



4910-EX-P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA--2017-0196]

30-Day Notice of Proposed Information Collection: Pilot Program to Allow 18- to 21-Year-Old Persons with Military Driving Experience to Operate Commercial Motor Vehicles (CMVs) in Interstate Commerce

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

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FMCSA announces its plan to submit the Information Collection Request (ICR) described below to the Office of Management and Budget (OMB) for review and approval. Pursuant to Section 5404 of the Fixing America's Surface Transportation Act, 2015 (FAST Act), FMCSA proposes a 3-year period of information collection to determine: (1) whether the safety outcomes (to include crashes, moving violations, inspection violations, and safety critical events as available) of drivers under the age of 21 with military experience in the operation of heavy vehicles (i.e., "covered drivers") participating in interstate commerce are similar to the safety outcomes of CMV drivers between the ages of 21 and 24 (i.e., drivers aged 21, 22, 23, or 24) operating freight-carrying CMVs, and (2) how training and experience impact the safety of the 18- to 20-year-old driving population. FMCSA proposed this pilot program and solicited public comment on August 22, 2016. Two Federal Register notices were published on July 6, 2018. One notice requested comments

on this proposed information collection request (83 FR 31631) and the other announced programmatic details for participating in the pilot program and responded to comments received on the initial proposal for the pilot program (83 FR 31633). The comment period was open for 60-days and closed on September 4, 2018. In response to the notice, FMCSA received 37 comments.

DATES: Please send your comments by **[INSERT DATE 30 DAYS AFTER THE DATE OF PUBLICATION OF THIS NOTICE IN THE FEDERAL REGISTER]**.

OMB must receive your comments by this date in order to act quickly on the ICR.

ADDRESSES: All comments should reference Federal Docket Management System (FDMS) Docket Number FMCSA-2017-0196. Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the attention of the Desk Officer, Department of Transportation/Federal Motor Carrier Safety Administration, and sent via electronic mail to oir_submission@omb.eop.gov, or faxed to (202) 395-6974, or mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street, N.W., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Nicole Michel, Research Division, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590-0001, by email at nicole.michel@dot.gov, or by telephone at (202) 366-4354. If you have questions on viewing or submitting material to the docket, contact Docket Services, telephone (202) 366-9826.

SUPPLEMENTARY INFORMATION:

Title: Proposed Information Collection for a Pilot Program to Allow 18- to 21-Year-Old Persons with Military Driving Experience to Operate CMVs in Interstate Commerce.

OMB Control Number: 2126-NEW

Type of Request: New information collection.

Respondents: Motor carriers; 21- to 24-year-old entry-level CMV drivers with valid commercial drivers' licenses (CDLs) operating in freight-carrying interstate commerce (control group drivers); 18- to 20-year-old freight-carrying CMV drivers with a valid CDL operating in intrastate commerce (intrastate group drivers); 18- to 20-year-old current or former military personnel with training in heavy-duty vehicle operations (covered drivers) and valid CDLs with a K-restriction.

Estimated Number of Respondents: 1,570. [Motor carriers: 70 in total; 50 at any given time. Control group drivers: 500 in total (Year 1 = 300; Year 2 = 100; Year 3 = 100; Annualized = 166.7). Intrastate group drivers: 500 in total (Year 1 = 300; Year 2 = 100; Year 3 = 100; Annualized = 166.7). Covered group drivers: 500 in total (Year 1 = 300; Year 2 = 100; Year 3 = 100; Annualized = 166.7).

Estimated Time per Response: Motor Carriers: application—20 minutes (one-time response); monthly data submission—45 minutes (per participating driver); miscellaneous additional data submissions—60 minutes per month (e.g. notification of a crash with injury or fatality, notification of a driver leaving the carrier or study); monthly supporting information—15 minutes (per sponsored participating driver, monthly; e.g., optional on-board monitoring system [OBMS] logs, investigation findings for crashes).

Drivers: background information and informed consent forms—20 minutes (one-time response).

Expiration Date: N/A. This is a new information collection request (ICR).

