DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket Nos. FMCSA–98–4334, FMCSA–2000–7918, FMCSA–2001–9258, FMCSA–2001–9561]

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 publishes the FMCSA decision to renew the exemptions from the vision requirement in the Federal Motor Carrier Safety Regulations for 24 individuals. The FMCSA has statutory authority to exempt individuals from vision standards if the exemptions granted will not compromise safety. The agency has concluded that granting these exemptions will provide a level of safety that will equal or exceed the level of safety maintained without the exemptions for these commercial motor vehicle (CMV) drivers.

DATES: This decision is effective August 8, 2003. Comments from interested persons should be submitted by August 29, 2003.

ADDRESSES: You may submit comments identified by DOT DMS Docket Numbers FMCSA–98–4334, FMCSA–2000–7918, FMCSA–2001–9258, and FMCSA–2001–9561 by any of the following methods:

- *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, 400 Seventh Street, SW., Washington, DC between 9 a.m. and 5 p.m/, Monday through Friday, except Federal Holidays.
- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.

Instructions: All submissions must include the agency name and docket numbers for this notice. For detailed instructions on submitting comments and additional information on the rulemaking process, *see* the Public Participation heading of the Supplementary Information section of this document. Note that all comments received will be posted without change to *http://dms.dot.gov*, including any personal information provided. Please see the Privacy Act heading under Regulatory Notices.

Docket: For access to the docket to read background documents or comments received, go to *http://dms.dot.gov* at any time or to Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

FOR FURTHER INFORMATION CONTACT: Ms. Sandra Zywokarte, Office of Bus and Truck Standards and Operations, (202) 366–2987, FMCSA, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590–0001. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION: *Public Participation:* The DMS is available 24 hours each day, 365 days each year. You can get electronic submission and retrieval help guidelines under the ''help'' section of the DMS web site. If you want us to notify you that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgment page that appears after submitting comments on-line.

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, *etc.*). You may review the Department of Transportation's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78) or you may visit *http://dms.dot.gov.*

Exemption Decision

Under 49 U.S.C. 31315 and 31136(e), the FMCSA may renew an exemption from the vision requirement in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce, 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 procedures for requesting an exemption (including renewals) are set out in 49 CFR part 381. This notice addresses 24 individuals who have requested renewal of their exemptions in a timely manner. The FMCSA has evaluated these 24 applications for renewal on their merits and decided to extend each exemption for a renewable 2-year period. They are:

Roger D. Anderson
Joey E. Buice
Ronald D. Danberry
Paul W. Dawson
Lois E. De Souza
Tomie L. Estes
Jay E. Finney
Steven A. Garrity
Chester L. Gray
Waylon E. Hall
Larry M. Hawkins
Britt D. Hazelwood
Steve L. Hopkins
Jeffery M. Kimsey
Richard L. Leonard
Gerald L. Phelps, Jr.
Thomas G. Raymond
Tim M. Seavy
Kim L. Seibel
Randy D. Stanley
Lee T. Taylor
James M. Tayman, Sr.
Wesley E. Turner
John C. Young

These exemptions are extended subject to the following conditions: (1) That each individual have a physical exam 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 and retain a copy of the certification on his/her person while driving for presentation to a duly authorized Federal, State, or local enforcement official. Each exemption will be valid for 2 years unless rescinded earlier by the FMCSA. The exemption will be rescinded 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(e).

Basis for Renewing Exemptions

Under 49 U.S.C. 31315(b)(1), an exemption may be granted for no longer than 2 years from its approval date and may be renewed upon application for additional 2-year periods. In accordance with 49 U.S.C. 31315 and 31136(e), each

of the 24 applicants has satisfied the entry conditions for obtaining an exemption from the vision requirements (63 FR 66226, 64 FR 16517, 66 FR 41656, 65 FR 66286, 66 FR 13825, 66 FR 17743, 66 FR 33990, 66 FR 30502, 66 FR 41654). Each of these 24 applicants has requested timely renewal of the exemption and has submitted evidence showing that the vision in the better eye continues to meet the standard specified at 49 CFR 391.41(b)(10) and that the vision impairment is stable. In addition, a review of each record of safety while driving with the respective vision deficiencies over the past 2 years indicates each applicant continues to meet the vision exemption standards. These factors provide an adequate basis for predicting each driver's ability to continue to drive safely in interstate commerce. Therefore, the FMCSA concludes that extending the exemption for each renewal applicant for a period of 2 years is likely to achieve a level of safety equal to that existing without the exemption.

Comments

The FMCSA will review comments received at any time concerning a particular driver's safety record and determine if the continuation of the exemption is consistent with the requirements at 49 U.S.C. 31315 and 31136(e). However, the FMCSA requests that interested parties with specific data concerning the safety records of these drivers submit comments by August 29, 2003.

