

Interstate 15 is the only North-South interstate highway in Montana. It is part of the National Highway System and has become critically important in regional, interstate, and international travel and commerce.

Increases in population and changes in land use patterns in the Helena area have resulted in increased traffic volumes on Interstate 15 and on East-West roadways since its construction in 1962. This increased traffic has decreased the operating efficiency of the interchanges on I-15 and on the East-West roadways crossing the highway corridor. I-15 has become a barrier to East-West travel, including pedestrians, bicyclists, and emergency access.

The purpose of the project is to accommodate anticipated traffic volumes safely and efficiently, while similarly considering the movement of east-west traffic crossing the I-15 corridor. The project will address safety and operating efficiencies at I-15 interchange and east-west roadways crossing I-15 between Lincoln Road and Montana City. The crossing roadways will be studied to the extent necessary to ensure their ability to collect and distribute anticipated traffic to and from I-15.

The public involvement program will include the following:

- Public Workshops and Meetings
- Meetings and Presentations to Neighborhood Groups and Business Organizations
- Formation of an Advisory Committee of Local Citizens and Agencies
- Project Web Site (www.I-15helenaais.com)
- Telephone Information 'Hotline' (406-458-4789)
- Project Newsletter
- Public Opinion Survey

The FHWA and MDT invite interested individuals, organizations, Federal, State, and local agencies to participate in defining the alternatives to be evaluated in the EIS and identifying any significant social, economic, and environmental issues relating to the alternatives. An information packet describing the purpose and need for the project, the areas and issues to be evaluated, the citizen and agency involvement program, and the preliminary project schedule will be available at the public scoping meeting. These scoping materials may be requested by contacting Mr. Joel Marshik at the address and phone number above. Scoping comments may be made verbally at the public scoping meeting or in writing. The public will receive notices on the location and time of the scoping meeting through

newspaper advertisements and/or individual correspondence.

To ensure that a full range of issues related to this proposed action are addressed and all significant issues are identified, comments and suggestions are invited from all interested parties. If you wish to be placed on the mailing list to receive further information as the project develops, contact Mr. Joel Marshik as previously described.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this proposed action.)

(Authority: 23 U.S.C. 315; 49 CFR 1.48)

Issued on date: July 31, 2001.

Dale W. Paulson,

Program Development Engineer, Montana Division, Federal Highway Administration, Helena, MT.

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DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2001-9561]

Qualification of Drivers; Exemption Applications; Vision

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

ACTION: Notice of final disposition.

SUMMARY: The FMCSA announces its decision to exempt 22 individuals from the vision requirement in 49 CFR 391.41(b)(10).

DATES: August 8, 2001.

FOR FURTHER INFORMATION CONTACT: For information about the vision exemptions in this notice, Ms. Sandra Zywockarte, Office of Bus and Truck Standards and Operations, (202) 366-2987; for information about legal issues related to this notice, Mr. Joseph Solomey, Office of the Chief Counsel, (202) 366-1374, FMCSA, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

You may see all the comments online through the Document Management System (DMS) at: <http://dmses.dot.gov>.

Background

Twenty-two individuals petitioned the FMCSA for an exemption from the vision requirement in 49 CFR 391.41(b)(10), which applies to drivers of commercial motor vehicles (CMVs) in interstate commerce. They are: Roger D. Anderson, Joey E. Buice, Ronald D. Danberry, Paul W. Dawson, Lois E. DeSouza, Richard L. Gandee, Steven A. Garrity, Chester L. Gray, Waylon E. Hall, Jeffery M. Kimsey, Gerald L. Phelps, Doyle E. Ramsey, Michael J. Risch, Tim M. Seavy, Kim L. Seibel, Edd J. Stabler, Randy D. Stanley, Lee T. Taylor, James Melvin Tayman, Sr., Wesley E. Turner, Edward W. Yeates, Jr., and John C. Young.

Under 49 U.S.C. 31315 and 31136(e), the FMCSA may grant an exemption for a renewable 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." Accordingly, the FMCSA has evaluated the 22 petitions on their merits and made a determination to grant the exemptions to all of them. On June 6, 2001, the agency published notice of its receipt of applications from these 22 individuals, and requested comments from the public (66 FR 30502). The comment period closed on July 6, 2001. One comment was received, and its content was carefully considered by the FMCSA in reaching the final decision to grant the petitions.

