Applying principles from these studies to the past 3-year record of the 21 applicants, two of the applicants had traffic violations for speeding. The applicants achieved this record of safety while driving with their vision impairment, demonstrating the likelihood that they have adapted their driving skills to accommodate their condition. As the applicants' ample driving histories with their vision deficiencies are good predictors of future performance, FMCSA concludes their ability to drive safely can be projected into the future.

We believe the applicants' intrastate driving experience and history provide an adequate basis for predicting their ability to drive safely in interstate commerce. Intrastate driving, like interstate operations, involves substantial driving on highways on the interstate system and on other roads built to interstate standards. Moreover, driving in congested urban areas exposes the driver to more pedestrian and vehicular traffic than exists on interstate highways. Faster reaction to traffic and traffic signals is generally required because distances between them are more compact. These conditions tax visual capacity and driver response just as intensely as interstate driving conditions. The veteran drivers in this proceeding have operated CMVs safely under those conditions for at least 3 years, most for much longer. Their experience and driving records lead us to believe that each applicant is capable of operating in interstate commerce as safely as he/she has been performing in intrastate commerce. Consequently, FMCSA finds that exempting these applicants from the vision standard in 49 CFR 391.41(b)(10) is likely to achieve a level of safety equal to that existing without the exemption. For this reason, the Agency is granting the exemptions for the 2-year period allowed by 49 U.S.C. 31136(e) and 31315 to 21 of the applicants listed in the notice of March 16, 2007 (72 FR 12666).

We recognize that the vision of an applicant may change and affect his/her ability to operate a CMV as safely as in the past. As a condition of the exemption, therefore, FMCSA will impose requirements on the 21 individuals consistent with the grandfathering provisions applied to drivers who participated in the Agency's vision waiver program.

Those requirements are found at 49 CFR 391.64(b) and include the following: (1) That each individual be physically examined every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the standard in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy in his/her driver's qualification file if he/she is self-employed. The driver must also have a copy of the certification when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

Discussion of Comments

FMCSA received no comments in this proceeding.

Conclusion

Based upon its evaluation of the 21 exemption applications, FMCSA exempts Rex A. Botsford, Robert A. Casson, Gregory L. Cooper, Kenneth D. Craig, Thomas H. Davenport, Sr., Christopher A. Deadman, Heather M.B. Gordon, William K. Gullett, George Harris, Kenneth C. Keil, Robert K. Kimbel, Melvin A. Kleman, Roosevelt Lawson, Jr., David H. Luckadoo, Emanuel N. Malone, Robert E. Martinez, Richard W. Mullenix, Steven A. Proctor, George K. Sizemore, Robert N. Taylor, and Manuel A. Vargas from the vision requirement in 49 CFR 391.41(b)(10), subject to the requirements cited above (49 CFR 391.64(b)).

In accordance with 49 U.S.C. 31136(e) and 31315, each exemption will be valid for 2 years unless revoked earlier by FMCSA. The exemption will be revoked if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136 and 31315.

If the exemption is still effective at the end of the 2-year period, the person may apply to FMCSA for a renewal under procedures in effect at that time.

Issued on: April 30, 2007.

Larry W. Minor,

Acting Associate Administrator, Policy and Program Development.

[FR Doc. E7–8637 Filed 5–4–07; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA 2007–27111; Notice 2]

Baby Trend, Inc.; Grant of Petition for Decision of Inconsequential Noncompliance

Baby Trend Inc. (Baby Trend) has determined that certain infant car seats that it produced in 2006 do not comply with paragraph S5.6.1.7(i) of 49 CFR 571.213, Federal Motor Vehicle Safety Standard (FMVSS) No. 213, *Child Restraint Systems*. Pursuant to 49 U.S.C. 30118(d) and 30120(h), Baby Trend has petitioned for a determination that this noncompliance is inconsequential to motor vehicle safety and has filed an appropriate report pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*. Notice of receipt of a petition was published, with a 30-day public comment period, on February 16, 2007, in the **Federal Register** (72 FR 7708). The National Highway Traffic Safety Administration (NHTSA) received no comments. To view the petition and all supporting documents, go to: *http://dms.dot.gov/search/searchFormSimple.cfm* and enter Docket No. NHTSA–2007–27111.

Affected are a total of approximately 30,450 infant car seats produced by Baby Trend between June 21, 2006 and November 30, 2006. Specifically, paragraph S5.6.1.7(i) of FMVSS No. 213 addresses the use of the following statement on child restraints:

> For recall information, call the U.S. Government's Vehicle Safety Hotline at 1–888–327–4236 (TTY: 1–800–424–9153), or go to *http://www.NHTSA.gov*.

The infant car seats do not have the markings most recently required by paragraph S5.6.1.7. Baby Trend has corrected the problem that caused these errors so that they will not be repeated in future production.

Baby Trend argued that the noncompliance is inconsequential to motor vehicle safety and that no corrective action is warranted. Baby Trend stated that the child restraint seats comply with the stringent dynamic performance requirements of FMVSS No. 213. Baby Trend also asserted that no safety consequence exists for the technical labeling non-compliance. Further, they believe that given the existing lag time, the use of the older version of the information remains a viable means for contacting the NHTSA. Although telephone exchanges have changed, NHTSA still forwards calls in an integrated manner to provide

consumer service to the general population. In addition, Baby Trend states that the use of the internet, improvements to NHTSA's Web sites and the implementation of the integrated *http://www.recall.gov* Web site allows consumers interested in contacting NHTSA to do so more effectively than ever before.

