



**U.S. Department  
of Transportation**

**Federal Motor Carrier  
Safety Administration**

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**WAIVERS, EXEMPTIONS, AND PILOT  
PROGRAMS  
ANNUAL REPORT TO CONGRESS  
FISCAL YEAR 2015**

A report pursuant to Section 32913 of the  
Moving Ahead for Progress in the 21<sup>st</sup> Century Act  
and 49 U.S.C. 31315(e)

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May 2017

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## **INTRODUCTION**

Section 32913 of the Moving Ahead for Progress in the 21<sup>st</sup> Century Act (MAP 21) (Pub. L. 112-141) requires the Secretary of Transportation to submit an annual report to the Congress listing the waivers, exemptions, and pilot programs granted under section 31315 of title 49, United States Code (U.S.C.) and any impacts on safety associated with the regulatory relief provided. This report is the third submission to Congress on waivers, exemptions, and pilot programs granted by the Federal Motor Carrier Safety Administration (FMCSA) and covers Fiscal Year (FY) 2015.

Section 4007 of the Transportation Equity Act for the 21st Century (TEA-21) (Pub. L. 105-178) amended 49 U.S.C. 31315 and 31136(e) to authorize the Secretary of Transportation to grant exemptions from motor carrier safety regulations. The interim final regulations to implement the new authority were published in the Federal Register on December 8, 1998 (63 FR 67600), and codified at part 381 of title 49 of the Code of Federal Regulations (CFR). On August 20, 2004 (69 FR 51589), FMCSA adopted as final its interim regulations. The final rule established procedures applicants must follow to request waivers and apply for exemptions from the Federal Motor Carrier Safety Regulations (FMCSR) and procedures to propose and manage pilot programs. In addition, it established procedures that govern how FMCSA reviews, grants, or denies requests for waivers, applications for exemptions, and proposals for pilot programs. It also established requirements for publishing notices of exemption applications or proposals for pilot programs in the Federal Register to afford the public an opportunity for comment.

## **WAIVERS, EXEMPTIONS, AND PILOT PROGRAMS**

### **Waivers**

A waiver provides temporary relief from one or more FMCSRs to a person subject to the regulations or a person who intends to engage in an activity that would be subject to the regulations. A person or class of persons may apply for a waiver if one or more FMCSRs prevents them from using or operating commercial motor vehicles (CMV) or makes it unreasonably difficult to do so during a unique, non-emergency event. A waiver provides the person with relief from the regulations for up to 3 months and is subject to conditions imposed by the FMCSA Administrator. Waivers may be granted only from requirements in 49 CFR parts 382, 383, 391, 392, 393, 395, 396 (except for section 396.25) and 399.

### **Exemptions**

An exemption provides temporary relief from one or more FMCSRs to a person subject to the regulations or to a person who intends to engage in an activity that would be subject to the regulations. A person or class of persons may apply for an exemption if one or more of the FMCSRs prevents them from implementing more efficient or effective operations that would maintain a level of safety equivalent to or greater than the level achieved without the exemption. The FMCSA is required by statute to request public comment prior to granting an exemption. After considering the public comments, the Agency must make a determination that the terms and

conditions of the exemption would achieve a level of safety equivalent to that provided by the regulations from which the entity would be exempted. The FMCSA invites all interested parties to notify the Agency immediately if they observe any safety problems associated with any of these exemptions.

An exemption provides the person or class of persons with relief from the regulations for up to 5 years<sup>1</sup> and may be renewed. Exemptions may be granted only from one or more requirements in 49 CFR parts 382, 383, 391, 392, 393, 395, 396 (except for section 396.25), and 399. The name of the person or class of persons who will receive the exemption, the specific regulations from which the person(s) will be exempted, the time period, and all terms and conditions of the exemption are published in the Federal Register for notice and comment. The Agency is required to revoke an exemption immediately if the person fails to comply with the terms and conditions of the exemption, if the exemption has resulted in a lower level of safety than was maintained before the exemption was granted, or if continuation of the exemption would not be consistent with the goals and objectives of the regulations issued under the authority of 49 U.S.C. chapter 313 or 49 U.S.C. 31136.

### **Pilot Programs**

The Agency may conduct pilot programs to evaluate alternatives to regulations relating to motor carriers, CMVs, and driver safety. These programs may include exemptions from one or more of the FMCSRs. The FMCSA is required by statute to request public comment before starting a pilot program. The initial notice must lay out the plan for safety oversight, data collection, and analysis. The Agency must then issue a final decision in the Federal Register notifying all interested parties of the terms and conditions of the pilot program, including safety oversight. The Agency may not move forward with a pilot program unless there is sufficient information to support a determination that the terms and conditions of the pilot program would achieve a level of safety equivalent to that provided by the regulations from which the entity would be relieved during the pilot program. The FMCSA invites all interested parties to notify the Agency immediately if they observe any safety problems associated with pilot programs while they are in operation.

Each pilot program is limited to 3 years from its starting date. If a motor carrier or driver fails to comply with the terms and conditions of the program, FMCSA must immediately revoke the carrier's or driver's participation in the program. Likewise, if continuation of a pilot program is inconsistent with the safety goals and objectives of 49 U.S.C. chapter 313 or 49 U.S.C. 31136, FMCSA must terminate that pilot program immediately.

### **FMCSA MEDICAL EXEMPTION PROGRAMS**

The overwhelming majority of the exemptions granted by FMCSA concern the physical qualifications standards for interstate drivers. Currently, FMCSA has separate Vision and Diabetes Exemption Programs. The FMCSA's robust monitoring and oversight processes for its

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<sup>1</sup> Extended from 2 to 5 years by section 5206 of the Fixing America's Surface Transportation Act, Pub. L. 114-94, 129 Stat. 1312, 1537, Dec. 4, 2015.

