VI. Preemption

During the period the exemption is in effect, no State shall enforce any law or regulation that conflicts with this exemption with respect to a person operating under the exemption.

VII. Conclusion

Based upon its evaluation of the 37 exemption applications, FMCSA exempts the following drivers from the diabetes requirement in 49 CFR 391.41(b)(10), subject to the requirements cited above:

- Clayton W. Baenziger (CO)
- John E. Behle (MN)
- Myles S. Bolton (AK)
- Francisco Chavez, Jr. (CA)
- David C. Clarke (NE)
- Steven R. Condon (NE)
- Gilbert L. Fleming, Jr. (MD)
- Gavin C. Gore (MN)
- Johnny Gregg, Jr. (NC)
- Thomas W. Guzier (IL)
- Willard R. Hammond, Jr. (NY)
- Greg C. Hardcastle (OR)
- Joseph E. Heck (IA)
- Stephen R. Henderscheidt (MN)
- Larry D. Johnston (IA)
- Leodon L. Killinger, Jr. (ME)
- Bryant L. Murray (UT)
- Manuel C. Pineda (TX)
- Kenneth M. Purt (WA)
- John D. Randall (MO)
- John F. Reilly (IL)
- Tyree E. Rhodes (LA)
- Jose C. Rosario (MN)
- Matthew L. Shelley (VA)
- Brian R. Smallcanyon (UT)
- Kenneth J. Sortman (OH)
- Gregory R. Suckow (SD)
- Jack W. Too (LA)
- Curtis D. Van Koevering (MI)
- Trent J. Vandyken (MN)
- Gregory A. Westfall (OH)
- Kevin L. Willis Sloan (MO)
- Debra A. Wiss (WA)

In accordance with 49 U.S.C. 31136(e) and 31315, each exemption will be valid for two years from the effective date unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (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 prior to being 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.

Issued on: July 13, 2018.

Larry W. Minor,
Associate Administrator for Policy.
Meridian in each eye, and the ability to recognize the colors of traffic signals and devices showing standard red, green, and amber.

In July 1992, the Agency first published the criteria for the Vision Waiver Program, which listed the conditions and reporting standards that CMV drivers approved for participation would need to meet (Qualification of Drivers; Vision Waivers, 57 FR 31458, July 16, 1992). The current Vision Exemption Program was established in 1998, following the enactment of amendments to the statutes governing exemptions made by § 4007 of the Transportation Equity Act for the 21st Century (TEA–21), Public Law 105–178, 112 Stat. 107, 401 (June 9, 1998). Vision exemptions are considered under the procedures established in 49 CFR part 381 subpart C, on a case-by-case basis upon application by CMV drivers who do not meet the vision standards of 49 CFR 391.41(b)(10).

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 three 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 obtained at Docket Number FMCSA–1998–3637.

FMCSA believes it can properly apply the principle to monocular drivers, because data from the Federal Highway Administration’s (FHWA) former waiver study program clearly demonstrated 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 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 the 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 three consecutive years of data, comparing the experiences of drivers in the first two years with their experiences in the final year.

II. Qualifications of Applicants

Paulo G. Clemente

Mr. Clemente, 32, has had amblyopia in his left eye since birth. The visual acuity in his right eye is 20/20, and in his left eye, 20/150. Following an examination in 2018, his optometrist stated, “Full visual field testing done with the Humphrey field analyzer showed that Paul saw all the test objects in each eye and in my opinion would indicate that he has the visual competency to be a safe driver on the highway and be able to perform the driving tasks required to operate a commercial vehicle.” Mr. Clemente reported that he has driven straight trucks for 11 years, accumulating 440,000 miles. He holds a Class A CDL from North Carolina. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

Ronald W. Doskocil

Mr. Doskocil, 51, has had amblyopia in his right eye since childhood. The visual acuity in his right eye is 20/200, and in his left eye, 20/20. Following an examination in 2018, his ophthalmologist stated, “In my medical opinion, Mr. Doskocil does have sufficient vision to perform the driving tasks required to operate a commercial vehicle.” Mr. Doskocil reported that he has driven straight trucks for 29 years, accumulating 1.45 million miles. He holds an operator’s license from Texas. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

