

However, that process permits the design data package granting the "host" TSO authorization to contain the non-TSO function design data package, without assuring the required performance of the hosting TSO article is unaffected by the added non-TSO function.

Deferring the evaluation of the non-TSO function until installation is not ideal, since the installer generally does not have the TSO manufacturer's equipment or expertise available to perform a thorough equipment performance evaluation, especially when the performance must be determined by laboratory simulation or under specific test conditions. In the proposed notice, we bring greater scrutiny to integrated non-TSO functions into the host TSO by providing guidance to the Aircraft Certification Office (ACO) for the consistent performance evaluation of the non-TSO function at the time of TSO authorization issuance. Note also, as with the TSO article itself, the integrated non-TSO function must have separate FAA approval for installation in an aircraft. Thus, this proposed notice allows the ACO to acknowledge the software and hardware design assurance levels and environmental testing accomplished on the non-TSO function, precluding the need for repeated evaluations at each installation approval.

#### How To Obtain Copies

You can get a copy of proposed FAA Notice 8150.NTF and Order 8150.1B from the FAA's Regulatory and Guidance Library (RGL) at <http://www.airweb.faa.gov/rgl>. On the RGL Web site, click on "Orders/Notices". Or, contact the person listed in the section titled **FOR FURTHER INFORMATION CONTACT**.

Issued in Washington, DC, on May 24, 2005.

**Susan J.M. Cabler,**

*Assistant Manager, Aircraft Engineering Division, Aircraft Certification Service.*

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**BILLING CODE 4910-13-M**

#### DEPARTMENT OF TRANSPORTATION

##### Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2005-20560]

##### Qualification of Drivers; Exemption Applications; Vision; Withdrawal

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

**ACTION:** Withdrawal of notice of applications for exemption from the vision standard.

**SUMMARY:** The Federal Motor Carrier Safety Administration (FMCSA) withdraws a notice of applications for exemption from the vision standard with request for comments published on May 17, 2005. The notice was published in error.

**DATES:** The notice of applications with request for comments published on May 17, 2005 (70 FR 28348), is withdrawn effective May 17, 2005.

**FOR FURTHER INFORMATION CONTACT:** Dr. Mary D. Gunnels, Office of Bus and Truck Standards and Operations, (202) 366-4001, FMCSA, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590-0001. Office hours are from 8 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays.

Issued on: May 23, 2005.

**Rose A. McMurray,**

*Associate Administrator, Policy and Program Development.*

[FR Doc. 05-10690 Filed 5-27-05; 8:45 am]

**BILLING CODE 4910-EX-P**

#### DEPARTMENT OF TRANSPORTATION

##### Federal Motor Carrier Safety Administration

[FMCSA Docket No. FMCSA-2005-20560]

##### 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 30 individuals from the vision requirement in the Federal Motor Carrier Safety Regulations (FMCSRs). The exemptions will enable these individuals to qualify as drivers of commercial motor vehicles (CMVs) in interstate commerce without meeting the vision standard prescribed in 49 CFR 391.41(b)(10).

**DATES:** May 31, 2005.

**FOR FURTHER INFORMATION CONTACT:** Dr. Mary D. Gunnels, Office of Bus and Truck Standards and Operations, (202) 366-4001, FMCSA, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590-0001. Office hours are from 8 a.m. to 5 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

On April 6, 2005, the FMCSA published a notice of receipt of exemption applications from 30 individuals, and requested comments from the public (70 FR 17504). The 30 individuals petitioned the FMCSA for exemptions from the vision requirement in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce. They are: Edmund J. Barron, Eddie M. Brown, Tony Cook, Jeffery W. Cotner, John K. Fank, Bobby G. Fletcher, Lonny L. Ford, Larry G. Garcia, Robert E. Hendrick, Jonah G. Higdon, Daniel J. Hillman, Ronald A. Johnson, Clyde H. Kitzan, Joe S. Lassiter III, Gene A. Leshner, Jr., Eugene A. Maggio, Anthony R. Miles, Raymond E. Morelock, Kenneth L. Nau, David L. Peebles, David W. Peterson, Frederick G. Robbins, Jose C. Sanchez-Sanchez, Boyd D. Stamey, Scott C. Teich, Emerson J. Turner, Daniel E. Watkins, Dean E. Wheeler, Michael C. Williams, Sr., and Louie E. Workman.

Under 49 U.S.C. 31315 and 31136(e), the FMCSA may grant an exemption for a 2-year period if it finds "such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption." The statute also allows the agency to renew exemptions at the end of the 2-year period. Accordingly, the FMCSA has evaluated the 30 applications on their merits and made a determination to grant exemptions to all of them. The comment period closed on May 6, 2005. Two comments were received, and their contents were carefully considered by the FMCSA in reaching the final decision to grant the exemptions.