Vision and Diabetes Exemption Programs ensure that there is no adverse impact on safety after granting an exemption. The processes and criteria for granting, rescinding, or denying exemptions for these programs are outlined in the Appendix.

### **Vision Exemption Program**

Launched in December 1998, the FMCSA Vision Exemption Program provides CMV drivers who do not meet the vision requirements of 49 CFR 391.41(b)(10) in one of their eyes the opportunity to seek an exemption on a case-by-case basis. The process of obtaining an exemption begins with submission of an application to the Vision Exemption Program. Drivers must provide information that supports the vision criteria listed in the Appendix. The Agency granted waivers from the vision standard to drivers being considered for an exemption on a case-by-case basis to provide the Agency with sufficient time to complete the exemption process so that the drivers could continue to be employed in their current jobs. Drivers who are approved for the exemption and wish to retain it must renew their exemptions every 2 years. Table 1 shows the number of exemption and waiver applications received and granted through the Vision Exemption Program from October 1, 2014, to September 30, 2015.

**Table 1. Vision Exemptions and Waivers Granted for FY 2015**

Month	Number of Exemption Applications	Number of Exemptions Granted	Number of Exemptions Denied	Percentage of Exemption Applications Granted	Number of Waiver Applications	Number of Waivers Granted	Number of Waivers Denied
October	58	14	44	24.13	0	0	0
November	47	12	35	25.53	0	0	0
December	75	34	41	45.33	0	0	0
January	78	24	54	30.76	0	0	0
February	69	49	20	71.01	0	0	0
March	52	23	29	44.23	0	0	0
April	88	76	12	86.36	0	0	0
May	79	35	44	44.30	0	0	0
June	66	26	40	39.39	0	0	0
July	89	56	33	62.92	1	1	0
August	201	166	35	82.58	0	0	0
September	28	0	28	0	2	2	0
<b>Total</b>	<b>930</b>	<b>515</b>	<b>415</b>	<b>55.37</b>	<b>3</b>	<b>3</b>	<b>0</b>

Source: Vision Exemption Annual Reports

### **Diabetes Exemption Program**

Launched in September 2003 and revised in August 2005, the Diabetes Exemption Program provides CMV drivers who do not meet the insulin-treated diabetes standard of 49 CFR 391.41(b)(3) with the opportunity to seek exemptions on a case-by-case basis. The Agency granted waivers from the insulin-treated diabetes standard to drivers being considered for an exemption on a case-by-case basis to provide the Agency with sufficient time to complete the exemption process so that the drivers could continue to be employed in their current jobs. Drivers must provide application information that supports the diabetes criteria listed in the Appendix.

**Table 2. Diabetes Exemptions and Waivers Granted for FY 2015**

Month	Number of Exemption Applications	Number of Exemptions Granted	Number of Exemptions Denied	Percentage of Exemption Applications Granted	Number of Waiver Applications	Number of Waivers Granted	Number of Waivers Denied
October	97	78	19	80.41	0	0	0
November	95	69	26	72.63	0	0	0
December	146	115	31	78.76	0	0	0
January	156	135	21	86.53	0	0	0
February	89	68	21	76.40	0	0	0
March	102	78	24	76.47	0	0	0
April	58	39	19	67.24	0	0	0
May	144	122	22	84.72	0	0	0
June	118	93	25	78.81	0	0	0
July	125	100	25	80	0	0	0
August	132	107	25	81.06	1	1	0
September	169	144	25	85.20	1	1	0
<b>Total</b>	<b>1,431</b>	<b>1,148</b>	<b>283</b>	<b>80.22</b>	<b>2</b>	<b>2</b>	<b>0</b>

Source: Diabetes Exemption Annual Reports

## **OTHER MEDICAL EXEMPTIONS AND WAIVERS GRANTED OR DENIED**

This section provides summaries of exemptions and waivers the Agency has granted or denied involving individuals unable to meet certain physical qualification requirements in 49 CFR 391.41 for which there are no formal exemption programs. Each individual must abide by the terms and conditions of the exemption or waiver to ensure that the level of safety would be equivalent to or greater than the level of safety achieved by complying with the Federal regulations.

### **Summaries of Medical Exemptions and Waivers Granted or Denied**

#### *Epilepsy/Seizure*

The FMCSA's decision to grant or deny applications for exemptions from the epilepsy/seizure standard in 49 CFR 391.41(b)(8) is based on an individualized assessment of each applicant's medical information, including the root cause of the respective seizure(s), the length of time elapsed since the individual's last seizure, and each individual's treatment regimen. The Agency also reviews each applicant's driving record and interstate and intrastate inspection reports. In addition, the Agency considered both current medical literature and the 2007 recommendations of the Agency's Medical Expert Panel (MEP).

The MEP recommended conditional certification for individuals who have an epilepsy diagnosis, a single unprovoked seizure, or a single provoked seizure with low-risk factors for recurrence and recommended no certifications for individuals with moderate to high-risk seizure conditions.

The MEP's recommendations provide that an individual with a single unprovoked seizure should be seizure-free for 4 years, on or off medication. An individual with an epilepsy diagnosis should be seizure-free for 8 years, on or off medication. If the individual is taking anti-seizure medication(s), the plan for medication should be stable for 2 years.

The exemptions are contingent on the driver maintaining a stable medication regimen and remaining seizure-free during the 2-year exemption period. Exempted drivers must submit annual reports from their treating physicians attesting to the stability of treatment and confirming that the driver has remained seizure-free. Additionally, the drivers must be medically certified yearly by a medical examiner as defined by 49 CFR 390.5, following the FMCSA's regulations for CMV drivers.

