

applications from 35 individuals, and requested comments from the public (67 FR 68719). The 35 individuals petitioned the FMCSA for exemptions from the vision requirement in 49 CFR 391.41(b)(10), which applies to drivers of commercial motor vehicles (CMVs) in interstate commerce. They are: Doris V. Adams, Thomas E. Adams, Rodger B. Anders, Thomas J. Boss, Jack W. Boulware, Mark L. Braun, Howard F. Breitzkreutz, Ryan J. Christensen, Kenneth E. Coplan, William T. Cummins, John E. Evenson, Leon Frieri, Wayne H. Holt, Steven C. Humke, Leon E. Jackson, Neil W. Jennings, Jimmy C. Killian, Craig M. Landry, Earl E. Louk, William R. Mayfield, Thomas E. Mobley, Richard E. Nordhausen, James P. Oliver, Jesse R. Parker, Tony E. Parks, Andrew H. Rusk, Henry A. Shelton, Richard L. Sheppard, Jayland R. Siebers, Deborah A. Sigle, David A. Stafford, Ronald A. Stevens, Kenneth E. Vigue, Jr., David G. Williams, and Richard A. Winslow.

Under 49 U.S.C. 31315 and 31136(e), the 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, the FMCSA has evaluated the 35 petitions on their merits and made a determination to grant the exemptions to all of them. The comment period closed on December 12, 2002. One comment was received, and its contents were carefully considered by the FMCSA in reaching the final decision to grant the petitions.

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 at 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 standard red, green, and amber (49 CFR 391.41(b)(10)).

Beginning in 1992, the Federal Highway Administration (FHWA) has undertaken studies to determine if this vision standard should be amended.

The final report from our medical panel recommends changing the field of vision standard from 70° to 120°, while leaving the visual acuity standard unchanged. (See Frank C. Berson, M.D., Mark C. Kuperwaser, M.D., Lloyd Paul Aiello, M.D., and James W. Rosenberg, M.D., "Visual Requirements and Commercial Drivers," October 16, 1998, filed in the docket, FHWA-98-4334.) The panel's conclusion supported the FMCSA's (and previously the FHWA's) view that the present standard is reasonable and necessary as a general standard to ensure highway safety. The FMCSA also recognizes that some drivers do not meet the vision standard, but have adapted their driving to accommodate their vision limitation and demonstrated their ability to drive safely.

The 35 applicants fall into this category. They are unable to meet the vision standard in one eye for various reasons, including amblyopia, retinal and macular scars, and loss of an eye due to trauma. In most cases, their eye conditions were not recently developed. All but 13 of the applicants were either born with their vision impairments or have had them since childhood. The 13 individuals who sustained their vision conditions as adults have had them for periods ranging from 4 to 60 years.

Although each applicant has one eye which does not meet the vision standard in 49 CFR 391.41(b)(10), each has at least 20/40 corrected vision in the other eye and, in a doctor's opinion, has sufficient vision to perform all the tasks necessary to operate a CMV. The doctors' opinions are supported by the applicants' possession of valid commercial driver's licenses (CDLs) or non-CDLs to operate CMVs. Before issuing CDLs, States subject drivers to knowledge and performance tests designed to evaluate their qualifications to operate a CMV. All these applicants satisfied the testing standards for their State of residence. By meeting State licensing requirements, the applicants demonstrated their ability to operate a commercial vehicle, with their limited vision, to the satisfaction of the State. The Federal interstate qualification standards, *i.e.* the FMCSRs, however, require more.

While possessing a valid CDL or non-CDL, these 35 drivers have been authorized to drive a CMV in intrastate commerce, even though their vision disqualifies them from driving in interstate commerce. They have driven CMVs with their limited vision for careers ranging from 3 to 40 years. In the past 3 years, two of the drivers have had convictions for traffic violations. One of these convictions was for speeding, and

one was for "failure to secure load." One driver was involved in an accident but did not receive a citation.

The qualifications, experience, and medical condition of each applicant were stated and discussed in detail in the November 12, 2002, Notice. Since there were no docket comments on the specific merits or qualifications of any applicant, we have not repeated the individual profiles here. Our summary analysis of the applicants is supported by the information published at 67 FR 68719.

Basis for Exemption Determination

Under 49 U.S.C. 31315 and 31136(e), the FMCSA may grant an exemption from the vision standard in 49 CFR 391.41(b)(10) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. Without the exemption, applicants will continue to be restricted to intrastate driving. With the exemption, applicants can drive in interstate commerce. Thus, our analysis focuses on whether an equal or greater level of safety is likely to be achieved by permitting each of these drivers to drive in interstate commerce as opposed to restricting him or her to driving in intrastate commerce.

To evaluate the effect of these exemptions on safety, the FMCSA considered not only the medical reports about the applicants' vision, but also their driving records and experience with the vision deficiency. To qualify for an exemption from the vision standard, the FMCSA requires a person to present verifiable evidence that he or she has driven a commercial vehicle safely with the vision deficiency for 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 accidents and traffic violations. Copies of the studies have been added to the docket. (FHWA-98-3637)

We believe we can properly apply the principle to monocular drivers, because data from the vision waiver 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 with good driving records in the waiver program demonstrated their ability to drive safely supports a conclusion that other monocular drivers, meeting the