and (3) that each individual provide a copy of the annual medical certification to their employer for retention in the driver’s qualification file and retains 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 Each exemption will be valid for two years unless rescinded earlier by FMCSA. The exemption will be rescinded if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was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. 31136(e) and 31315.

**Basis for Renewing Exemptions**

Under 49 U.S.C. 31315[b](1), an exemption may be granted for no longer than two years from its approval date and may be renewed upon application for additional two year periods. In accordance with 49 U.S.C. 31136(e) and 31315, each of the 25 applicants has satisfied the entry conditions for obtaining an exemption from the vision requirements (63 FR 66226; 64 FR 16517; 65 FR 20245; 65 FR 45817; 65 FR 57230; 65 FR 77066; 65 FR 78256; 66 FR 16311; 66 FR 17743; 66 FR 17994; 66 FR 33990; 67 FR 52766; 68 FR 13360; 68 FR 19598; 68 FR 33570; 68 FR 35772; 70 FR 2701; 70 FR 16887; 70 FR 17504; 70 FR 25878; 70 FR 30997; 70 FR 33937; 71 FR 32183; 71 FR 41310; 72 FR 180; 72 FR 9397; 72 FR 12666; 72 FR 25831; 72 FR 28093; 72 FR 32705; 73 FR 61927; 74 FR 62170; 74 FR 15586; 74 FR 19267; 74 FR 19270; 74 FR 26464; 74 FR 28094; 75 FR 64396; 76 FR 21796; 76 FR 32016; 76 FR 34135). Each of these 25 applicants has requested renewal of the exemption and has submitted evidence showing that the vision in the better eye continues to meet the requirement 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 two years indicates each applicant continues to meet the vision exemption requirements. These factors provide an adequate basis for predicting each driver’s ability to continue to drive safely in interstate commerce.

Therefore, FMCSA concludes that extending the exemption for each renewal applicant for a period of two years is likely to achieve a level of safety equal to that existing without the exemption.

**Request for Comments**

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. 31136(e) and 31315. However, FMCSA requests that interested parties with specific data concerning the safety records of these drivers submit comments by July 8, 2013.

FMCSA believes that the requirements for a renewal of an exemption under 49 U.S.C. 31136(e) and 31315 can be satisfied by initially granting the renewal and then requesting and evaluating, if needed, subsequent comments submitted by interested parties. As indicated above, the Agency previously published notices of final disposition announcing its decision to exempt these 25 individuals from the vision requirement in 49 CFR 391.41[b](10). The final decision to grant an exemption to each of these individuals was made on the merits of each case and made only after careful consideration of the comments received to its notices of applications. The notices of applications stated in detail the qualifications, experience, and medical condition of each applicant for an exemption from the vision requirements. That information is available by consulting the above cited Federal Register publications.

Interested parties or organizations possessing information that would otherwise show that any, or all, of these drivers are not currently achieving the statutory level of safety should immediately notify FMCSA. The Agency will evaluate any adverse evidence submitted and, if safety is being compromised or if continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315, FMCSA will take immediate steps to revoke the exemption of a driver.

Issued on: May 29, 2013.

Larry W. Minor,
Associate Administrator for Policy.
received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT’s Privacy Act Statement for the Federal Docket Management System (FDMS) published in the Federal Register on January 17, 2008 (73 FR 3316).

Background

On April 4, 2013, FMCSA published a notice of receipt of exemption applications from certain individuals, and requested comments from the public (78 FR 20376). That notice listed 26 applicants’ case histories. The 26 individuals applied for exemptions from the vision requirement in 49 CFR 391.41(b)(10), for drivers who operate CMVs in interstate commerce.

Under 49 U.S.C. 31136(e) and 31315, 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, FMCSA has evaluated the 26 applications on their merits and made a determination to grant exemptions to each of them.

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 a 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 requirement red, green, and amber (49 CFR 391.41(b)(10)).

FMCSA recognizes that some drivers do not meet the vision requirement but have adapted their driving to accommodate their vision limitation and demonstrated their ability to drive safely. The 26 exemption applicants listed in this notice are in this category. They are unable to meet the vision requirement in one eye for various reasons, including amblyopia, refractive amblyopia, optic atrophy, a macular scar, choroidal scarring, a central macular scar, aphakia, a retinal scar, open angle glaucoma, advanced glaucoma, optic neuritis, a corneal scar, loss of central vision, and metallic intraocular foreign body with subsequent pars plana vitrectomy with foreign body extraction, endolaser photocoagulation, cryotherapy, and cataract extraction with IOL implant. In most cases, their eye conditions were not recently developed. Seventeen of the applicants were either born with their vision impairments or have had them since childhood.