**Table 3. Epilepsy/Seizure Exemptions and Waivers Granted for FY 2015**

Month	Number of Exemption Applications	Number of Exemptions Granted	Number of Exemptions Denied	Percentage of Exemption Applications Granted	Number of Waiver Applications	Number of Waivers Granted	Number of Waivers Denied
October	26	0	26	0	0	0	0
November	5	5	0	100	1	1	0
December	38	38	0	100	0	0	0
January	0	0	0	0	3	3	0
February	0	0	0	0	1	1	0
March	20	20	0	100	0	0	0
April	6	6	0	100	3	3	0
May	0	0	0	0	0	0	0
June	44	0	44	0	0	0	0
July	0	0	0	0	1	1	0
August	0	0	0	0	1	1	0
September	44	44	0	100	0	0	0
<b>Total</b>	<b>183</b>	<b>113</b>	<b>70</b>	<b>61.74</b>	<b>10</b>	<b>10</b>	<b>0</b>

### Hearing

In FY 2015, FMCSA granted 175 individuals exemptions from the Agency's physical qualifications standard in 49 CFR 391.41(b)(11) concerning hearing for interstate drivers. The Agency also granted 5 individuals 90-day waivers from the hearing standard to provide the Agency with sufficient time to complete the exemption process so that the individuals could continue to be employed in their current jobs.

The Agency's decisions were based on current medical literature and information and the 2008 evidence report commissioned by FMCSA, with input from the Agency's MEP and Medical Review Board. The report was entitled "Executive Summary on Hearing, Vestibular Function and Commercial Motor Vehicle Driver Safety." The evidence report reached two conclusions regarding the matter of hearing loss and CMV driver safety: (1) no studies were found that examined the relationship between hearing loss and crash risk exclusively among CMV drivers, and (2) evidence from studies of the non-commercial driver population did not support the contention that individuals with hearing impairments are at an increased risk for a crash. In making these decisions, the Agency reviewed the applicants' driving records found in the Commercial Driver License

Information System (CDLIS) and interstate and intrastate inspections recorded in the Motor Carrier Management Information System. It should be noted that the terms and conditions of these exemptions do not allow hard-of-hearing and deaf drivers to operate a motorcoach with passengers.

**Table 4. Hearing Medical Exemptions and Waivers Granted for FY 2015**

Number of Exemption Applications	Number of Exemptions Granted	Number of Exemptions Denied	Percentage of Exemption Applications Granted	Number of Waiver Applications	Number of Waivers Granted	Number of Waivers Denied
175	175	0	100	5	5	0

#### Cardiovascular Condition

The Agency reviewed the medical information of individuals seeking an exemption from the cardiovascular standard in 49 CFR 391.41(b)(4) because of conditions requiring the use of an implantable cardioverter-defibrillator (ICD)—an electronic device that treats cardiac arrest and abnormal rapid heart rates that originate from the lower chambers of the heart by delivery of rapid-paced electrical stimuli or shocks.

The FMCSA evaluated the 17 individual exemption requests on their merits, available scientific data from the Agency’s Evidence Reports and MEP opinions on ICDs and CMV driving, and the comments received. The Agency determined that scientific research does not provide sufficient data to support the conclusion that a CMV driver with an ICD is able to meet an equivalent level of safety, should the device discharge. Individuals may experience syncope when the device discharges and may not recall symptoms when the shock occurs. This is a risk to public safety. Therefore, on January 26, 2015 (3 individuals), and July 24, 2015 (14 individuals), FMCSA denied applications for exemptions from the cardiovascular standard.

#### Perry R. Hoffman

On January 26, 2015, the Agency denied Mr. Perry R. Hoffman’s requested waiver from the regulations concerning medical certification. Mr. Hoffman had informed the Agency that his medical certificate had been revoked because of noncompliance with his prescribed treatment for a diagnosed condition of obstructive sleep apnea (OSA). The FMCSA relies on medical examiners to assess and certify driver medical fitness for duty. Decisions on OSA concerning the use of screening indicators, referral for sleep studies, appropriate treatment modalities such as continuous positive airway pressure, oral devices, treatment effectiveness and compliance measures, reside with the clinical judgment of the certifying medical examiner in consultation with treating specialists.

#### James R. Watkins

On January 30, 2015, FMCSA granted Mr. James R. Watkins a 30-day waiver from the medical certification requirement so that he could operate a CMV for the sole purpose of completing a Skill Performance Evaluation (SPE). The Agency considered Mr. Watkins’s driving experience as a CMV operator and determined that his operation under the waiver would achieve a level of



safety equivalent to or greater than the level of safety that would be obtained through compliance with the FMCSRs. Mr. Watkins submitted a completed SPE application and complied with the provisions of 49 CFR 391.49, Alternate physical qualifications standards for the loss or impairment of limbs. A medical certificate issued to Mr. Watkins by a certified medical examiner included with his SPE application was evidence that he met the physical qualifications except for the requirement to obtain an SPE certificate.

### Narcolepsy

On August 17, 2015 (80 FR 49301), FMCSA announced its decision to deny applications from three individuals seeking exemptions from the physical qualification requirements in 49 CFR 391.41(b)(8) and (b)(9). The individuals had a condition called narcolepsy—a chronic neurological disorder caused by autoimmune destruction of hypocretin-producing neurons inhibiting the brain’s ability to regulate sleep-awake cycles normally. The FMCSA evaluated the three individual exemption requests on their merits using available data from FMCSA’s Evidence Reports, Medical Review Board recommendations, and public comments received. The Agency determined that the available medical and scientific literature and research provided insufficient data to enable the Agency to grant the exemptions.

