, and the Drug and Alcohol Clearinghouse. FMCSA reserves the right to remove any motor carrier or driver from the pilot program for reasons including, but not limited to, failing to meet any of the requirements of the program.

#### **IX. Length of Program**

FMCSA expects this program to run for 3 years but may conclude the program sooner if there is sufficient data to analyze the safety of covered drivers.

#### **X. Request for Public Comments**

The following questions identify input desired by FMCSA. Instructions for filing comments to the public docket are included earlier in this notice. Persons are encouraged to respond wherever possible by reference to the question number, but comments are not limited to replies to these questions:

1. Should FMCSA consider any additional safeguards to ensure that the pilot program provides an equivalent level of safety to the regulations without the age exemption?
2. Would carriers be able to obtain enough drivers to serve in the control group?
3. Would the vehicle technology requirements proposed for study group drivers limit participation by smaller companies?
4. Should FMCSA limit the distance that study group drivers should be allowed to operate (e.g., 150 air-mile radius, 250 air-mile radius)?
5. Are the data collection efforts proposed so burdensome for carriers as to discourage their participation?
6. Should we limit participation to drivers who have not been involved in a preventable crash?

**James A. Mullen,**  
*Deputy Administrator.*

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#### **DEPARTMENT OF THE TREASURY**

##### **Office of Foreign Assets Control**

##### **Notice of OFAC Sanctions Actions**

**AGENCY:** Office of Foreign Assets Control, Treasury.

**ACTION:** Notice.