

subject to this determination that is admitted to U.S. foreign-trade zones on or after January 23, 2002 must be admitted as "privileged foreign status" as defined in 19 CFR 146.41" is terminated.

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DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket Nos. FMCSA-98-4334, FMCSA-99-5578, FMCSA-99-6480, FMCSA-2000-7363, FMCSA-2000-8398, FMCSA-2001-9258, FMCSA-2001-9561, FMCSA-2003-14504]

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 20 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 be equivalent to, or greater than, the level of safety maintained without the exemptions for these commercial motor vehicle (CMV) drivers.

DATES: This decision is effective September 23, 2005. Comments from interested persons should be submitted by October 11, 2005.

ADDRESSES: You may submit comments identified by DOT DMS Docket Numbers FMCSA-98-4334, FMCSA-99-5578, FMCSA-99-6480, FMCSA-2000-7363, FMCSA-2000-8398, FMCSA-2001-9258, FMCSA-2001-9561, and FMCSA-2003-14504 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.

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: 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: 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 acknowledgement 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 requirements in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce, for a two-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 20 individuals who have requested renewal of their exemptions in a timely manner. The FMCSA has evaluated these 20 applications for renewal on their merits and decided to extend each exemption for a renewable two-year period. They are:

Grady L. Black, Jr.
John A. Chizmar
Weldon R. Evans
Richard L. Gagnebin
Orasio Garcia
Chester L. Gray
James P. Guth
Rayford R. Harper
Paul M. Hoerner
Edward E. Hooker
Michael S. Maki
John E. Musick
Kenneth A. Reddick
Leonard Rice, Jr.
Richard C. Simms
Edd J. Stabler, Jr.
James T. Sullivan
Steven C. Thomas
Edward A. Vanderhei
Larry J. Waldner

These exemptions are extended subject to the following conditions: (1) That each individual have a physical examination 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 two 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 two years from its approval date and may be renewed upon application for additional two year periods. In accordance with 49 U.S.C. 31315 and 31136(e), each of the 20 applicants has satisfied the entry conditions for obtaining an exemption from the vision requirements (63 FR 66226; 64 FR 16517; 66 FR 41656; 68 FR 54775; 64 FR 27027; 64 FR 51568; 66 FR 48504; 64 FR 68195; 65 FR 20251; 65 FR 45817; 65 FR 77066; 65 FR 78256; 66 FR 16311; 68 FR 13360; 66 FR 17743; 66 FR 33990; 68 FR 35772; 66 FR 30502; 66 FR 41654; 68 FR 19598; 68 FR 33570). Each of these 20 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 two 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 two 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 October 11, 2005.

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 objects 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 69 FR 51346

(August 18, 2004). The FMCSA continues to find its exemption process appropriate to the statutory and regulatory requirements.

Issued on: August 31, 2005.

Rose A. McMurray,

Associate Administrator, Policy and Program Development.

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DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA-2005-22365]

Establishment of a Temporary Emergency Relief Docket and Procedures for Handling Petitions for Emergency Waiver Relief From the Federal Regulations

Due to the catastrophic and devastating damage inflicted on the southern portion of the United States in the aftermath of hurricane Katrina, the Federal Railroad Administration (FRA) is establishing a temporary means for handling petitions for waiver from the federal regulations that are directly related to the effects of the hurricane or are necessary to effectively address the relief efforts being undertaken in the area. FRA recognizes that these types of petitions must be afforded special consideration and must be handled expeditiously in order to ensure that the safety of the public and the safety of those individuals and businesses providing aid to the region are immediately addressed. This document is intended to provide all interested parties notice of FRA's intent to establish a temporary Emergency Relief Docket which will be used to provide interested parties notice of the filing of such petitions for waiver. This document also contains the procedures for submitting and responding to such petitions for waiver as well as detailing the procedure that FRA will temporarily utilize to respond to these types of requests.

For Further Information Contact: Grady C. Cothen, Jr., Deputy Associate Administrator for Safety Standards and Program Development, FRA, 1120 Vermont Avenue, NW., RRS-2, Mail Stop 25, Washington, DC 20590 (Telephone 202-493-6302), or Thomas Herrmann, Trial Attorney, Office of Chief Counsel, FRA, 1120 Vermont Avenue, NW., Mail Stop 10, Washington, DC 20590 (Telephone 202-493-6036).

Background Information

On August 29, 2005, hurricane Katrina hit the southern gulf region of the United States. The aftermath of the hurricane has revealed unprecedented damage to property and a constantly increasing loss of life. As the nation turns toward the task of saving lives, providing adequate living facilities for displaced families, and rebuilding the devastated areas, our nation's railroads will play a key role in these efforts by providing necessary supplies and by moving displaced families and relief personnel to and from the area. In an effort to ensure that this mission is safely, effectively, and timely performed, FRA believes it is necessary to establish a method by which FRA can quickly and efficiently handle requests for relief from the Federal regulatory requirements that are directly related to the effects of hurricane Katrina or that will impact the relief effort being undertaken in that segment of the United States.

FRA's existing procedures related to the handling of petitions for waiver from the Federal safety regulations contained in 49 CFR part 211, do not lend themselves to quick and immediate decisions by the agency, nor were they intended to. The existing procedures establish a process whereby FRA publishes a notice of any petition for waiver in the **Federal Register**. This notice then allows interested parties a period of time in which to comment on any such petition, generally thirty (30) days, and provides for a public hearing should one be requested. This process generally takes several months to accomplish. As noted above, this process would not be appropriate for handling petitions for waivers directly related to addressing the effects of hurricane Katrina, the outcome of which could have a serious impact on the health and safety of those members of the public directly affected by the hurricane as well as those individuals aiding the relief efforts. Thus, FRA is instituting temporary procedures for handling petitions for waivers that are directly related to the effects and aftermath of hurricane Katrina. FRA believes these temporary emergency procedures will provide the agency with the ability to promptly and effectively address waiver requests directly related to the hurricane while ensuring that the public and all interested parties are afforded proper notice of any such request and are provided a sufficient opportunity to comment on any such request.