Five individuals who sustained their vision conditions by accident or disease have adapted their driving to achieve an equivalent or greater level of safety than would be achieved absent their vision impairment. Each of these applicants has at least 20/40 corrected vision in the other eye, and, in the driver’s opinion, has sufficient vision to perform all the tasks necessary to operate a CMV. Doctors’ opinions are supported by applicants’ possession of valid commercial driver’s licenses (CDLs) or non-CDLs to operate CMVs.

Based on these factors, FMCSA has evaluated the 26 applicants’ case histories. The 26 individuals applied for exemptions from the vision requirement in 49 CFR 391.41(b)(10), for drivers who operate CMVs in interstate commerce. FMCSA has evaluated the 26 applicants’ case histories. The 26 applicants have adapted their driving to achieve an equivalent or greater level of safety than would be achieved absent their vision impairment. Each of these applicants has at least 20/40 corrected vision in the other eye, and, in the applicant’s opinion, has sufficient vision to perform all the tasks necessary to operate a CMV. Doctors’ opinions are supported by the applicants’ possession of valid commercial driver’s licenses (CDLs) or non-CDLs to operate CMVs. Before issuing CDLs, State subject drivers to knowledge and skills tests designed to evaluate their qualifications to operate a CMV.

To qualify for an exemption from the vision requirement, FMCSA requires a person to present verifiable evidence that he/she has driven a commercial vehicle safely with the vision deficiency for the past 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–1998–3637.

We believe we can properly apply the principle to monocular drivers, because data from the Federal Highway Administration’s (FHWA) former waiver study 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 demonstrated safe driving records in the waiver program 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 correlated 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,"
impose requirements on the 26 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 requirement 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 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 26 exemption applications, FMCSA exempts Glenn Blanton (OH), Matthew Buersken (MN), Fred Fricks (PA), Mark E. Haukom (MN), Wesley D. Hogue (AR), Anthony Lang (NH), Jason Laub (OH), Edward Lavin (CT), Wayne Litwiller (IL), Edward Mitiuakas (MD), Luther McKinney (VA), Steven J. McLain (TN), Enes Milanovic (MI), James McClure (NC), Donie Rhoads (MT), Alfred J. Riesselman (MN), Leo D. Roy (NH), Steven Schauberg (NJ), Gregory C. Simmons (MD), Merreo A. Stewart (MN), Jeffrey P. Streech (MN), James B. Taflinger, Sr. (VA), Ronald W. Thompson (WI), Walter S. Vollmer (ID), Roy J. Ware (GA), and Paul Williams (NY) from the vision requirement in 49 CFR 391.64(b) 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 the 26 applicants listed in the notice of April 4, 2013 (78 FR 20376).

We recognize that the vision of an applicant may change and affect his/her ability to safely drive a CMV as safely as in the past. As a condition of the exemption, therefore, FMCSA will 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: May 29, 2013.

Larry W. Minor,
Associate Administrator for Policy.

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2013–0029]

Qualification of Drivers; Exemption Applications; Vision

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

ACTION: Notice of applications for exemptions; request for comments.

SUMMARY: FMCSA announces receipt of applications from 69 individuals for exemption from the vision requirement in the Federal Motor Carrier Safety Regulations. They are unable to meet the vision requirement in one eye for various reasons. The exemptions will enable these individuals to operate commercial motor vehicles (CMVs) in interstate commerce without meeting the prescribed vision requirement in one eye. If granted, the exemptions would enable these individuals to qualify as drivers of commercial motor vehicles (CMVs) in interstate commerce.

DATES: Comments must be received on or before July 8, 2013.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket No. FMCSA–2013–0029 using any of the following methods:

• Federal eRulemaking Portal: Go to http://www.regulations.gov. Follow the on-line instructions for submitting comments.

• Mail: Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.

• Hand Delivery: West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

• Fax: 1–202–493–2251.

Instructions: Each submission must include the Agency name and the docket numbers for this notice. Note