#### Vision and Driving Experience of the Applicants

The vision requirement in the FMCSRs 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 agency 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, FMCSA-98-4334.) The panel's conclusion supports the agency's view that the present visual acuity 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 30 applicants fall into this category. They are unable to meet the vision standard in one eye for various reasons, including amblyopia, macular and retinal scars, and loss of an eye due to trauma. In most cases, their eye conditions were not recently developed. All but 14 of the applicants were either born with their vision impairments or have had them since childhood. The 14 individuals who sustained their vision conditions as adults have had them for periods ranging from 20 to 58 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.

While possessing a valid CDL or non-CDL, these 30 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, eight of the drivers have had nine convictions for traffic

violations among them. Eight of these convictions were for speeding and one was for "failure to obey traffic control device." Four drivers were involved in five crashes among them, but did not receive a citation.

The qualifications, experience, and medical condition of each applicant were stated and discussed in detail in the April 6, 2005, notice (70 FR 17504). Since there were no substantial docket comments on the specific merits or qualifications of any applicant, we have not repeated the individual profiles here, but note that information presented at 70 FR 17506 indicating that applicant 22, Frederick G. Robbins, had one conviction for a moving violation in a CMV on his driving record, is in error. The information should have indicated that Mr. Robbins' driving record for the last 3 years showed no convictions for moving violations in a CMV. Our summary analysis of the applicants is supported by this correction and the information published on April 6, 2005 (70 FR 17504).

#### **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 each of these drivers to drive in interstate commerce as opposed to restricting him or her 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 crashes and traffic violations. Copies of the studies may be found at docket number FMCSA-98-3637.

We believe we can properly apply the principle to monocular drivers, because data from a former FMCSA waiver study program clearly demonstrates that 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 crash 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 crash proneness from crash 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 crashes. (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 crash 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 30 applicants receiving an exemption, we note that the applicants have had only five crashes and nine traffic violations in the last 3 years. 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 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 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 is granting the exemptions for the 2-year period allowed by 49 U.S.C. 31315 and 31136(e) to the 30 applicants listed in the notice of April 6, 2005 (70 FR 17504).

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 30 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 two comments in this proceeding. The comments were considered and are discussed below.

Ms. Barb Sachau believes allowing monocular drivers to operate large trucks may increase the likelihood of a crash resulting in a fatality. The discussion above under the heading, "Basis for Exemption Determination," explains why FMCSA believes the monocular drivers included in this notice have demonstrated their ability to drive safely in conditions similar to interstate driving by operating in intrastate commerce for 3 years prior to their applications and will continue to operate safely.

An anonymous tractor-trailer combination driver does not believe exemptions should be granted, but all drivers should be held to the same criteria for the safety of the motoring public. Although this comment was introduced into the docket without attribution and, thus, would not ordinarily receive consideration, we will address the issue raised because it relates to a matter of general applicability to the vision exemption process and is not specific to this comment. The discussion above under the heading, "Basis for Exemption Determination," explains why FMCSA believes monocular drivers who have met the qualifying conditions of the vision exemption program are likely to have adapted to their vision deficiency and will continue to operate safely.

#### Conclusion

Based upon its evaluation of the 30 exemption applications, the FMCSA exempts Edmund J. Barron, Eddie M. Brown, Tony Cook, Jeffery W. Cotner, John K. Fank, Bobby G. Fletcher, Lonny L. Ford, Larry G. Garcia, Robert E. Hendrick, Jonah G. Higdon, Daniel J. Hillman, Ronald A. Johnson, Clyde H. Kitzen, Joe S. Lassiter III, Gene A. Leshner, Jr., Eugene A. Maggio, Anthony R. Miles, Raymond E. Morelock, Kenneth L. Nau, David L. Peebles, David W. Peterson, Frederick G. Robbins, Jose C. Sanchez-Sanchez, Boyd D. Stamey, Scott C. Teich, Emerson J. Turner, Daniel E. Watkins, Dean E. Wheeler, Michael C. Williams, Sr., and Louie E. Workman 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. 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.

Issued on: May 20, 2005.

**Rose A. McMurray,**

*Associate Administrator, Policy and Program Development.*

[FR Doc. 05-10691 Filed 5-27-05; 8:45 am]

BILLING CODE 4910-EX-P

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2005-21254]

#### Qualification of Drivers; Exemption Applications; Vision

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

**ACTION:** Notice of applications for exemption from the vision standard; request for comments.

**SUMMARY:** This notice publishes the FMCSA's receipt of applications from 24 individuals for an exemption from the vision requirement in the Federal Motor Carrier Safety Regulations. If granted, the exemptions will enable these individuals to qualify as drivers of commercial motor vehicles (CMVs) in interstate commerce without meeting the vision standard prescribed in 49 CFR 391.41(b)(10).

**DATES:** Comments must be received on or before June 30, 2005.

**ADDRESSES:** You may submit comments identified by any of the following methods. Please identify your comments by the DOT DMS Docket Number FMCSA-2005-21254.

- Web Site: <http://dms.dot.gov>. Follow the instructions for submitting comments on the DOT electronic docket site.

- Fax: 1-202-493-2251.
- Mail: Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL-401, Washington, DC 20590-0001.

- Hand Delivery: Room PL-401 on the plaza level of the Nassif Building,