

AHAS avers that FMCSA has presented no information or evidence that addresses the potential interaction of the two impairments and its effect while driving a CMV. They claim that the lack of a prosthesis alone is a sufficient basis on which to deny the exemption request. The addition of poor vision is a factor that presents a more complex medical and safety condition.

The agency has no data to refute the requirement that a prosthesis must be used to properly and safely operate a CMV. Therefore, in today's decision the FMCSA has deferred Mr. Parker's request for a SPE certificate until he obtains a properly fitted prosthesis and demonstrates full use of that device in accordance with the alternative physical qualification standards for the loss of limbs. If Mr. Parker fails to obtain a properly fitted prosthesis the FMCSA will not issue the SPE certificate. While the FMCSA has no specific data to address the level of safety that can be achieved when an applicant has two impairments, the agency does have data that identifies the requirements needed to safely operate a CMV in interstate commerce with the vision deficiency in question, and with a properly fitted prosthesis. The FMCSA has determined that it is reasonable to use this known data to grant the vision exemption and defer a decision on the physical qualification issue (loss of limb).

Our response today is also guided by the Sixth Circuit's prior ruling in this matter. We believe that today's decision is consistent with the Court's remand and that the FMCSA is using a functional capacity test that is consistent with our prior findings that an individual's driving record is indicative of future performance and considers Mr. Parker's driving skills based upon his individual capabilities.

The FMCSA believes that its SPE certification process provides the agency with a functional capacity type test to evaluate Mr. Parker's individual capabilities. The SPE certification process allows limb-amputee and limb-impaired CMV drivers with good driving records to demonstrate, on an individual basis, their ability to operate safely the specific vehicle they intend to drive. This process is an assessment of the functional capabilities of the driver as they relate to the driver's ability to perform normal tasks associated with operating a CMV, and is based on the Amputee Driver Functional Matrix Chart (Krusen Study, 1977). The Matrix, formulated on the assumption that a prosthetic device is being worn by the amputee, identifies critical driving tasks associated with specific types of amputation or limb impairment and

rates their difficulty given the specific handicap type. The SPE certification specialist reviews the functional capacities of the SPE applicant within the Matrix to focus on potential areas of difficulty, before administering an on-the-road test. Prior to the on-the-road evaluation, the process includes a review of the applicant's driving record for the last 3 years. Nonetheless, the FMCSA will continue to review this process and will examine ways to obtain funding to undertake a more extensive review of individuals with multiple impairments.

Conclusion

After considering the comments to the docket and based upon its evaluation of the vision exemption application, the FMCSA exempts Mr. Parker from the vision requirement in 49 CFR 391.41(b)(10), subject to the following conditions: (1) That Mr. Parker 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 medical examiner who attests that he is otherwise physically qualified under 49 CFR 391.41; (2) that Mr. Parker 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 Mr. Parker provide a copy of the annual medical certification to his employer for retention in his driver's qualification file, or keep a copy in his driver's qualification file if he is self-employed. He must also have a copy of the certification when driving, so it may be presented to a duly authorized Federal, State, or local enforcement official.

Although the FMCSA has granted Mr. Parker a vision exemption, this action does not allow Mr. Parker to drive in interstate commerce because he has not met the physical qualification requirements for the loss of limbs. Action on Mr. Parker's SPE certification is deferred.

In accordance with 49 U.S.C. 31315 and 31136(e), the exemption will be valid for 2 years unless revoked earlier by the FMCSA. The exemption will be revoked if: (1) Mr. Parker 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. If the exemption is still effective at the end of the 2-year period, Mr. Parker may apply to the FMCSA for a renewal under procedures in effect at that time.

Issued on: February 23, 2003.

Pamela M. Pelcovits,

Acting Associate Administrator, Policy and Program Development.

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DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2002-12334]

Inquiries Regarding Graduated Commercial Driver's Licensing; Qualifications, Testing and Licensing Standards

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

ACTION: Notice of Inquiry and request for comments.

SUMMARY: The FMCSA invites comments responding to a series of questions concerning the need for and potential benefits and costs of implementing a graduated commercial driver's license (GCDL) for commercial motor vehicle (CMV) drivers. This action is required by section 4019 of the Transportation Equity Act for the 21st Century (TEA-21). A graduated driver's license is a system designed to ease beginning drivers into the traffic environment under controlled exposure to progressively more difficult driving experiences. A graduated or provisional licensing system helps novice drivers improve their driving skills and helps them acquire on-the-road experience under less risky conditions by progressing, or graduating, through driver licensing stages before unrestricted licensure. FMCSA wants to determine if this concept can be successfully adapted to novice CMV drivers.

DATES: Send your comments on or before May 27, 2003.

ADDRESSES: You may mail or hand-deliver your comments to the Dockets Management System (DMS), U.S. Department of Transportation, Room Plaza-401, 400 Seventh Street, SW., Washington, DC 20590-0001. Make sure you include the docket number FMCSA-2002-12334 at the beginning of your comments. If you wish to receive confirmation that your comments were received, include a self-addressed, stamped envelope.

You may send your comments electronically to the DMS Web site at: <http://dms.dot.gov>; or you may fax them to (202) 493-2251. All comments are available for public viewing at the