## **NON-MEDICAL DRIVER EXEMPTIONS AND WAIVERS**

As provided in 49 CFR part 381, FMCSA has granted non-medical exemptions and waivers for which there are no specific programs, but there are terms and conditions that each applicant must meet to ensure that the level of safety would be equivalent to or greater than the level of safety achieved by complying with the Federal regulations. For this section an applicant’s name is repeated each time new companies or new drivers are granted exemptions or waivers by the Agency for the first time. This report does not include the number of applicants with renewed exemptions.

### **Summaries for Exemptions and Waivers Granted or Denied**

#### Daimler Trucks North America (Daimler)

The Agency approved Daimler’s requests for 10 waivers and 1 exemption from the commercial driver’s license (CDL) provisions in 49 CFR part 383 for specified drivers from Germany to drive CMVs in the United States. The waivers and exemptions allowed each driver to test-drive Daimler vehicles on U.S. roads without holding a CDL issued by one of the States. The drivers possessed valid German commercial licenses but lacked U.S. residency. The FMCSA believes that the process for obtaining a German-issued commercial license is comparable to or as effective as the U.S. CDL requirements.

**Table 5. List of Daimler's Drivers Granted Exemptions or Waivers for FY 2015**

Driver's Name	Date Exemption Granted	Driver's Name	Date Waiver Granted
1. Martin Zeilinger	3-27-2015	1. Martin Zeilinger	12-29-2014
		2. Konrad Deuschle	3-31-2015
		3. Istvan Vegh	3-31-2015
		4. Enrico Wolfarth	3-31-2015
		5. Torsten Schmidt	4-10-2015
		6. Michael Seitter	4-10-2015
		7. Christian Urban	4-20-2015
		8. Marko Weirich	7-6-2015
		9. Robert Wodrich-Kotzick	7-6-2015
		10. Michael Seitter	8-5-2015

Oregon Trucking Associations

On March 18, 2015 (80 FR 14227), FMCSA announced its decision to grant the application of the Oregon Trucking Associations for a limited exemption from the Agency's hours-of-service (HOS) regulation requiring CMV drivers to take 30-minute rest breaks at specified intervals in their duty day. The exemption is limited to CMV drivers engaged in transporting timber from Oregon forestlands, and further limited to periods of the year in which the Oregon Department of Forestry has formally restricted logging operations to certain hours of the day due to an elevated risk of forest fire. The Agency granted this exemption on condition that the drivers do not drive after the 12<sup>th</sup> hour of their duty day.

McKee Foods Transportation, LLC

On March 27, 2015 (80 FR 16503), FMCSA announced its decision to grant an exemption to McKee Foods Transportation, LLC (McKee) from the HOS rules pertaining to use of a sleeper berth (SB). The HOS rules require that all SB rest regimens include, in part, the use of an SB for at least 8 hours combined with a separate period of at least 2 hours, either in the SB, off-duty or some combination of both, to gain the equivalent of at least 10 consecutive hours off duty. The exemption allows McKee's team drivers to take the equivalent of 10 consecutive hours off duty by splitting SB time into two periods totaling 10 hours, provided neither of the two periods is less than 3 hours.

National Ready Mixed Concrete Association

On April 2, 2015 (80 FR 17819), FMCSA announced its decision to grant the National Ready Mixed Concrete Association (NRMCA) a limited exemption from the minimum 30-minute rest break provision of the Agency's HOS regulations for CMV drivers. It is important to note that the Agency did not grant a complete exemption from the 30-minute rest break provision. Instead, FMCSA granted the exemption for NRMCA's drivers who remain with the CMV (i.e., wait) while not performing any other work-related activities. The exemption gives these drivers the same regulatory flexibility that 49 CFR 395.1(q) provides for drivers transporting explosives.

### Recreation Vehicle Industry Association

On April 6, 2015 (80 FR 18493), FMCSA announced its decision to grant an exemption from the Federal CDL requirements for drivers who deliver certain newly manufactured motorhomes and recreational vehicles (RV) to dealers or trade shows before retail sale (driveaway operations). The Recreation Vehicle Industry Association requested the exemption because compliance with the CDL requirements prevents its members from implementing more efficient operations due to a shortage of CDL drivers. The exemption is restricted to employees of all U.S. driveaway-towaway companies, RV manufacturers, and RV dealers transporting RVs between manufacturing sites and dealer locations and for movements prior to first retail sale. Drivers covered by the exemption are not required to hold a CDL as long as the empty RVs have gross vehicle weights or gross combination weights that do not meet or exceed 26,001 pounds, and any RV trailers towed by other vehicles weigh 10,000 pounds or less.

### C.R. England, Inc.

On June 11, 2015 (80 FR 33329), FMCSA announced its decision to grant C.R. England, Inc. (C.R. England) an exemption from the provisions in 49 CFR 383.25(a)(1) that require a commercial learner's permit (CLP) holder to be accompanied by a CDL holder with the proper CDL class and endorsements seated in the front of the vehicle, while the CLP holder performs behind-the-wheel training on public roads or highways. Under the terms and conditions of this exemption, a CLP holder who has documentation of passing the CDL skills test may drive a CMV for C.R. England without being accompanied by a CDL holder in the front seat. The exemption enables CLP holders to drive as part of a team and have the same regulatory flexibility that 49 CFR 383 provides for C.R. England's team drivers with CDLs.

### Specialized Carriers & Rigging Association

On June 18, 2015 (80 FR 34957), FMCSA announced its decision to grant the Specialized Carriers & Rigging Association (SC&RA) an exemption from the minimum 30-minute rest break provision of the HOS regulations. The exemption enables all specialized carriers and drivers responsible for transportation of loads that exceed normal weight and dimensional limits, such as oversize/overweight loads (OS/OW), and requires a permit issued by a governmental authority to be exempt from the 30-minute break provision. Finding suitable parking for OS/OW loads is particularly difficult, as SC&RA pointed out, and the default option is likely to be parking on the shoulder of a highway, with the load sometimes extending into the lanes of traffic in order to be compliant with the 30-minute break rule. No matter how well marked, trucks parked at roadside, especially at night, are too often mistaken for moving vehicles and struck, frequently with fatal consequences. Based on available information, the number of such crashes likely to occur during the 30-minute break cannot be estimated, but the Agency concluded that drivers of OS/OW vehicles are more likely to be involved in a crash while parked at roadside during a 30-minute break compared to driving during that same period and the hour or so thereafter, where the break typically has the greatest benefit.

