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SUPPLEMENTARY INFORMATION: On February 16, 2016, Volvo Trucks initiated a safety recall affecting nearly 16,000 Class 8 motor vehicles in the United States. According to Volvo, a condition exists which could lead to separation of the steering shaft from the junction block. Also, the bolt connecting the upper steering shaft to the lower steering shaft may not have been properly tightened. Volvo's report to NHTSA states that either condition can lead to separation of the steering shaft and immediate loss of steering ability and control, which could lead to a crash. Volvo Trucks issued a Safety Recall Alert on March 10, which directed all owners of the affected vehicles to take the vehicles out of operation as soon as possible and cautioned that the separation can occur without warning and amended its safety recall on March 15, alerting NHTSA of the more serious hazard. Volvo Trucks strongly recommends that these vehicles remain out of service until repairs are made. NHTSA is overseeing Volvo Truck's recall efforts to ensure prompt notification of the defect to vehicle owners and that vehicles are not operated in a defective condition. Volvo's Safety Recall Report is available on its Web site at: http://www-odi.nhtsa.dot.gov/owners/SearchDetails?searchCriteria.prod_ids=1991310&searchCriteria.model_yr=2016&searchCriteria.make=VOLVO&searchCriteria.model=VNL&activeTab=0&searchType=PROD&prodType=V&targetCategory=A&cmplCount=1&rclCount=3&invCount=1&tsbCount=0.

Additionally, to assist with notification efforts, on March 18, 2016, FMCSA posted an Inspection Bulletin on its Web site, <https://www.fmcsa.dot.gov/newsroom/urgent-inspection-bulletin-safety-recall-issued-volvo-trucks>. The Inspection Bulletin advised FMCSA inspectors and state partners under the Motor Carrier Safety Assistance Program (MCSAP) of the condition of the affected vehicles and requested inspectors to direct the operators of such vehicles to contact Volvo Customer Service before continuing in operation. The Inspection Bulletin also noted that continued operation of the affected vehicles could be considered a violation of 49 CFR 396.7, which prohibits operation of a

vehicle in a condition likely to cause an accident or a breakdown. Today's notice formalizes that determination and clarifies that FMCSA and its state partners under the MCSAP program will place a vehicle out-of-service if the necessary repair or replacement has not been made, based on the identified out-of-service defect under 49 CFR 393.209(c), which requires that a steering column to be securely fastened.

The Secretary of Transportation has statutory authority to set minimum standards for commercial motor vehicle safety, including ensuring that commercial motor vehicles "are maintained, equipped, loaded, and operated safely" and to prescribe requirements for the "safety of operation and equipment of, a motor carrier." (49 U.S.C. 31136(a)(1) and 49 U.S.C. 31502(b)). The Secretary also has broad power in carrying out motor carrier safety statutes and regulations to, among other things, "inspect the equipment of a carrier or lessor" and "perform other acts the Secretary considers appropriate." (49 U.S.C. 504(c)(1) and 49 U.S.C. 31133(a)(10)). The Administrator of FMCSA has been delegated authority under 49 CFR 1.87(f), (i) and (j) to carry out the functions vested in the Secretary of Transportation by 49 U.S.C. chapter 311, subchapter III, 49 U.S.C. chapter 315, and 49 U.S.C. 504. This delegation of authority includes the authority to declare unsafe vehicles out-of-service under 49 CFR 396.9. Under 49 U.S.C. 31102, MCSAP State partners agree to conduct roadside inspections. In 49 CFR part 350, MCSAP state partners agree to adopt state safety laws and regulations that are compatible with 49 CFR parts 390-397.

Out-of-Service Determination

FMCSA has determined that commercial motor vehicles subject to Volvo Trucks' Safety Recall (NHTSA Part 573 Safety Recall Report No. 16V-097000), that have not already received the interim or permanent recall remedy repair specified by Volvo in the above-referenced recall, are likely to cause an accident or breakdown and are therefore in an unsafe condition. The condition of the steering column is also a violation of 49 CFR 393.209(c) which requires the steering column to be securely fastened. Because of the potential consequences associated with continued operation of these vehicles, through this notice FMCSA is declaring unsafe the operation of any unrepaired vehicle affected by the Volvo Trucks recall under NHTSA Campaign No. 16V097000 and declaring such vehicles to be in an out-of-service condition. The

affected vehicles should not be operated, and the operation of an unrepaired affected vehicle will therefore subject the operator to an out-of-service order under federal or compatible state regulations.

FMCSA is directing its investigators and state partners conducting roadside inspections to perform a Level IV inspection on any unrepaired affected vehicles and to place the vehicle out of service based on the violation of 49 CFR 393.209(c). Level IV inspections, which are typically performed on a one-time basis on a particular item as a special inspection, are not included in FMCSA's Safety Measurement System (SMS), and therefore the out-of-service declaration will not affect a motor carrier's SMS score.

Placing the vehicle out-of-service under this Notice is not intended to provide a basis for further enforcement action and seeks only the immediate cessation of the operation of vehicles that have been deemed to be in an unsafe condition. Operators of vehicles declared out-of-service, however, must comply with an out-of-service order. Motor carrier operators who violate an out-of-service order will be subject to civil penalties and other enforcement as provided in the Federal Motor Carrier Safety Regulations.

Issued under the authority delegated in 49 CFR 1.87 on: March 22, 2016.

T. F. Scott Darling, III,
Acting Administrator.

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DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2015-0072]

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 40 individuals from the vision requirement in the Federal Motor Carrier Safety Regulations (FMCSRs). They are unable to meet the vision requirement in one eye for various reasons. The exemptions will enable these individuals to operate commercial motor vehicles (CMVs) in interstate commerce without meeting the prescribed vision requirement in one eye. The Agency has concluded that granting these exemptions will provide a level of safety that is equivalent to or

greater than the level of safety maintained without the exemptions for these CMV drivers.

DATES: The exemptions were granted December 15, 2015. The exemptions expire on December 15, 2017.

FOR FURTHER INFORMATION CONTACT: Christine A. Hydock, Chief, Medical Programs Division, (202) 366-4001, fmcsamedical@dot.gov, FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64-113, Washington, DC 20590-0001. Office hours are 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 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to www.regulations.gov, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at www.dot.gov/privacy.

II. Background

On November 12, 2015, FMCSA published a notice of receipt of exemption applications from certain individuals, and requested comments from the public (80 FR 70060). That notice listed 40 applicants' case histories. The 40 individuals applied for exemptions from the vision requirement in 49 CFR 391.41(b)(10), for drivers who operate CMVs in interstate commerce.

Under 49 U.S.C. 31136(e) and 31315, 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, FMCSA has evaluated the 40 applications on their merits and

made a determination to grant exemptions to each of them.

III. 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 a 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 red, green, and amber (49 CFR 391.41(b)(10)).

FMCSA recognizes that some drivers do not meet the vision requirement but have adapted their driving to accommodate their vision limitation and demonstrated their ability to drive safely. The 40 exemption applicants listed in this notice are in this category. They are unable to meet the vision requirement in one eye for various reasons, including amblyopia, aphakia, chronic optic neuropathy, complete loss of vision, corneal scar, macular scar, macular toxoplasmosis, optic atrophy, optic nerve atrophy, phthisical cornea, prosthetic eye, refractive amblyopia, retinal detachment, and strabismic amblyopia. In most cases, their eye conditions were not recently developed. Thirty of the applicants were either born with their vision impairments or have had them since childhood.

The 10 individuals that sustained their vision conditions as adults have had it for a range of 6 to 41 years.

Although each applicant has one eye which does not meet the vision requirement 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. 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 skills tests designed to evaluate their qualifications to operate a CMV.

All of these applicants satisfied the testing requirements for their State of residence. By meeting State licensing requirements, the applicants demonstrated their ability to operate a CMV, with their limited vision, to the satisfaction of the State.

While possessing a valid CDL or non-CDL, these 40 drivers have been authorized to drive a CMV in intrastate commerce, even though their vision disqualified them from driving in interstate commerce. They have driven CMVs with their limited vision in careers ranging for 3 to 51 years. In the past three years, 1 driver was involved in a crash, and 1 driver was convicted of a moving violation in a CMV.

The qualifications, experience, and medical condition of each applicant were stated and discussed in detail in the November 12, 2015 notice (80 FR 70060).

IV. Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the vision requirement 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, FMCSA considered the medical reports about the applicants' vision as well as their driving records and experience with the vision deficiency.

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 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 crashes and traffic violations. Copies of the studies may be found 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 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

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 same 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 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 3 consecutive years of data, comparing the experiences of drivers in the first 2 years with their experiences in the final year.

Applying principles from these studies to the past 3-year record of the 40 applicants, 1 driver was involved in a crash, and 1 driver was convicted of a moving violation in a CMV. All the applicants achieved a record of safety while driving with their vision impairment, demonstrating 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.

We believe that the applicants’ intrastate driving experience and history provide an adequate basis for predicting their ability to drive safely in interstate commerce. Intrastate driving, like interstate operations, involves substantial driving on highways on the interstate system and on other roads built to interstate standards. Moreover, driving in congested urban areas exposes the driver to more pedestrian

and vehicular traffic than exists on interstate highways. Faster reaction to traffic and traffic signals is generally required because distances between them are more compact. These conditions tax visual capacity and driver response just as intensely as interstate driving conditions. The veteran drivers in this proceeding have operated CMVs safely under those conditions for at least 3 years, most for much longer. Their experience and driving records lead us to believe that each applicant is capable of operating in interstate commerce as safely as he/she has been performing in intrastate commerce. Consequently, FMCSA finds that 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. For this reason, the Agency is granting the exemptions for the 2-year period allowed by 49 U.S.C. 31136(e) and 31315 to the 40 applicants listed in the notice of November 12, 2015 (80 FR 70060).

We recognize that the vision of an applicant may change and affect his/her ability to operate a CMV as safely as in the past. As a condition of the exemption, therefore, FMCSA will impose requirements on the 40 individuals consistent with the grandfathering provisions applied to drivers who participated in the Agency’s vision waiver program.

Those requirements are found at 49 CFR 391.64(b) and include the following: (1) That each individual be physically examined every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the requirement 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, or keep a copy in his/her driver’s qualification file if he/she is self-employed. The driver must have a copy of the certification when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

V. Discussion of Comments

FMCSA received no comments in this proceeding.

IV. Conclusion

Based upon its evaluation of the 40 exemption applications, FMCSA exempts the following drivers from the vision requirement in 49 CFR 391.41(b)(10):

John W. Adams (TN)
David R. Alford (UT)
Randy S. Asher (NE)
Steven W. Barrows (OR)
Steven A. Blinco (MT)
Charles W. Bradley (SC)
Ricky A. Bray (AR)
Ryan M. Coelho (RI)
Travis R. Cook (KS)
Larry P. Davis (MO)
Donald S. Fries (PA)
Kerrie K. Furbish (SE)
Jerry W. Gibson (TX)
Trevor H. Hilton (IL)
Michael D. Judy (KS)
Karen L. Kelly (DE)
Joel H. Kohagen (IA)
Kelly K. Kremer (OR)
Edward R. Lockhart (MS)
Joshua L. Marasek (TX)
Rodolfo Martinez, Jr. (TX)
Arthur J. McClintic (MI)
Dale A. McCoy (ME)
Gregory G. Miller (OH)
Zack E. Minielly (GA)
Tobias G. Olsen (NY)
Elroy Perkins (MS)
Roy C. Rogers (WV)
Michael P. Rydzinski (MI)
Dale L. Schneider (IA)
Keith R. Seabaugh (MO)
Robert G. Seils (NY)
Randall C. Stephens (TN)
Dale L. Stewart (MI)
Warren S. Supulski (NC)
Paul J. Vines (AL)
Hany A. Wagieh (NJ)
Charles W. Williamson (OK)
Gregory A. Woodward (OR)
Alton R. Young III (MS)

In accordance with 49 U.S.C. 31136(e) and 31315, each exemption will be valid for 2 years unless revoked earlier by FMCSA. The exemption will be revoked 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. 31136 and 31315.

If the exemption is still effective at the end of the 2-year period, the person may apply to FMCSA for a renewal under procedures in effect at that time.

Issued on: March 16, 2016.

Larry W. Minor,

Associate Administrator for Policy.

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