Loren D. Estad

Mr. Estad, 54, has had amblyopia in his left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/100. Following an examination in 2018, his optometrist stated, “In my opinion, Mr. Estad has sufficient vision to perform the driving tasks required to operate a commercial vehicle.” Mr. Estad reported that he has driven straight trucks for 38 years, accumulating 456,000 miles, and tractor-trailer combinations for 35 years, accumulating 3.5 million miles. He holds a Class A CDL from North Dakota. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

Ryan P. Garner

Mr. Garner, 43, has a prosthetic right eye due to a traumatic incident in 1982. The visual acuity in his right eye is no light perception, and in his left eye, 20/20. Following an examination in 2017, his optometrist stated, “It is my assessment that I certify that the patient has sufficient vision to perform the driving tasks required to operate a commercial vehicle.” Mr. Garner reported that he has driven straight trucks for five years, accumulating 25,000 miles, and tractor-trailer combinations for four years, accumulating 200,000 miles. He holds a Class A CDL from Montana. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

Kody D. Gleckler

Mr. Gleckler, 29, has aphakia in his left eye due to a traumatic incident in 2009. The visual acuity in his right eye is 20/20, and in his left eye, 20/400. Following an examination in 2018, his optometrist stated, “In conclusion, in my opinion, I believe that he would have sufficient vision to perform the driving tasks required to operate a commercial vehicle.” Mr. Gleckler reported that he has driven straight trucks for ten years, accumulating 100,000 miles, and tractor-trailer combinations for ten years, accumulating 100,000 miles. He holds a Class A CDL from Ohio. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

Jeffrey W. Hawkins

Mr. Hawkins, 56, has had a retinal detachment in his left eye since 2011. The visual acuity in his right eye is 20/
20, and in his left eye, no light perception. Following an examination in 2017, his ophthalmologist stated, “In my medical opinion, the patient continues to have sufficient vision to perform driving tasks required as a commercial vehicle operator.” Mr. Hawkins reported that he has driven tractor-trailer combinations for 35 years, accumulating 2.8 million miles. He holds a Class A CDL from North Carolina. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

Mark E. Thesing
Mr. Thesing, 59, has had optic nerve hypoplasia in his left eye since birth. The visual acuity in his right eye is 20/20, and in his left eye, 20/20. Following an examination in 2018, his optometrist stated, “In my medical opinion, the patient continues to have sufficient vision to perform driving tasks required to operate a commercial vehicle.” Mr. Thesing reported that he has driven straight trucks for 30 years, accumulating 16,000 miles. He holds a Class A CDL from Minnesota. His driving record for the last three years shows no crashes and no convictions for moving violations in a CMV.

III. Request for Comments

In accordance with 49 U.S.C. 31136(e) and 31135, FMCSA requests public comment from all interested persons on the exemption petitions described in this notice. We will consider all comments and material received before the close of business on the closing date indicated in the dates section of the notice.

IV. Submitting Comments

You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to http://www.regulations.gov and in the search box insert the docket number FMCSA–2018–0015 and click the search button. When the new screen appears, click on the blue “Comment Now!” button on the right hand side of the page. On the new page, enter information required including the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

We will consider all comments and materials received during the comment period. FMCSA may issue a final determination at any time after the close of the comment period.

V. Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble, go to http://www.regulations.gov and in the search box insert the docket number FMCSA–2018–0015 and click “Search.” Next, click “Open Docket Folder,” and you will find all documents and comments related to this notice.

Issued on: July 12, 2018.

Larry W. Minor,
Associate Administrator for Policy.

http://www.regulations.gov

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration


Qualification of Drivers; Exemption Applications; Epilepsy and Seizure Disorders

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

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to renew exemptions for five individuals from the requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) that interstate commercial motor vehicle (CMV) drivers have “no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause loss of consciousness or any loss of ability to control a CMV.” The exemptions enable these individuals who have had one or more seizures and are taking anti-seizure medication to continue to operate CMVs in interstate commerce.

DATES: The exemptions were applicable on December 23, 2017. The exemptions expire on December 23, 2019.

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, (202) 366–4001, fmcsamedical@dot.gov, FMCSA, Department of Transportation, 1200 New Jersey Avenue SE, Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at: http://www.regulations.gov.

Docket: For access to the docket to read background documents or comments, go to http://www.regulations.gov and/or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and