The applicants in this notice have driven CMVs with their limited vision in careers ranging for 3 to 59 years. In the past three years, no drivers were involved in crashes, and no drivers were convicted of moving violations in CMVs. All the applicants achieved a record of safety while driving with their vision impairment that demonstrates 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, FMCSA concludes their ability to drive safely can be projected into the future.

Consequently, FMCSA finds that in each case exempting these applicants from the vision requirement in 49 CFR 391.41(b)(10) is likely to achieve a level of safety equal to that existing without the exemption.

V. Conditions and Requirements

The terms and conditions of the exemption are provided to the applicants in the exemption document and includes the following: (1) Each driver must 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 certified Medical Examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) each driver must 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) each driver must 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 exemption when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

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 14 exemption applications, FMCSA exempts the following drivers from the vision requirement, 49 CFR 391.41(b)(10), subject to the requirements cited above:

- Doyle L. Bowen (NM)
- Guillermo Casio Camero (WA)
- William L. Cave (MD)
- Marc C. Goss (NE)
- Richard J. Hard (IN)
- Dennis W. Johnson (MO)
- Ken I. Johnson (GA)
- Ibrahim F. Khashan (GA)
- Shelby M. Kuehler (KS)
- Kendall S. Lane (OK)
- Leonid Morris (NJ)
- Gale L. O’Neill (NJ)
- Michael L. Sheldon (NE)
- Pedro T. Tellez Alvarez (CA)

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 and 31315.

Issued on: January 30, 2019.

Larry W. Minor, Associate Administrator for Policy.
III. Request for Exemptions

ACPA seeks two exemptions for drivers transporting ready-mixed concrete and related materials and equipment from the hours-of-service (HOS) 30-minute rest break provision in 49 CFR 395.3(a)(3)(ii) and the restriction of the record of duty status (RODS) exception for short-haul operations to drivers who return to their normal work-reporting location within 12 hours [49 CFR 395.1(e)(1)(ii)(A)].

ACPA requested the first exemption from the HOS rest break provision to allow drivers transporting ready-mixed concrete and related materials in vehicles other than those outfitted with rotating mixer drums, to use 30 minutes or more of on-duty “waiting time” to satisfy the requirement for the 30-minute rest break, provided they do not perform any other work during the break. According to ACPA, concrete mixtures are extremely perishable, as all steps in the process of a typical mainline paving project are time-critical. Employees must coordinate and direct a complex series of logistical steps, one of the most important elements of which is the delivery of the concrete within a time frame specified by the transportation agency or owner. The concrete is essentially made to order, then delivered by end-dump trucks so there is a steady and constant delivery of material that keeps pace with the paving equipment. Any issue that delays the well-orchestrated, just-in-time delivery of concrete can result in batches being turned away by inspectors, the paving operation being shut down temporarily, and ultimately, cause time and cost overruns. The criticality of concrete delivery from plant to paving site is arguably one of the most important factors in a paving process, according to ACPA.

ACPA requested the second exemption to allow the same drivers to use the short-haul RODS exception, but with a 14-hour duty period instead of 12 hours. ACPA advises that while some short-haul drivers will be able to take advantage of the exception from the 30-minute break, other drivers are often required to be on duty more than 12 hours in a day and therefore are not eligible to use the short-haul exception. ACPA pointed out that FMCSA granted drivers of ready-mixed concrete delivery vehicles an exemption from the minimum 30-minute rest break provision (80 FR 17819, April 2, 2015). The hours-of-service regulations define “ready mixed concrete delivery vehicle” to mean “a vehicle designed to deliver ready-mixed concrete on a daily basis and equipped with a mechanism under which the vehicle’s propulsion engine provides the power to operate a mixer drum to agitate and mix the product en route to the delivery site.” 49 CFR 395.2.

1 The hours-of-service regulations define “ready mixed concrete delivery vehicle” to mean “a vehicle designed to deliver ready-mixed concrete on a daily basis and equipped with a mechanism under which the vehicle’s propulsion engine provides the power to operate a mixer drum to agitate and mix the product en route to the delivery site.” 49 CFR 395.2.
VI. FMCSA Decision

FMCSA has evaluated ACPA’s application and the public comments and decided to grant the exemptions. The Agency believes that all drivers transporting ready-mixed concrete and related materials and equipment in vehicles other than those outfitted with rotating mixer drums, will likely achieve a level of safety that is equivalent to or greater than, the level of safety achieved without the exemptions [49 CFR 381.305(a)].

The first exemption from the HOS 30-minute break provision will allow drivers transporting ready-mixed concrete and related materials to use 30 minutes or more of on-duty “waiting time” to satisfy the requirement for the 30-minute rest break, provided they do not perform other work during the break. The second exemption will allow drivers to use the short-haul RODS exception but with a 14-hour duty period instead of the usual 12 hours.

VII. Terms and Conditions for the Exemptions

• Drivers must have a copy of this notice or equivalent signed FMCSA exemption document in their possession while operating under the terms of the exemptions. The exemption document must be presented to law enforcement officials upon request.
• Drivers must return to the work reporting location and be released from work within 14 consecutive hours.

Preemption

In accordance with 49 U.S.C. 31315(d), during the period these exemptions are in effect, no State shall enforce any law or regulation that conflicts with or is inconsistent with this exemption with respect to a firm or person operating under the exemptions.

Notification to FMCSA

Exempt motor carriers must notify FMCSA within 5 business days of any accident (as defined in 49 CFR 390.5), involving any of its CMVs operating under the terms of the exemptions. The notification must include the following information:
(a) Name of the exemption; “ACPA”
(b) Name of the operating motor carrier,
(c) Date of the accident,
(d) City or town, and State, in which the accident occurred, or closest to the accident scene,
(e) Driver’s name and license number,
(f) Vehicle number and State license number,
(g) Number of individuals suffering physical injury,
(h) Number of fatalities,
(i) The police-reported cause of the accident,
(j) Whether the driver was cited for violation of any traffic laws, motor carrier safety regulations, and
(k) The driver’s total on-duty time period prior to the accident.

Reports filed under this provision shall be emailed to MCPSD@DOT.GOV.

Termination

FMCSA does not believe the drivers covered by these exemptions will experience any deterioration of their safety record.

Interested parties or organizations possessing information that would show that any or all of these motor carriers are not achieving the requisite level of safety should immediately notify FMCSA. The Agency will evaluate any information submitted and, if safety is being compromised or if the continuation of the exemptions is inconsistent with 49 U.S.C. 31315(b)(4) and 31136(e), FMCSA will immediately take steps to revoke the exemptions of the company or companies and drivers in question.

Issued on: January 30, 2019.
Raymond P. Martinez,
Administrator.
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BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION
Federal Motor Carrier Safety Administration
[Docket No. FMCSA–2018–0207]

Qualification of Drivers; Exemption Applications; Vision

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

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to exempt 18 individuals from the vision requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) to operate a commercial motor vehicle (CMV) in interstate commerce. They are unable to meet the vision requirement in one eye for various reasons. The exemptions enable these individuals to operate CMVs in interstate commerce without meeting the vision requirement in one eye.

DATES: The exemptions were applicable on December 11, 2018. The exemptions expire on December 11, 2020.

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, (202) 366–4001, fmcsamedical@dot.gov, FMCSA,