NHTSA Decision

NHTSA specifies that child seat manufacturers must provide the telephone number for the Vehicle Safety Hotline so that consumers concerned about safety recalls or potential safety related defects could contact the agency. That telephone number has been changed. A final rule published on June 21, 2005, in the **Federal Register** (70 FR 3556) revised the relevant section of the Code of Federal Regulations (CFR) to correct the telephone number. In that same final rule, NHTSA also added guidance related to the use of the URL of the NHTSA Web site on printed instructions for the proper use of infant car seats.

Although the Hotline number included in the printed instructions for the Baby Trend infant car seats is not the correct number for the Hotline, it is an active number which currently provides callers with a referral to the new Hotline number. This referral from the old number will be active for the foreseeable future. Inclusion of the NHTSA Web site address in the printed instructions for proper use is optional and its absence on the printed instructions for the subject infant child seats does not constitute a noncompliance of FMVSS No. 213. NHTSA therefore agrees with Baby Trend that there is no safety consequence because consumers will still have ready access to the new Hotline number by calling the old Hotline number provided by Baby Trend.

NHTSA agrees that the noncompliance is inconsequential to motor vehicle safety. The use of the outdated telephone number should not prevent the owners of the child seats from being able to readily access recall information.

In consideration of the foregoing, NHTSA has decided that Baby Trend has met its burden of persuasion that the noncompliance described is inconsequential to motor vehicle safety. Accordingly, Baby Trend's petition is granted and the petitioner is exempted from the obligation of providing notification of, and a remedy for, the noncompliance.

Authority: 49 U.S.C. 30118, 30120; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: May 1, 2007.

Daniel C. Smith,

Associate Administrator for Enforcement.

[FR Doc. E7–8680 Filed 5–4–07; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 35003]

BNSF Railway Company and Soo Line Railroad Company, Inc.—Joint Relocation Project Exemption—in Duluth, MN

On April 18, 2007,[1] BNSF Railway Company (BNSF) and Soo Line Railroad Company, Inc., d/b/a Canadian Pacific Railway (CPR), jointly filed a notice of exemption under 49 CFR 1180.2(d)(5) to relocate and construct track within and around Rice's Point Yard between CPR mileposts 288.70 and 287.20, in Duluth, MN. BNSF and CPR will construct, maintain, repair and renew their own trackage and turnouts under the Duluth Public Works Project.

The purpose of the joint relocation project is to accommodate a new public roadway, Davis-Helberg Drive (also referred to as Helberg Drive), being constructed as part of a Port of Duluth improvement project.

The project consists of the following transactions:

(1) BNSF will grant CPR non-exclusive overhead trackage rights to operate its trains, locomotives, cars and equipment with its own crews over trackage owned and operated by BNSF located between Points C and D, a distance of approximately 825 feet. Point C is currently located at BNSF milepost 1.46 (CPR milepost 288.25) and, after construction, because of changes to the overall track configuration within the CPR track system, Point C will be designated CPR milepost 288.24. Point D is currently located at BNSF milepost 1.49 and, after construction, Point D will be designated as CPR milepost 287.91. These trackage rights are intended to enable CPR a direct run-through to bypass switches at Cargill (or its successor). BNSF will continue to operate over this segment.

(2) CPR will grant BNSF non-exclusive overhead trackage rights to operate its trains, locomotives, cars and equipment with its own crews over trackage owned and operated by CPR located between Points E and I, a distance of approximately 350 feet. After construction, Point E will be on new trackage to be designated as CPR milepost 287.75. Point I is located on crossover yard track between BNSF and CPR. There is no milepost designation for this yard track, but the end point of the trackage rights (Point I), is approximately 350 feet south of Point E. These trackage rights are intended to enable BNSF to continue to connect with the Duluth Seaway Port Authority, which includes serving AG Processing, Inc. (or its successor), Azcon (or its successor), and the Garfield Industrial area. CPR will continue to operate over this segment.[2]

(3) BNSF will grant CPR a freight easement on BNSF's property for the purchase, relocation and reconstruction of a portion of CPR's line between Points A and B (Point A being the westerly BNSF right-of-way near Point C) (easement), a distance of approximately 2,500 feet. Point A is currently located at BNSF milepost 1.61. After construction, Point A will be located on new trackage designated as CPR milepost 288.10, and Point B will be located on new trackage to be designated as CPR milepost 287.64.

Applicants state that the proposed project will not disrupt service to shippers, as applicants will continue to have access to the Port. Additionally, applicants state that the relocated line and trackage rights will not involve an expansion of service by BNSF or CPR into new territory, or alter the existing competitive situation.

The Board will exercise jurisdiction over the abandonment or construction components of a relocation project, and require separate approval or exemption, only where the removal of track affects service to shippers or the construction of new track involves expansion into new territory. *See City of Detroit* v. *Canadian National Ry. Co., et al.*, 9 I.C.C.2d 1208 (1993), *aff'd sub nom. Detroit/Wayne County Port Authority* v. *ICC*, 59 F.3d 1314 (D.C. Cir. 1995). Line relocation projects may embrace trackage rights transactions such as the one involved here. *See D.T.&I.R.*—

[1] The notice was initially filed on March 26, 2007. On April 3, 9, and 18, 2007, amendments were filed to more clearly identify the trackage involved in this proceeding. Because the notice was not complete until the April 18 filing, that date will be considered the actual filing date.

[2] Applicants state that the overhead reciprocal trackage rights will terminate 25 years from the execution date (initial term). Unless BNSF or CPR notifies the other in writing at least 6 months prior to the expiration of the initial term, the trackage rights may continue in full force and effect for up to 3 successive terms of 25 years each under the same terms and conditions. The parties must seek appropriate Board authority for the trackage rights to expire at the end of the initial term or at the end of the successive term or terms, as appropriate.