California Farm Bureau Federation

On June 19, 2015 (80 FR 35425), FMCSA announced its decision to grant the California Farm Bureau Federation (CFBF) an exemption from the 30-minute rest break provision of the HOS regulations for certain CMV drivers transporting bees. The FMCSA evaluated CFBF's application for exemption and the public comments submitted. Stakeholders outlined in detail the various risks associated with stopping a CMV transporting bees. The Agency found the arguments in favor of the exemption to be persuasive. Stopping a CMV with bees on board in severe weather conditions, even for a brief period, can jeopardize the health and welfare of the bees. The exemption is consistent with the goals and strategies to protect the health of honey bees and other pollinators as stated in the "Presidential Memorandum Creating a Federal Strategy to Promote the Health of Honey Bees and other Pollinators," issued on June 20, 2014.

B.R. Kreider & Son, Inc.

On June 24, 2015 (80 FR 36397), FMCSA announced its denial of the application of B.R. Kreider & Son, Inc. (Kreider) for an exemption from the requirement that drivers of CMVs be released from work within 12 hours in order to take advantage of the short-haul exception to the HOS rules. Kreider requested an exemption to allow its short-haul drivers to use time cards instead of records of duty status (RODS) without complying with the 12-hour limit in 49 CFR 395.1(e)(1)(ii). The FMCSA concluded that Kreider had not demonstrated how its CMV operations under such an exemption would be likely to achieve a level of safety equivalent to or greater than the level of safety that would be obtained in the absence of the exemption.

David Muresan

On June 24, 2015 (80 FR 36401), FMCSA announced its decision to deny Mr. David Muresan's application for an exemption from the HOS regulations in 49 CFR part 395. Mr. Muresan proposed that he be exempt from all the HOS rules and be subject to certain rules he had designed and provided no alternative safety management controls to ensure the safe operation of the CMVs he operated. The Agency had determined that it would be inappropriate to grant Mr. Muresan's application for exemption because the Agency had no basis for concluding that the requisite level of safety would be achieved.

Payne and Dolan, Inc., Zenith Tech and Northeast Asphalt, Inc.

On June 24, 2015 (80 FR 36401), FMCSA announced its decision to deny Payne and Dolan, Inc., Zenith Tech, Inc., and Northeast Asphalt, Inc. exemptions from the 30-minute rest break provision in 49 CFR 395.3(a)(3)(ii). The companies' drivers operate CMVs in support of nighttime road repair and maintenance operations. The companies stated that their deliveries are sensitive and cite asphalt as a material that must be delivered before its initial temperature drops appreciably. The companies alleged that the mandatory 30-break unduly constrains their ability to deliver as circumstances dictate. They also stated that the limited amount of time drivers spend behind the wheel, as well as their frequent breaks of less than 30 minutes make them less susceptible to fatigue than CMV drivers who spend most of their workday behind the wheel. The Agency reviewed the application and the public comments and determined that it would be

inappropriate to grant the exemption. The Agency believed that minimum effort would be needed for these drivers to extend one of their frequent short breaks to 30 minutes.

*American Pyrotechnics Association*

On June 29, 2015 (80 FR 37040), the Agency announced its decision to grant the American Pyrotechnics Association (APA) an exemption from the prohibition against driving after the 14<sup>th</sup> hour after coming on duty. The FMCSA renewed the exemption for 46 APA companies and granted 5 additional carriers coverage under the exemption. The 5 additional carriers had not been granted prior exemptions and were granted an exemption for the first time. The exemption was applicable for a period beginning 7 days prior to and 2 days immediately following Independence Day in 2015 and 2016. Fireworks personnel who operated CMVs for companies listed in the notice, in conjunction with staging fireworks shows celebrating Independence Day, were allowed to exclude off-duty and sleeper-berth time of any length in the calculation of the 14 hours. However, drivers were not allowed to drive after accumulating a total of 14 hours of on-duty time, and continued to be subject to the 11-hour driving time limits, and the 60- and 70-hour weekly limits.

*American Moving & Storage Association and the International Association of Movers*

On July 16, 2015 (80 FR 42161), FMCSA announced its denial of the applications of the American Moving & Storage Association (AMSA) and the International Association of Movers (IAM) for an exemption that would allow a driver to operate a CMV after the 14<sup>th</sup> hour after coming on duty. AMSA and IAM are engaged in the movement of household goods by CMV. They requested the exemption for their drivers who are delayed at a residence beyond the 14<sup>th</sup> hour and need to move the vehicle to a secure location for overnight parking. The FMCSA concluded that AMSA and IAM did not demonstrate how CMV operations under such an exemption would be likely to achieve a level of safety equivalent to or greater than the level of safety that would be obtained in the absence of the exemption.

*American Trucking Associations, Inc.*

On August 21, 2015 (80 FR 50912), FMCSA announced its decision to grant all motor carriers that transport security-sensitive hazardous materials (HM) requiring a security plan, an exemption from the 30-minute rest break provision in 49 CFR 395.3(a)(3)(ii). The American Trucking Associations, Inc. requested the exemption on behalf of all motor carriers that transport certain HM shipments requiring security plans under regulations of the Pipeline and Hazardous Materials Safety Administration. These plans normally require a driver to attend such cargo while the CMV is stopped, which is an on-duty activity under the HOS rules. This exemption parallels section 395.1(q) of the FMCSRs that allows drivers who are attending loads of certain explosives to count on-duty attendance time toward their rest break so long as they engage in no other on-duty activity.