In the past the FMCSA has received comments from Advocates for Highway and Auto Safety (Advocates) expressing continued opposition to the FMCSA's procedures for renewing exemptions from the vision requirement in 49 CFR 391.41(b)(10). Specifically, Advocates object to the agency's extension of the exemptions without any opportunity for public comment prior to the decision to renew, and reliance on a summary statement of evidence to make its decision to extend the exemption of each driver.

The issues raised by Advocates were addressed at length in 66 FR 17994 (April 4, 2001). The FMCSA continues to find its exemption process appropriate to the statutory and regulatory requirements.

Issued on: July 24, 2003.

Pamela M. Pelcovits,

Acting Associate Administrator, Policy and Program Development.

[FR Doc. 03–19410 Filed 7–29–03; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

[Docket No. RSPA–03–14793; Notice No. 03–9]

Safety Advisory: Improper Marking of Compressed Gas Cylinders

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Safety advisory notice.

SUMMARY: This is to notify the public that we (''RSPA'') have obtained information concerning high-pressure compressed gas cylinders that appear to have been requalified improperly by Sooner Cylinder Service, Inc. (''Sooner''), 1032 SE 25th Street, Oklahoma City, OK 73129. Based on our review of Sooner's records, Sooner has marked, certified and returned to service an undetermined number of high-pressure DOT specification and exemption cylinders as having been being properly tested in accordance with the Hazardous Materials Regulations (HMR), when it appears that the cylinders were hydrostatically retested using equipment that was not verified to be accurate as required. In addition, it appears that some cylinders were marked, certified, and returned to service when they may have been required to be removed from service and condemned.

A hydrostatic retest and visual inspection, conducted as prescribed in the HMR, are used to verify the structural integrity of a cylinder. If the hydrostatic retest and visual inspection are not performed in accordance with the HMR, a cylinder with compromised structural integrity may be returned to service when it is required to be condemned. Extensive property damage, serious personal injury, or death may result from rupture of a cylinder. Cylinders that have not been retested in accordance with the HMR may not be charged or filled with compressed gas or other hazardous material and offered for transportation in commerce.

FOR FURTHER INFORMATION CONTACT: Billy C. Hines, Jr., Chief, Southwest Region, Office of Hazardous Materials Enforcement, Research and Special Programs Administration, U.S. Department of Transportation, 2320 La Branch Street, Room 2100, Houston, TX 77004. Telephone: (713) 718–3950, Fax: (713) 718–3952.

SUPPLEMENTARY INFORMATION: The Hazardous Materials Regulations (HMR), 49 CFR parts 171–180, prescribe requirements for the periodic retesting and requalification of cylinders used to transport compressed gases and acetylene. In order to perform hydrostatic retesting of compressed gas cylinders and visual inspections of acetylene cylinders, a person (including a company) must obtain an approval and Requalifier Identification Number (RIN) from RSPA. 49 CFR 180.205(b), 107.805. RSPA issued RIN C762 to Sooner on February 28, 1994, which was renewed on April 8, 1999, authorizing Sooner to requalify high-pressure cylinders and acetylene cylinders.

Based on our investigation, RSPA has concluded that, over the past three years, Sooner has marked, certified and returned to service an undetermined number of high-pressure cylinders as having been properly tested in accordance with the HMR when retesting was performed on test equipment that was not verified to be accurate as required. RSPA also suspects that Sooner may have returned to service cylinders that should have been condemned and the DOT specification or exemption marking removed or obliterated. The high-pressure cylinders in question are stamped with Sooner's RIN C762 in the following pattern:

C 7
M Y
26

M is the month of retest (*e.g.*, 01, 02, etc), and Y is the last two digits of the year of the retest (*e.g.*, 01, 02, 03).

All high-pressure cylinders that have been marked and certified as having been hydrostatically tested by Sooner since August 2000 may pose a safety risk to the public and should not be considered safe for use in hazardous materials service until retested by a DOT-authorized facility. This advisory notice does not include any DOT specification 8 or 8AL acetylene cylinders marked and certified by Sooner during this time period.

Anyone who has a high-pressure cylinder that has been hydrostatically tested by Sooner between August 2000 and July 2003, and has not had the cylinder tested by a DOT-authorized facility since then, should consider the cylinder unsafe and not fill it with a hazardous material unless the cylinder is first properly retested by a DOT-authorized retest facility. Cylinders described in this safety advisory that are filled with an atmospheric gas should be vented or otherwise safely discharged, and then taken to a DOT-authorized cylinder retest facility for proper retest to determine compliance with the HMR and their suitability for continuing service. Cylinders described in this