Vision And Driving Experience of the Applicants

The vision requirement provides:

A person is physically qualified to drive a commercial motor vehicle if that person has distant visual acuity of at least 20/40 (Snellen) in each eye without corrective lenses or visual acuity separately corrected to 20/40 (Snellen) or better with corrective lenses, distant binocular acuity of at least 20/40 (Snellen) in both eyes with or without corrective lenses, field of vision of at least 70° in the horizontal meridian in each eye, and the ability to recognize the colors of traffic signals and devices showing standard red, green, and amber. 49 CFR 391.41(b)(10)

Since 1992, the Federal Highway Administration (FHWA) has undertaken studies to determine if this vision standard should be amended. The final report from our medical panel recommends changing the field of vision standard from 70° to 120°, while leaving the visual acuity standard unchanged. (See Frank C. Berson, M.D., Mark C. Kuperwaser, M.D., Lloyd Paul Aiello, M.D., and James W. Rosenberg, M.D., "Visual Requirements and Commercial Drivers," October 16, 1998, filed in the docket, FHWA-98-4334.)

The panel's conclusion supports the FMCSA's (and previously the FHWA's) view that the present standard is reasonable and necessary as a general standard to ensure highway safety. The FMCSA also recognizes that some drivers do not meet the vision standard, but have adapted their driving to accommodate their vision limitation and demonstrated their ability to drive safely.

The 22 applicants fall into this category. They are unable to meet the vision standard in one eye for various reasons, including amblyopia, retinal detachment, and loss of an eye due to trauma. In most cases, their eye conditions were not recently developed. All but 5 of the applicants were either born with their vision impairments or have had them since childhood. The 5 individuals who sustained their vision conditions as adults have had them for periods ranging from 4 to 40 years.

Although each applicant has one eye which does not meet the vision standard in 49 CFR 391.41(b)(10), each has at least 20/40 corrected vision in the other eye and, in a doctor's opinion, has sufficient vision to perform all the tasks necessary to operate a CMV. The doctors' opinions are supported by the applicants' possession of valid commercial driver's licenses (CDLs) or non-CDLs to operate CMVs. Before issuing CDLs, States subject drivers to knowledge and performance tests designed to evaluate their qualifications to operate a CMV. All these applicants satisfied the testing standards for their State of residence. By meeting State licensing requirements, the applicants demonstrated their ability to operate a commercial vehicle, with their limited vision, to the satisfaction of the State. The Federal interstate qualification standards, however, require more.

While possessing a valid CDL or non-CDL, these 22 drivers have been authorized to drive a CMV in intrastate commerce, even though their vision disqualifies them from driving in interstate commerce. They have driven CMVs with their limited vision for careers ranging from 3 to 45 years. In the past 3 years, the 22 drivers had 4 convictions for traffic violations among them. Three of these convictions were for speeding. The other conviction was for stopping on the highway in a CMV. Two drivers were involved in an accident in a CMV, but did not receive a citation.

The qualifications, experience, and medical condition of each applicant were stated and discussed in detail in a June 6, 2001, notice (66 FR 30502). Since the docket comment did not focus on the specific merits or qualifications

of any applicant, we have not repeated the individual profiles here. Our summary analysis of the applicants as a group is supported, with one exception, by the information published at 66 FR 30502. After the FMCSA published its notice of receipt of applications, the agency received additional information from its check of these applicants' motor vehicle records that Mr. Westley E. Turner had an accident in a CMV, but did not receive a citation. According to the police report for the accident, the other driver was cited for "Changed Lanes Within 100 Feet of Intersection."

Basis for Exemption Determination

Under 49 U.S.C. 31315 and 31136(e), the FMCSA may grant an exemption from the vision standard in 49 CFR 391.41(b)(10) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. Without the exemption, applicants will continue to be restricted to intrastate driving. With the exemption, applicants can drive in interstate commerce. Thus, our analysis focuses on whether an equal or greater level of safety is likely to be achieved by permitting these drivers to drive in interstate commerce as opposed to restricting them to driving in intrastate commerce.

To evaluate the effect of these exemptions on safety, the FMCSA considered not only the medical reports about the applicants' vision, but also their driving records and experience with the vision deficiency. To qualify for an exemption from the vision standard, the FMCSA requires a person to present verifiable evidence that he or she has driven a commercial vehicle safely with the vision deficiency for 3 years. Recent driving performance is especially important in evaluating future safety, according to several research studies designed to correlate past and future driving performance. Results of these studies support the principle that the best predictor of future performance by a driver is his/her past record of accidents and traffic violations. Copies of the studies have been added to the docket. (FHWA-98-3637)

We believe we can properly apply the principle to monocular drivers, because data from the vision waiver program clearly demonstrate the driving performance of experienced monocular drivers in the program is better than that of all CMV drivers collectively. (See 61 FR 13338, 13345, March 26, 1996.) The fact that experienced monocular drivers with good driving records in the waiver program demonstrated their ability to drive safely supports a conclusion that

other monocular drivers, meeting the same qualifying conditions as those required by the waiver program, are also likely to have adapted to their vision deficiency and will continue to operate safely.

