

DEPARTMENT OF TRANSPORTATION**Federal Motor Carrier Safety Administration**

[Docket No. FMCSA–2012–0123; FMCSA–2013–0124; FMCSA–2013–0125; FMCSA–2016–0003; FMCSA–2017–0059]

Qualification of Drivers; Exemption Applications; Hearing

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

ACTION: Notice of renewal of exemptions; request for comments.

SUMMARY: FMCSA announces its decision to renew exemptions for seven individuals from the hearing requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) for interstate commercial motor vehicle (CMV) drivers. The exemptions enable these hard of hearing and deaf individuals to continue to operate CMVs in interstate commerce.

DATES: The exemptions were applicable on May 19, 2020. The exemptions expire on May 19, 2022. Comments must be received on or before June 4, 2020.

ADDRESSES: You may submit comments identified by the Federal Docket Management System (FDMS) Docket No. FMCSA–2012–0123, FMCSA–2013–0124, FMCSA–2013–0125, FMCSA–2016–0003, or FMCSA–2017–0059 using any of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.

- *Mail:* Send comments to Docket Operations; U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.

Hand Delivery: Bring comments to Docket Operations, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal Holidays. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Docket Operations.

- *Fax:* (202) 493–2251.

To avoid duplication, please use only one of these four methods. See the “Public Participation” portion of the **SUPPLEMENTARY INFORMATION** section for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, 202–366–4001, fmcsamedical@dot.gov, FMCSA,

Department of Transportation, 1200 New Jersey Avenue SE, Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., ET, Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Docket Operations, (202) 366–9826.

SUPPLEMENTARY INFORMATION:**I. Public Participation***A. Submitting Comments*

If you submit a comment, please include the docket number for this notice (Docket No. FMCSA–2012–0123, FMCSA–2013–0124, FMCSA–2013–0125, FMCSA–2016–0003, or FMCSA–2017–0059), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov>, put the docket number, FMCSA–2012–0123, FMCSA–2013–0124, FMCSA–2013–0125, FMCSA–2016–0003, or FMCSA–2017–0059, in the keyword box, and click “Search.” When the new screen appears, click on the “Comment Now!” button and type your comment into the text box on the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

FMCSA will consider all comments and material received during the comment period.

B. Viewing Documents and Comments

To view comments, as well as any documents mentioned in this notice as being available in the docket, go to <http://www.regulations.gov>. Insert the docket number, FMCSA–2012–0123, FMCSA–2013–0124, FMCSA–2013–0125, FMCSA–2016–0003, or FMCSA–2017–0059, in the keyword box, and click “Search.” Next, click the “Open

Docket Folder” button and choose the document to review. If you do not have access to the internet, you may view the docket online by visiting the Docket Operations in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Docket Operations.

C. 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.transportation.gov/privacy.

II. Background

Under 49 U.S.C. 31136(e) and 31315(b), FMCSA may grant an exemption from the FMCSRs for no longer than a 5-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 5-year period. FMCSA grants medical exemptions from the FMCSRs for a 2-year period to align with the maximum duration of a driver’s medical certification.

The physical qualification standard for drivers regarding hearing found in 49 CFR 391.41(b)(11) states that a person is physically qualified to drive a CMV if that person first perceives a forced whispered voice in the better ear at not less than 5 feet with or without the use of a hearing aid or, if tested by use of an audiometric device, does not have an average hearing loss in the better ear greater than 40 decibels at 500 Hz, 1,000 Hz, and 2,000 Hz with or without a hearing aid when the audiometric device is calibrated to American National Standard (formerly ASA Standard) Z24.5–1951.

This standard was adopted in 1970 and was revised in 1971 to allow drivers to be qualified under this standard while wearing a hearing aid, 35 FR 6458, 6463 (April 22, 1970) and 36 FR 12857 (July 3, 1971).

The seven individuals listed in this notice have requested renewal of their exemptions from the hearing standard in § 391.41(b)(11), in accordance with FMCSA procedures. Accordingly,

FMCSA has evaluated these applications for renewal on their merits and decided to extend each exemption for a renewable 2-year period.

III. Request for Comments

Interested parties or organizations possessing information that would otherwise show that any, or all, of these drivers are not currently achieving the statutory level of safety should immediately notify FMCSA. The Agency will evaluate any adverse evidence submitted and, if safety is being compromised or if continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315(b), FMCSA will take immediate steps to revoke the exemption of a driver.

IV. Basis for Renewing Exemptions

In accordance with 49 U.S.C. 31136(e) and 31315(b), each of the seven applicants has satisfied the renewal conditions for obtaining an exemption from the hearing requirement. The seven drivers in this notice remain in good standing with the Agency. In addition, for Commercial Driver's License (CDL) holders, the Commercial Driver's License Information System and the Motor Carrier Management Information System are searched for crash and violation data. For non-CDL holders, the Agency reviews the driving records from the State Driver's Licensing Agency. These factors provide an adequate basis for predicting each driver's ability to continue to safely operate a CMV in interstate commerce. Therefore, FMCSA concludes that extending the exemption for each of these drivers for a period of 2 years is likely to achieve a level of safety equal to that existing without the exemption.

As of May 19, 2020, and in accordance with 49 U.S.C. 31136(e) and 31315(b), the following seven individuals have satisfied the renewal conditions for obtaining an exemption from the hearing requirement in the FMCSRs for interstate CMV drivers:

Forrest Carroll (OH)
Bryan MacFarlane (OH)
Michael Murrah (GA)
Michael Paasch (NE)
Kelly Pulvermacher (WI)
Brian Walthall (KS)
Joshua Chad Weaver (GA)

The drivers were included in docket number FMCSA–2012–0123, FMCSA–2013–0124, FMCSA–2013–0125, FMCSA–2016–0003, and FMCSA–2017–0059. Their exemptions are applicable as of May 19, 2020, and will expire on May 19, 2022.

V. Conditions and Requirements

The exemptions are extended subject to the following conditions: (1) Each driver must report any crashes or accidents as defined in § 390.5; and (2) report all citations and convictions for disqualifying offenses under 49 CFR 383 and 49 CFR 391 to FMCSA; and (3) each driver prohibited from operating a motorcoach or bus with passengers in interstate commerce. The driver must also have a copy of the exemption when driving, for presentation to a duly authorized Federal, State, or local enforcement official. In addition, the exemption does not exempt the individual from meeting the applicable CDL testing requirements. Each exemption will be valid for 2 years unless rescinded earlier by 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. 31136(e) and 31315(b).

VI. Preemption

During the period the exemption is in effect, no State shall enforce any law or regulation that conflicts with this exemption with respect to a person operating under the exemption.

VII. Conclusion

Based upon its evaluation of the seven exemption applications, FMCSA renews the exemptions of the aforementioned drivers from the hearing requirement in § 391.41 (b)(11). In accordance with 49 U.S.C. 31136(e) and 31315(b), each exemption will be valid for two years unless revoked earlier by FMCSA.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2020–09551 Filed 5–4–20; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2020–0034]

Petition for Waiver of Compliance

Under part 211 of title 49 Code of Federal Regulations (CFR), this document provides the public notice that on April 20, 2020, Ohio River Scenic Railway (ORSR) petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR part

240, Qualifications and Certification of Locomotive Engineers. FRA assigned the petition Docket Number FRA–2020–0034.

Specifically, ORSR requests a waiver from the requirements of 49 CFR 240.201(d), *Implementation*, which states that a railroad can only permit qualified locomotive engineers to operate locomotives. ORSR seeks to operate an “Engineer-for-an-Hour” charter program and offer non-certified individuals the opportunity to operate a diesel-electric locomotive under the direct supervision of a certified and qualified locomotive engineer. ORSR states the waiver would affect only persons who participate in the program and restrictions would be placed on this operation.

The waiver would cover operations on a 2.6-mile segment of main track between milepost (MP) 3.4 and MP 6.0. There are no public grade crossings or otherwise hazardous or unusual conditions on this segment of track.

Through a series of license agreements, ORSR will utilize the majority of a 22-mile railroad line in Southern Indiana, owned and operated by the Perry County Port Authority (PCPA) d/b/a Hoosier Southern Railroad (HOS), to provide passenger excursion railroad service across Perry and Spencer Counties in Indiana. ORSR's normal excursion operations would occur between MP 2.3 and MP 22.2 on weekends, operating under yard limits not exceeding 10 miles per hour. HOS freight shipments only occur on the line on weekdays, except for special circumstances on the weekends. ORSR schedules must always be coordinated with and approved by the PCPA and HOS to ensure that there are no conflicting train movements.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at www.regulations.gov and in person at the U.S. Department of Transportation's (DOT) Docket Operations Facility, 1200 New Jersey Ave. SE, W12–140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested parties desire an opportunity for oral comment and a public hearing, they should notify FRA, in writing, before the end of the