Frequency of Response: This is a one-time pilot program that will span a 3-year period of data collection. Throughout the 3-year pilot program, the response frequencies are: Motor-carrier applications: one-time response. Driver demographic and release forms: one-time response. Motor carrier driver data submission: monthly (see “Estimated Time per Response” for more details).

Estimated Total Annual Burden: 7,974.5 hours annualized. [This includes 7.8 hours annualized for motor carrier applications; 166.67 hours annualized for driver information and informed consent forms; 5,400 hours annualized for monthly driver activity and safety data; 600 hours annualized for miscellaneous tasks; and 1,800 hours annualized for additional supporting data.]

BACKGROUND:

I. Project Summary

Purpose

Pursuant to Section 5404 of the FAST Act, the proposed ICR will support research to determine whether the safety outcomes of covered drivers participating in interstate commerce are similar to the safety outcomes of older entry-level drivers, and how training and experience impact the safety of the 18- to 20-year-old driving population.

FAST Act Mandate

Section 5404 of the FAST Act (Pub. L. 114-94, 129 Stat. 1312, 1549, Dec. 4, 2015)(49 U.S.C. 31315 note) requires the establishment of a data collection program to collect and analyze data regarding crashes involving covered drivers participating in the pilot program, and drivers under the age of 21 operating CMVs in intrastate commerce. A “covered driver” is defined as a current or former member of the armed forces or reserve components between the ages of 18 and 21 (i.e., a driver aged 18, 19, or 20), who is qualified in a Military Occupational Specialty (MOS) to operate a CMV or similar vehicle. A report detailing the findings will be submitted to Congress no later than one year after completing data collection. A working group was also established under section 5404 to review this data collection and provide advice to FMCSA.

Regulatory Relief

Drivers of CMVs engaged in interstate commerce must be at least 21 years of age (49 CFR 391.11(b)(1)). This includes CMVs for which CDLs are required and certain other CMVs for which a CDL is not required.

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 CLP. A CDL holder under the age of 21 must have a “K” restriction on their CDL, which limits the driver to operating in *intrastate commerce*. Therefore, the proposed pilot program requires that participating drivers be provided relief from sections of 49 CFR parts 383 and 391 concerning minimum age requirements so that the covered drivers may operate in interstate commerce.

II. Data Collection Plan

Details of the data collection plan for this pilot program are subject to change based on comments in the docket and further review by FMCSA.

The data collection plan calls for 50 motor carriers to be active in the pilot program at a time who will each identify and employ at least one covered group driver in addition to intrastate drivers and/or control group drivers. Carriers will report safety data to FMCSA. Note that while only 50 carriers are expected to participate at any given time, an estimated 70 carriers will participate throughout the 3-year study due to carrier turnover.

FMCSA anticipates an average of 600 drivers participating in the study per year (200 control group, 200 intrastate, and 200 covered drivers). An estimated 300 replacement drivers (100 control group, 100 intrastate, and 100 covered) will participate during each year of the 3-year program due to expected driver turnover.

The information collection can be summarized by the following:

- A motor carrier application (completed once at the time of application) for participation in the pilot program will provide the project team with the carrier's contact information and demographic data.
- Each participating driver will need to complete a driver background information form and sign an informed consent form, which the motor carrier will submit on the driver's behalf. This is a one-time task for each driver.
- On a monthly basis, carriers will submit data on driver activity (e.g., duty hours, driving hours, off-duty time, restart breaks), safety outcomes (e.g., crashes, violations, and safety-critical events) and any additional supporting information (e.g., OBMS logs, investigative reports from previous crashes).

- Carriers will be required to notify FMCSA within 24 hours of: any injury or fatality crashes involving a participating driver, a participating driver receiving an alcohol-related citation (e.g., driving under the influence, driving while intoxicated), a participating driver choosing to leave the pilot program, a participating driver leaving the carrier, or a participating driver failing a random or post-crash drug/alcohol test.

This pilot limits the definition of CMVs to large trucks and does not include passenger-carrying vehicles, such as buses. The pilot also excludes trucks in special configurations or involved in the transport of hazardous materials.

III. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (the PRA) (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 will 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 OMB as a formal ICR; the Agency cannot conduct the information collection until OMB approves the ICR.