The first major research correlating past and future performance was done in England by Greenwood and Yule in 1920. Subsequent studies, building on that model, concluded that accident rates for the same individual exposed to certain risks for two different time periods vary only slightly. (See Bates and Neyman, University of California Publications in Statistics, April 1952.) Other studies demonstrated theories of predicting accident proneness from accident history coupled with other factors. These factors—such as age, sex, geographic location, mileage driven and conviction history—are used every day by insurance companies and motor vehicle bureaus to predict the probability of an individual experiencing future accidents. (See Weber, Donald C., "Accident Rate Potential: An Application of Multiple Regression Analysis of a Poisson Process," Journal of American Statistical Association, June 1971.) A 1964 California Driver Record Study prepared by the California Department of Motor Vehicles concluded that the best overall accident predictor for both concurrent and nonconcurrent events is the number of single convictions. This study used 3 consecutive years of data, comparing the experiences of drivers in the first 2 years with their experiences in the final year.

Applying principles from these studies to the past 3-year record of the 22 applicants receiving an exemption, we note that cumulatively the applicants have had only two accidents and four traffic violations in the last 3 years. The two accidents did not result in the issuance of citations against the applicants. 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, the 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 are more compact than on highways. 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 or she has been performing in intrastate commerce. Consequently, the 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 will grant the exemptions for the 2-year period allowed by 49 U.S.C. 31315 and 31136(e).

We recognize that the vision of an applicant may change and affect his/her ability to operate a commercial vehicle as safely as in the past. As a condition of the exemption, therefore, the FMCSA will impose requirements on the 22 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

The FMCSA received one comment in this proceeding. The comment was considered and is discussed below. The Louisiana Department of Public Safety and Corrections wrote the FMCSA regarding the status of Mr. Waylon E.

Hall's CDL. Louisiana commented that on August 29, 2000, it downgraded Mr. Hall's Class A CDL to a non-CDL license because he did not meet the minimum physical qualification requirements in 49 CFR 391.41(b)(10). The Class A Louisiana CDL issued to Mr. Hall on January 9, 1997, was issued in error. However, Louisiana indicated that it will reissue the CDL to Mr. Hall if the FMCSA grants him an exemption from the Federal vision requirements.

Conclusion

After considering the comment to the docket and based upon its evaluation of the 22 exemption applications in accordance with the Rauenhorst decision, the FMCSA exempts Roger D. Anderson, Joey E. Buice, Ronald D. Danberry, Paul W. Dawson, Lois E. DeSouza, Richard L. Gandee, Steven A. Garrity, Chester L. Gray, Waylon E. Hall, Jeffery M. Kimsey, Gerald L. Phelps, Doyle E. Ramsey, Michael J. Risch, Tim M. Seavy, Kim L. Seibel, Edd J. Stabler, Randy D. Stanley, Lee T. Taylor, James Melvin Tayman, Sr., Wesley E. Turner, Edward W. Yeates, Jr., and John C. Young from the vision requirement in 49 CFR 391.41(b)(10), subject to the following conditions: (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, so it may be presented to a duly authorized Federal, State, or local enforcement official.

In accordance with 49 U.S.C. 31315 and 31136(e), each exemption will be valid for 2 years unless revoked earlier by the 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. 31315 and 31136. If the exemption is still effective at the end of the 2-year period, the person may

apply to the FMCSA for a renewal under procedures in effect at that time.

Authority: 49 U.S.C. 322, 31315 and 31136; 49 CFR 1.73.

Issued on: August 1, 2001.

Julie Anna Cirillo,

Acting Deputy Administrator.

[FR Doc. 01-19897 Filed 8-7-01; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-98-4334 (formerly FHWA-98-4334)]

Qualification of Drivers; Exemption Applications; Vision

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

ACTION: Notice of renewal of exemption; request for comments.

SUMMARY: This notice announces the FMCSA's decision to renew the exemptions from the vision requirement in 49 CFR 391.41(b)(10) for six individuals.

DATES: This decision is effective August 8, 2001. Comments from interested persons should be submitted by September 7, 2001.

ADDRESSES: Mail or hand deliver comments to the U.S. Department of Transportation, Dockets Management Facility, Room PL-401, 400 Seventh Street, SW., Washington, DC 20590, or submit electronically at <http://dmses.dot.gov/submit>. All comments received will be available for examination and copying at the above address from 9 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard or you may print the acknowledgment page that appears after submitting comments electronically.

FOR FURTHER INFORMATION CONTACT: For information about the vision exemptions in this notice, Ms. Sandra Zywockarte, Office of Bus and Truck Standards and Operations, (202) 366-2987; for information about legal issues related to this notice, Mr. Joseph Solomey, Office of the Chief Counsel, (202) 366-1374, FMCSA, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION: