

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

Dockets Management facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Dockets Management facility is located on the Plaza Level of the Nassif Building at the above address. You may also view comments electronically at the DMS Web site, <http://dms.dot.gov>. It is available 24 hours each day, 365 days each year. Please follow the instructions on-line.

You may download a copy of this notice by using a computer, modem and suitable communications software from the Government Printing Office Electronic Bulletin Board Service at (202) 512-1661. You can also get it through the **Federal Register** Web page at: <http://www.access.gpo.gov/nara>.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Redmond, (202) 366-5014, State Programs Division (MC-ESS), Federal Motor Carrier Safety Administration, 400 Seventh Street, SW., Washington, DC 20590; or e-mail Robert.Redmond@fmcsa.dot.gov. Office hours are from 8:15 a.m. to 4:45 p.m. e.t., Monday through Friday, except Federal Holidays.

SUPPLEMENTARY INFORMATION:

Background

Section 4019 of the Transportation Equity Act for the 21st Century (TEA-21), Public Law 105-178, requires that the agency review the adequacy of the current commercial driver's license (CDL) testing process, make improvements and assess the merits of implementing a graduated commercial driver's license (GCDL).

What Is a Graduated Commercial Driver's License

The National Highway Traffic Safety Administration (NHTSA) describes the concept of a graduated driver's licensing as "a system designed to ease beginning drivers into the traffic environment under controlled exposure to progressively more difficult driving experiences. This system helps 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 commercial motor vehicle (CMV) drivers.

Questionnaire Format

The following questions were designed to gauge how commercial vehicle drivers, industry groups, and government agencies involved in vehicle operation, regulation, and enforcement feel about a GCDL.

The FMCSA originally intended to distribute the questionnaire to a limited number of persons representing the affected commercial motor vehicle industry. However, it now has decided to expand participation in this study process to anyone with an interest in this important issue by publishing this notice of inquiry. In addition, the answers to these questions will help determine the best way to implement a GCDL, if the FMCSA finds it beneficial to motor carrier safety and industry efficiency.

This notice incorporates information obtained through a series of focus groups with truck and bus drivers, industry representatives, and enforcement and regulatory agency representatives. The focus groups indicated support for a GCDL as a means for improving commercial vehicle safety. These groups were divided, however, over whether drivers between 18 and 21 years of age should be eligible for a GCDL as a means for attracting new entrants into the field and increasing the pool of qualified drivers. Additional information, including the March 1, 1999 report, "Designing a Graduated Commercial Driver's License, A Report on Focus Group Findings," Final Report, by the Science Applications International Corporation (SAIC), is available in the public docket for viewing and copying through the Docket Management System at: <http://dms.dot.gov>.

The 16 questions address issues considered important to the commercial vehicle community. Commenters may add narrative comments about the need for, benefits of, potential acceptance of, institutional barriers to, and practicality of a graduated commercial driver licensing system and the likely improvements in highway safety, employment opportunities, and transportation efficiency.

After data from the questions are compiled and evaluated, the FMCSA will present its results and conclusions in a final report on the potential benefits, costs and feasibility of implementing a graduated or provisional CDL program. The results will be used to evaluate the potential for pilot testing the graduated commercial driver's license (GCDL) concept.

The Questions

Please organize and identify your comments by question number. General comments on the GCDL concept and areas that you believe were not addressed in the questionnaire are also welcome.

Information About You

1. Please indicate your primary occupation(s) from the following list:

- Truck driver
- Owner-operator
- Motor coach/bus driver
- Fleet manager/owner
- Company safety director
- Transit system administrator
- Commercial driver trainer
- Motor carrier insurance provider
- Risk assessment specialist
- Labor union representative
- Public interest group
- Enforcement officer (motor carrier safety)
- Motor vehicle administrator (State driver's licenses)
- Other

2. Do you think a graduated commercial driver's license (GCDL) is needed?

Regardless of your response to question number 2, please complete the rest of the questions so that we will know your preferences if a GCDL were to be pilot tested or implemented nationally.

Training

3. Should issuance of a GCDL be linked to enrollment in a commercial driving training program?

4. Should the curricula of a commercial driver training program meet widely-endorsed standards for a student to be eligible to receive a GCDL while in training?

5. Approximately how many months/years of entry level training and experience should new drivers receive before "graduating" to an unrestricted CDL?

Driving Record

6. Should an applicant's past driving record be considered in issuing a GCDL?

7. How many of each of the following types of motor vehicle accidents and convictions within the past 12 months should cause an applicant to be denied a GCDL?

- Passenger car or light truck motor vehicle accidents
- Traffic violations and citations
- DUI/DWI convictions
- Controlled substances convictions
- Reckless driving convictions
- Other convictions for motor vehicle traffic control violations

8. Should penalties for drivers holding a GCDL, who have at-fault accidents or moving violations, be more severe than those for drivers with an unrestricted CDL?

Driving Experience

9. How many months/years of passenger car or light truck driving

experience should an applicant have before being issued a GCDL?

Restrictions

10. Which of the following restrictions should apply to entry level drivers operating under a GCDL?

- Reduced hours of service
- Limitations on equipment type (e.g., doubles/triples, tank vehicles, motor coaches, etc.)
- Limitations on types of cargo (e.g., hazardous materials, livestock, liquids, etc.)
- Limitations on weather and visibility conditions (e.g., ice, snow, fog, night driving)
- Limitations on geography or terrain features (e.g., mountains)
- Limitations on distance or types of highways (e.g., miles per day, interstate highways, etc.)
- Other

11. Should a fully licensed CDL driver be required to accompany and observe a driver with a GCDL? If yes, for how many weeks/months/years?

Age

12. What is the minimum age at which an applicant should be eligible to receive a Graduated CDL?

13. Assuming that training requirements are met, what is the minimum age at which the holder of a graduated CDL should be eligible to graduate to an unrestricted CDL?

Testing

14. How much testing (knowledge and road test) should be given to GCDL holders prior to issuing an unrestricted CDL?

- Single test to "graduate" to an unrestricted CDL
- Periodically while holding a GCDL until training is complete
- Initial test plus re-test at 1 year after receiving initial GCDL
- Other

Other Factors

15. What other factors do you feel must be addressed in the implementation of a graduated CDL program?

Costs

16. What costs would you or your organization anticipate incurring if a GCDL program is implemented?

Issued on: February 19, 2003.

Annette M. Sandberg,

Acting Administrator.

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DEPARTMENT OF TRANSPORTATION

Maritime Administration

Voluntary Intermodal Sealift Agreement

AGENCY: Maritime Administration, DOT.

ACTION: Notice of Voluntary Intermodal Sealift Agreement (VISA).

SUMMARY: The Maritime Administration (MARAD) announces the extension of the Voluntary Intermodal Sealift Agreement (VISA) for another two-year period until February 13, 2005, pursuant to provision of the Defense Production Act of 1950, as amended. The purpose of the VISA is to make intermodal shipping services/systems, including ships, ships' space, intermodal equipment and related management services, available to the Department of Defense as required to support the emergency deployment and sustainment of U.S. military forces. This is to be accomplished through cooperation among the maritime industry, the Department of Transportation and the Department of Defense.

FOR FURTHER INFORMATION CONTACT:

Taylor E. Jones II, Director, Office of Sealift Support, Room 7304, Maritime Administration, 400 Seventh Street SW., Washington, DC 20590, (202) 366-3423, Fax (202) 366-3128.

SUPPLEMENTARY INFORMATION: Section 708 of the Defense Production Act of 1950, as amended, (50 U.S.C. App. 2158), as implemented by regulations of the Federal Emergency Management Agency (44 CFR part 332), "Voluntary agreements for preparedness programs and expansion of production capacity and supply", authorizes the President, upon a finding that conditions exist which may pose a direct threat to the national defense or its preparedness programs, " * * * to consult with representatives of industry, business, financing, agriculture, labor and other interests * * *" in order to provide the making of such voluntary agreements. It further authorizes the President to delegate that authority to individuals who are appointed by and with the advice and consent of the Senate, upon the condition that such individuals obtain the prior approval of the Attorney General after the Attorney General's consultation with the Federal Trade Commission. Section 501 of Executive Order 12919, as amended, delegated this authority of the President to the Secretary of Transportation (Secretary), among others. By DOT Order 1900.8, the Secretary delegated to the Maritime Administrator the

authority under which the VISA is sponsored. Through advance arrangements in joint planning, it is intended that participants in VISA will provide capacity to support a significant portion of surge and sustainment requirements in the deployment of U.S. military forces during war or other national emergency.

The text of the VISA was first published in the **Federal Register** on February 13, 1997, to be effective for a two-year term until February 13, 1999. The VISA document has been extended and subsequently published in the **Federal Register** every two years. The last extension was published on February 20, 2001. The text of the VISA herein is identical to the text previously published in the **Federal Register**.

The text published herein will now be implemented. Copies will be made available to the public upon request.

Text of the Voluntary Intermodal Sealift Agreement

Voluntary Intermodal Sealift Agreement (VISA)

9 December 1996

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