IV. Summary of Public Comments Received

A Federal Register notice (83 FR 31631) was published on July 6, 2018, which requested comments on this proposed information collection request. The comment

period was open for 60-days and closed on September 4, 2018. The notice received 37 comments, which are summarized here.

Of the comments received, 17 were in support for the pilot program with an additional 3 comments in support of the pilot program given certain criteria were met. There were 14 commenters who opposed the pilot program, and 3 additional comments were neutral in their stance toward the pilot program.

Commenters Supportive or Conditionally Supportive of the Pilot Program: There were 17 commenters who acknowledge their support of the pilot program, and an additional three commenters who acknowledged support of the pilot program given certain circumstances. Several of these comments felt this would be a good opportunity for young military personnel to form a career based on their military training. Several comments offered suggestions or considerations, which are detailed below.

1. Consider the size and weight of the vehicle for which the military candidates are licensed to drive to avoid accepting candidates who were trained on or have experience with light military vehicles only. In other words, specify a type of vehicle requirement for military participants to be trained in and have experience on.

FMCSA Response: A review of the vehicles used in each MOS was conducted and it is expected that the military driver will receive a CDL for a class of vehicles that is comparable with the knowledge and experience. The identified MOSs include 88M or 92F for the US Army, EO for the US Navy, 3531 for the US Marine Corps, and 2T1, 2F0, or 3E2 for the US Airforce.

2. Consider having drivers pass an approved driver training program before participating in the pilot program.

FMCSA Response: A comparison of the MOS training requirements against the Entry Level Driver Training curriculum requirements was completed and determined that military training programs often exceed the number of classroom and behind-the-wheel training hours that many/most entry level drivers receive. The drivers in the covered group will need to have passed their military training in order to participate in the study.

3. Consider excluding drivers from the control sample for the same reason(s) military personnel would be disqualified from participating (e.g., disqualifications, suspensions, or revocations in the past three years) and extend the requirement that covered drivers may not transport passengers or hazardous materials, or operate doubles or triples to the control group drivers as well.

FMCSA Response: FMCSA does not feel control group drivers or current intrastate drivers should have disqualification standards other than the current FMCSA disqualification regulations found in CFR 49 383.51, as they are otherwise eligible to drive currently. These drivers will not be receiving any exemptions from the current rules and regulations, so as long as they remain in compliance with FMCSA regulations they are eligible to operate a CMV and therefore should be eligible to participate in the pilot program. No drivers participating in the study will be allowed to transport passengers, hazardous cargo, or to operate a vehicle in special configurations, as specified in the FAST Act.

4. Clarify what is meant by “or be subject to any OOS order” regarding control driver requirements.

FMCSA Response: FMCSA will remove control drivers from the pilot program if they are subject to any out of service orders issued by the Agency.

5. Specify that control drivers may not be former covered drivers who have aged out of the covered driver group.

FMCSA Response: This is the intended study design, although continuing data on these drivers will be collected as possible to determine trends with individual drivers.

6. Consider balancing the number of covered and control drivers from each carrier to minimize the effects of carrier differences in analysis.

FMCSA Response: This was considered in the original study design; however, it was determined that this could be overly burdensome on small carriers and may deter them from participating; therefore, this is not a requirement for participation in the study.

7. Consider increasing the size of the study groups and not setting a maximum number on carriers who can participate.

FMCSA Response: The size of the groups has been estimated as a minimum required sample size to determine statistically valid results. FMCSA does not have a limit to the number of drivers or carriers that may participate.

8. Consider widening the age range of the control study group to increase small carrier participation.

FMCSA Response: The control study group age was originally proposed to be from 21 to 26 years old in the Federal Register Notice titled “Commercial Driver’s Licenses; Proposed Pilot Program to Allow Persons Between the Ages of 18 and 21 with Military Driving Experience to Operate Commercial Motor Vehicles in Interstate Commerce,” published on August 22, 2016 (81 FRN 56745). Based on comments received on this Federal Register Notice, FMCSA modified the control group age range

to a smaller, younger control group that would be a better comparison to other new, young drivers.

9. Ensure data is evaluated by an independent third party before being analyzed by the working group.

FMCSA Response: The data and analysis performed for this study will be evaluated by at least three independent peer reviewers who have appropriate credentials prior to the working group reviewing the findings.