**Table 6. Non-medical Driver Exemptions and Waivers Granted for FY 2015**

Month	Number of Exemption Applications	Number of Exemptions Granted	Number of Exemptions Denied	Percentage of Exemption Applications Granted	Number of Waiver Applications	Number of Waivers Granted	Number of Waivers Denied
October	0	0	0	0	0	0	0
November	0	0	0	0	0	0	0
December	0	0	0	0	1	1	0
January	0	0	0	0	0	0	0
February	0	0	0	0	0	0	0
March	3	3	0	100	3	3	0
April	2	2	0	100	3	3	0
May	0	0	0	0	0	0	0
June	7	4	3	57.14	0	0	0
July	2	0	2	0	2	2	0
August	1	1	0	100	1	1	0
September	0	0	0	0	0	0	0
Total	15	10	5	66.66	10	10	0

## VEHICLE EXEMPTIONS AND WAIVERS

The Agency has not experienced a large number of requests for vehicle exemptions or waivers. Exemptions or waivers granted under this section may cover anywhere from one to thousands of vehicles depending on the size of the motor carrier.

### Summaries of Vehicle Exemptions and Waivers Granted or Denied

#### Van Hool N.V. and Coach USA

On October 10, 2014 (79 FR 61372), FMCSA announced its decision to grant a limited 2-year exemption to Van Hool N.V. and Coach USA (Van Hool/Coach USA) to allow Coach USA/Megabus to operate double deck motorcoaches constructed with an SB exit which meets the requirements of those SBs installed before January 1, 1963. Section 393.76 (c)(1) requires SBs installed after January 1, 1963, to have an exit that is at least 18 inches high and 36 inches wide. While the proposed entry/exit does not meet the specific dimensional requirements of the current regulation, the overall entry/exit area is only slightly smaller than that which is required. The FMCSA was able to confirm during a physical examination of the double deck motorcoach that operators are able to easily enter/exit the proposed SB.

#### Dealers Choice Truckway System, Inc.

On February 11, 2015 (80 FR 7675), FMCSA announced its decision to grant an exemption to Dealers Choice Truckway System, Inc. (Truckmovers) to allow the use of ultra-high-molecular-weight polyethylene blocks to build up the height of the front end of towed vehicles in driveway-towaway operations. The FMCSRs permit the use of “hardwood blocks of good quality” for this purpose, but the use of materials other than hardwood blocks is not addressed. The FMCSA evaluated the Truckmovers exemption application and agreed that

ultra-high-molecular-weight polyethylene blocks will be less susceptible to material degradation than hardwood blocks and that the use of these plastic blocks will help ensure that the towed vehicle will remain secure within the saddle mounts and will prevent shifting while in transit. While the Truckmovers exemption application requested relief for an estimated 250 drivers and CMVs, the Agency decided to extend the scope of the exemption to allow any motor carrier to use ultra-high-molecular-weight polyethylene support blocks in lieu of hardwood blocks.

*Volvo/Prevost, LLC*

On March 13, 2015 (80 FR 13460), FMCSA announced its decision to grant an exemption to Volvo/Prevost, LLC from 49 CFR 393.60(e)(1) on behalf of motor carriers operating CMVs manufactured by the company to use lane departure warning (LDW) systems mounted in the windshield area at a height lower than what is currently allowed by the regulations. The LDW system alerts drivers who unintentionally drift out of their lane of travel, thus promoting improved safety performance. The Agency had determined that the placement of the LDW system camera in the windshield area would not have an adverse impact on safety.

*Mobileye, Inc.*

On March 18, 2015 (80 FR 14222), FMCSA announced its decision to grant an exemption to Mobileye, Inc. (Mobileye) to enable motor carriers to utilize its camera-based collision avoidance systems (CAS) mounted within the swept area of the windshield wipers. The FMCSRs require antennas, transponders, and similar devices to be located outside the area swept by the windshield wipers. The Mobileye CAS is able to warn drivers of potential hazards by detecting other vehicles, pedestrians and cyclists on the road, and lane markings and traffic signs. The Agency believes the use of the CAS promotes improved safety performance and that the placement of system in the swept area of the windshield wipers will not obstruct the drivers' view of the roadway and potential hazards.

*Virginia Tech Transportation Institute*

May 20, 2015 (80 FR 29151), FMCSA announced its decision to grant an exemption to Virginia Tech Transportation Institute (VTTI) to allow the placement of camera-based data acquisition systems (DAS) at the bottom of windshields on CMVs. The FMCSRs require antennas, transponders, and similar devices to be located not more than 6 inches below the upper edge of the windshield, outside the driver's sight lines to the road and highway signs and signals. As part of a National Highway Safety Traffic Safety Administration (NHTSA) research program, VTTI coordinated development and installation of the DASs in up to 150 CMVs. The exemption enables VTTI and NHTSA to conduct research on the reliability of collision avoidance systems for CMVs. The FMCSA believes that mounting the DASs at the bottom of the windshield will maintain a level of safety that is equivalent to, or greater than, the level of safety achieved without the exemption.

HELP, Inc.

On June 22, 2015 (80 FR 35697), FMCSA announced its decision to grant an exemption to HELP, Inc. that will allow the placement of its transponder systems at the bottom of windshields on CMVs. The FMCSRs currently require antennas, transponders, and similar devices to be located not more than 6 inches below the upper edge of the windshield, outside the driver's sight lines to the road and highway signs and signals. The exemption will enable motor carriers to mount the HELP, Inc. transponder systems lower in the windshield than is currently permitted by the regulations in order to send and receive roadside data. The FMCSA believes that permitting the transponder systems to be mounted lower than currently allowed, but still outside the driver's sight lines to the road and highway signs and signals, will maintain a level of safety that is equivalent to, or greater than, the level of safety achieved without the exemption.

Ford Motor Company

On August 22, 2015 (80 FR 48408), FMCSA announced its decision to grant an exemption to Ford Motor Company (Ford) to allow motor carriers to operate Ford's Transit-based CMVs that do not meet the exhaust system location requirements in the FMCSRs. The FMCSRs require (1) the exhaust system of a bus powered by a gasoline engine to discharge to the atmosphere at or within 6 inches forward of the rearmost part of the bus and (2) the exhaust system of every truck and truck tractor to discharge to the atmosphere at a location to the rear of the cab or, if the exhaust system projects above the cab, at a location near the rear of the cab. Ford performed carbon monoxide (CO) concentration tests which used CO monitors at various locations within the vehicle to measure the concentration of CO ingress into the occupant compartment (from the vehicles' own powertrain and exhaust system) under various driving conditions including idle and top speed. The test showed that the resulting CO concentration was below every threshold used by Federal agencies.

**Table 7 Vehicle Exemptions and Waivers Granted for FY 2015**

Month	Number of Exemption Applications	Number of Exemptions Granted	Number of Exemptions Denied	Percentage of Exemption Applications Granted	Number of Waiver Applications	Number of Waivers Granted	Number of Waivers Denied
October	1	1	0	100	0	0	0
November	0	0	0	0	0	0	0
December	0	0	0	0	0	0	0
January	0	0	0	0	0	0	0
February	1	1	0	100	0	0	0
March	2	2	0	100	0	0	0
April	0	0	0	0	0	0	0
May	1	1	0	100	0	0	0
June	1	1	0	100	0	0	0
July	0	0	0	0	0	0	0
August	1	1	0	0	0	0	0
September	0	0	0	0	0	0	0
<b>Total</b>	<b>7</b>	<b>7</b>	<b>0</b>	<b>100</b>	<b>0</b>	<b>0</b>	<b>0</b>



## **PILOT PROGRAMS**

There were no pilot programs to report.

## **SUMMARY**

The waiver, exemption, and pilot program statutory provisions and implementing regulations under 49 CFR part 381 have provided a process for associations, companies, and individuals to seek limited regulatory relief from certain safety requirements, provided safety is not compromised. The vast majority of the exemptions involve individuals seeking relief through FMCSA's Vision and Diabetes exemption programs. In FY 2015, these programs enabled 1,663 individuals to begin or resume careers as interstate CMV drivers without compromising safety.

With regard to the safety impacts of waivers, exemptions and pilot programs, FMCSA has observed no adverse impacts on CMV safety. The Agency's administration of the processes for granting waivers and exemptions and initiating pilot programs ensures that the terms and conditions for the regulatory relief provide a level of safety that is equivalent to or greater than the level of safety that would be achieved through compliance with the safety regulations.

## APPENDIX

### Standard Operating Procedures for Ensuring Safety Under the Vision and Diabetes Exemption Programs

The FMCSA is required by statute to publish each complete exemption request in the Federal Register. Federal Register notices:

- Must be posted for 30 days to allow the public the opportunity to comment;
- Include a brief biographical summary of each individual who is requesting an exemption; and
- Contain instructions on how interested parties may submit comments or concerns regarding an individual requesting an exemption.

#### I. FMCSA's Dispositions of Federal Vision and Diabetes Exemptions

A. FMCSA determines the disposition of exemption requests by the following categories:

1. Exemption-Granted
2. Exemption-Federally Exempt/No Authority
3. Exemption-Not required or needed
4. Exemption-Ineligible
5. Exemption-Denied

B. Approved/Granted Federal Vision and Diabetes Exemptions

Applications that have met all exemption criteria which demonstrate an equivalent or greater level of safety than that which would have been achieved without an exemption will be included in a Notice of Final Disposition published in the Federal Register. The Final Disposition Federal Register notice announces the following:

1. The Agency's final decision to grant an exemption request;
2. The Agency's response to all public comments received during the 30 day public comment period; and
3. Terms and conditions of holding the exemption; and language informing the public of the Agency's ability to rescind the exemption if the appropriate level of safety is not maintained.

#### II. Exemption-Denial Decisions

Exemption-denial decisions are based on applicants' failure to meet the criteria for the exemption program. Denial criteria include factors such as lack of intrastate driving experience, driving records that show safety performance problems (e.g., driving under the influence, multiple excessive speeding convictions), or medical concerns.

#### III. Exemption Revocations

Revocations of existing exemptions are based on the driver's inability to meet the program criteria and/or the monitoring requirements outlined by the Agency.

## Vision Criteria

**PASS: meets criteria below.**

**FAIL: does not meet criteria below-safety concerns evaluated on an individual basis.**

- Must provide proof that they have driven a CMV safely in intrastate commerce with their vision deficiency for the 3-year period immediately preceding the date of the application.
- Must be 21 years of age.
- Must reside in the United States.
- Must want to drive on an “interstate” basis or transport property in interstate commerce.
- Must not drive for the local/State/county/government. If they do, they must clearly state that the exemption is for other “part-time” work or a desire to change jobs.
- Must have a valid license and show that they have driven with the appropriate license during their 3-year period. The license must match the State of residence.
- Must currently hold only one license.
- Must drive at least 10 hours per week.
- Must have a safe driving record for the previous 3-year period:  
Contains no suspensions or revocations of the applicant’s driver’s license for the operation of any motor vehicle (including a personally owned vehicle); reflects no involvement in an accident for which the applicant contributed or received a citation for a moving traffic violation; contains no convictions for a disqualifying offense, as defined in 49 CFR 383.51(b)(2), or more than one serious traffic violation, as defined in 49 CFR 383.5, while driving a CMV, which disqualified or should have disqualified applicant in accordance with the driver disqualification provisions of 49 CFR 383.51; contains no more than two convictions for any other moving traffic violations in a CMV.
- Vision deficiency must be present for a minimum of 3 years.
- Vision must be stable.
- Must meet FMCSA vision standards in the better eye.
- Must meet all other physical qualifications standards in 49 CFR 391.41(b)(1)-(13) or hold the appropriate exemption/waiver.

## Insulin-Treated Diabetes Mellitus Criteria

**PASS: meets criteria below to demonstrate a driver’s ability to safely operate a CMV in interstate commerce while using insulin.**

**FAIL: does not meet criteria below-safety concerns evaluated on an individual basis.**

- Must meet all other physical qualifications standards in 49 CFR 391.41(b)(1)-(13) or hold the appropriate exemption/waiver.
- Must be at least 21 years of age.
- Must reside in the United States.
- Must not drive for the local/State/county/government. If they do, they must clearly state that the exemption is for other “part-time” work or a desire to change jobs.
- Must drive or intend to drive on an interstate and commercial basis.
- Must hold a valid, current driver’s license.
- Must be insulin-treated for minimum periods:

- A newly diagnosed driver with type 1 diabetes mellitus who had been treated previously with oral medication and now requires insulin should have at least a 2-month period on insulin to establish stable control. A newly diagnosed driver with diabetes mellitus who is treated with insulin should have at least a 2-month period of insulin use unless directed by the treating physician. If the driver had type 2 diabetes and converted to insulin use, the driver should have at least a 1-month period of insulin use to demonstrate adequate disease management skills, unless directed by the treating physician.
- Must submit a complete application that includes an evaluation from a board certified/board eligible (BC/BE) endocrinologist and a vision evaluation by an optometrist or ophthalmologist.
- Must have documentation of current diabetes education.
- Should demonstrate stable control of diabetes.
- Has had no severe hypoglycemic reaction that results in seizure or loss of consciousness or requires assistance of another person or period of impaired cognitive function that occurred without warning within 1 year and no more than two episodes within the last 5 years (before application).
- Has had no large fluctuation in blood glucose levels that may impact safe driving.
- Understands how to individually manage and monitor his/her diabetes mellitus.
- Has demonstrated the ability and willingness to properly monitor and manage his/her diabetes.
- Must submit a 3-year driving history, of which crash and violation data is evaluated and safety concerns evaluated on individual basis.

### **Monitoring Compliance**

- **Vision Exemption Program** – All drivers accepted into the Vision Exemption Program are monitored via the CDLIS on a quarterly basis. Should any potentially disqualifying information appear on a driver's CDLIS report, the Agency will request a copy of the violation or crash report from the driver. Should the violation be disqualifying, the Agency revokes the exemption immediately. In addition, if the exemption holder's driver's license is no longer valid as a result of a moving violation, the exemption is revoked immediately. In the case of all revocations, the driver is informed by letter, and the State Driver's Licensing Agency (SDLA) is informed by encrypted email.
- **Diabetes Exemption Program** – All drivers accepted into the Diabetes Exemption Program must maintain a monitoring regimen that includes submitting a quarterly report from a board-certified or board certified/board eligible endocrinologist (including a more extensive annual report), and an annual report from an optometrist or ophthalmologist. If the driver fails to submit monitoring for one quarter, the Agency issues a warning letter reminding the driver that the quarterly monitoring is a requirement of the Diabetes Exemption Program and that failure to comply will result in revocation of the exemption. If the driver misses two consecutive quarterly reports, the Agency revokes the exemption. Additionally, if any information submitted on the reports indicates to the Nurse Reviewer that the driver no longer meets the qualifying criteria, the Agency revokes the exemption immediately. If clarification or additional information is needed, the Agency contacts the driver directly. In

the case of all revocations, the Agency informs the driver by letter and the SDLA by encrypted email.

### **The Renewal Process**

- **Vision Exemption Program** – Seven months prior to the expiration of the exemption, the Agency sends the driver a letter initiating the renewal process (a subsequent letter is sent 5 months prior to expiration if the driver does not respond to the initial letter). In order to complete the renewal process, the driver must submit a report from an optometrist or ophthalmologist that includes a statement from the doctor stating that, in his or her medical opinion, the driver is capable of safely operating a CMV with his or her vision deficiency. Additionally, the driver must submit a copy of his or her driving record issued by an official State agency, a copy of both sides of his or her valid driver's license, and a statement from the driver stating that he or she is medically qualified under all other physical aspects to operate a CMV. The driver must confirm or update his or her physical and mailing addresses. Once the driver has completed the renewal process and is determined to meet the program criteria, the decision is published in the Federal Register and a new exemption is issued, effective on the date stated in the Federal Register. If a driver is no longer qualified to hold an exemption, the exemption is revoked immediately. In either event, the Agency notifies the driver by letter and the SDLA by encrypted email.
- **Diabetes Exemption Program** – Three months prior to the exemption's expiration, the Agency sends the driver a letter requesting that he/she update or confirm his/her physical and mailing addresses and submit a copy of the front and back sides of his/her valid driver's license and a copy of the medical examiner's certificate. This information is due 3 weeks prior to the expiration of the exemption. Additionally, the driver's endocrinologist is required to state on every annual evaluation that, in his or her medical opinion, the driver is capable of safely operating a CMV while using insulin. The Agency issues a renewed exemption 3-4 weeks before expiration to all drivers who remain in good standing with the program. The Agency notifies the driver by letter and the SDLA by encrypted email.