10. Exercise caution when using CSA scores to determine motor carrier eligibility.

FMCSA Response: FMCSA will use SMS percentiles in a fair manner to determine carrier eligibility; however, FMCSA has determined that evaluating SMS percentiles prior to carrier acceptance is necessary to ensure safety to both pilot program participants and the general motoring public.

11. Consider collecting additional data, to include: types of advanced vehicle safety technologies in use, types of vehicles being used by participating drivers, type of freight hauled, type of operating environment, as well as specific details about the type and duration of training the driver has received, to include both pre-CDL and post-CDL training.

FMCSA Response: FMCSA agrees that this information should be requested, and has updated data collection forms to reflect these items. However, FMCSA will not preclude a carrier from participation for not providing these details if other requirements are met.

13. Consider a formal review process for motor carriers who temporarily fall out of compliance with the pilot program requirements and want to re-enter the program.

FMCSA Response: Carriers who fall out of compliance with the pilot program requirements will be dealt with on an individual basis depending on several factors, including evaluating the severity of their lapse of compliance.

14. Allow for carriers to report driver infractions (e.g., failure of a drug test, crashes, violations, etc.) in one business day as opposed to one 24-hour period.

FMCSA Response: FMCSA does not agree that one business day is the correct time frame for reporting these infractions; however, FMCSA has clarified that they should be reported within one day of the carrier being informed of any of these infractions.

Commenters Opposed to the Pilot Program: Of the 14 commenters who were against the pilot program, 13 comments were submitted by individuals, while one comment was submitted by the Advocates for Highway and Auto Safety (Advocates). Several commenters mentioned general knowledge that younger drivers tend to be less safe than older drivers. One commenter mentioned concern over the potential for younger drivers to be treated harshly by the industry, and several mentioned a lack of experience that would be concerning. Advocates additionally recommended requiring both the use of an Electronic Logging Device (ELD) and the use of an On-Board Monitoring System (OBMS).

FMCSA Response: For those commenters who expressed concern due to immaturity and lack of experience of younger drivers, FMCSA reiterates that the pilot program will have stringent participation criteria which includes military training that

exceeds most entry-level driver training programs as well as military experience operating a heavy vehicle that is comparable to a CMV. Participants must be trained in a specific MOS which have been selected as those most closely mirroring experience with CMVs. Drivers will be required to comply with current regulations regarding ELDs, and while most CMVs are equipped with OBMS systems, FMCSA's position is that requiring use of an OBMS would limit the ability of smaller carriers to apply for the program. In an effort to not bias the sample, OBMS data will be collected from participating drivers if the vehicle they operate is already equipped with that system; however, it is not a requirement for participation.

Comments Neutral towards the Pilot Program: There were three commenters who did not voice whether they supported or opposed the pilot program. These comments included one voicing concern over the industry turning away these young drivers due to the difficult nature of the industry and its lifestyle (e.g., long periods away from home), a commenter raising the need for a lot of hands on training for anyone entering the industry, and one commenter who had questions and commentary regarding expanding the pilot program, current regulations, and the practices their carrier follows. This commenter also felt the current study design was too onerous for small carriers and geared more towards large carriers.

FMCSA Response: These comments were not actionable with regard to this pilot program. The FAST Act specifies who should be included in the pilot program, and the military training offers extensive classroom and behind-the-wheel training prior to being certified in one of the relevant MOSs. Regarding the burden on small carriers, FMCSA has designed a study that is open to having all carriers (small, medium, and large) apply

to the program, while still being able to meet the safety needs of this pilot program and collect enough data to conduct a statistically meaningful analysis. FMCSA has made several efforts to assist with reducing the burden on small carriers, such as not making OBMS data a requirement, and not requiring carriers to provide a driver for each group on a one-for-one basis.

Issued under the authority delegated in 49 CFR 1.87 on: November 20, 2018.

G. Kelly Regal,
Associate Administrator for Office of Research and Information Technology.

[FR Doc. 2018-25846 Filed: 11/26/2018 8:45 am; Publication Date: 11/27/2018]