



**U.S. Department
of Transportation
Federal Motor Carrier
Safety Administration**

**WAIVERS, EXEMPTIONS,
AND PILOT PROGRAMS
ANNUAL REPORT TO CONGRESS
FISCAL YEAR 2016**

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

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INTRODUCTION

Consistent with section 32913 of the Moving Ahead for Progress in the 21st Century Act (MAP-21) (Pub. L. 112-141), the Secretary of Transportation submits an annual report to 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 fourth submission to Congress on waivers, exemptions, and pilot programs granted by the Federal Motor Carrier Safety Administration (FMCSA) and covers Fiscal Year (FY) 2016.

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. FMCSA is required by statute to request public comment prior to granting an exemption. After considering the public comments, FMCSA must determine 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. FMCSA invites all interested parties to notify FMCSA 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 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. FMCSA 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

FMCSA 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. 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. FMCSA 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. FMCSA 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. FMCSA invites all interested parties to notify FMCSA 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 revoke immediately 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 concerns 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 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. FMCSA granted waivers from the vision standard to drivers being considered for an exemption on a case-by-case basis to provide FMCSA 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, 2015, to September 30, 2016.

Table 1. Vision Exemptions and Waivers Granted for FY 2016

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	45	0	45	0	2	2	0
November	126	59	67	46.82	0	0	0
December	148	103	45	69.59	1	1	0
January	69	49	20	71.01	0	0	0
February	97	28	69	28.86	0	0	0
March	69	20	49	28.98	8	8	0
April	97	52	45	53.60	0	0	0
May	88	36	52	40.90	0	0	0
June	89	23	66	25.84	2	2	0
July	122	57	65	46.72	0	0	0
August	109	22	87	20.18	5	5	0
September	88	30	58	34.09	4	4	0
Total	1147	479	668	41.76	22	22	0

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. FMCSA granted waivers from the insulin-treated diabetes standard to drivers being considered for an exemption on a case-by-case basis to provide FMCSA 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 2016

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	44	0	44	0	0	0	0
November	165	135	30	81.81	4	4	0
December	141	99	42	70.21	1	1	0
January	170	150	20	88.23	0	0	0
February	123	99	24	80.48	2	2	0
March	34	0	34	0	4	4	0
April	256	230	26	89.84	1	1	0
May	143	114	29	79.72	0	0	0
June	144	111	33	77.08	3	3	0
July	214	183	31	85.51	2	2	0
August	22	0	22	0	1	1	0
September	197	176	21	89.34	3	3	0
Total	1653	1297	356	78.46	21	21	0

Source: Diabetes Exemption Annual Reports

OTHER MEDICAL EXEMPTIONS AND WAIVERS GRANTED OR DENIED

This section provides summaries of exemptions and waivers FMCSA 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 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 the individual's treatment regimen. FMCSA reviews each applicant's driving record and interstate and intrastate inspection reports and considers both current medical literature and the 2007 recommendations of FMCSA'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 2016

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	18	15	3	83.33	1	1	0
November	0	0	0	0	0	0	0
December	13	9	4	69.23	0	0	0
January	17	8	9	47.05	0	0	0
February	0	0	0	0	1	1	0
March	0	0	0	0	5	5	0
April	31	22	9	70.96	0	0	0
May	0	0	0	0	0	0	0
June	33	5	28	15.15	0	0	0
July	0	0	0	0	9	9	0
August	0	0	0	0	0	0	0
September	0	0	0	0	3	3	0
Total	112	59	53	52.67	19	19	0

Source: Epilepsy/Seizure Exemption Annual Report

Hearing

In FY 2016, FMCSA granted 77 individuals exemptions from FMCSA's physical qualifications standard in 49 CFR 391.41(b)(11) concerning hearing for interstate drivers. FMCSA granted four individuals 90-day waivers from the hearing standard to provide FMCSA with sufficient time to complete the exemption process so that the individuals could continue to be employed in their current jobs.

FMCSA's decisions were based on current medical literature and information and the 2008 evidence report commissioned by FMCSA, with input from FMCSA's MEP and Medical Review Board. The report was titled "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, FMCSA 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 Exemptions and Waivers Granted for FY 2016

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	14	14	0	100	0	0	0
November	9	9	0	100	0	0	0
December	0	0	0	0	2	2	0
January	0	0	0	0	0	0	0
February	0	0	0	0	0	0	0
March	0	0	0	0	0	0	0
April	0	0	0	0	0	0	0
May	0	0	0	0	0	0	0
June	54	54	0	100	0	0	0
July	0	0	0	0	1	1	0
August	0	0	0	0	0	0	0
September	0	0	0	0	1	1	0
Total	77	77	0	100	4	4	0

Source: Hearing Exemption Annual Reports

NON-MEDICAL DRIVER EXEMPTIONS AND WAIVERS

As provided in 49 CFR part 381, FMCSA 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. This report does not include exemption renewals.

Summaries for Exemptions and Waivers Granted or Denied

Daimler Trucks North America (Daimler)

FMCSA approved Daimler's requests for 1 waiver and 6 exemptions 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 (see table below). The waiver 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 were not U.S. residents. 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 2016

Driver's Name	Date Exemption Granted	Driver's Name	Date Waiver Granted
1. Christian Urban	10-5-2015	1. Melanie Baumann	4-3-2016
2. Michael Seitter	12-7-2015		
3. Philip Kehm	12-21-2015		
4. Melanie Baumann	6-30-2016		
5. Sebastian Boehm	7-25-2016		
6. Henning Oeltjenbruns	9-12-2016		

R & R Transportation Group

On October 2, 2015 (80 FR 59848), FMCSA announced its decision to grant the R&R Transportation Group (R&R) an exemption from the minimum 30-minute rest break requirement of FMCSA's hours-of-service (HOS) regulations for CMV drivers. FMCSA analyzed the exemption application and the public comments and determined that the exemption, subject to the terms and conditions imposed, would achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption. The exemption is available only to R&R's drivers engaged in the transportation of materials that by their nature must be attended, such as radioactive materials, pharmaceuticals, and ammunition. The exemption provides these drivers the same regulatory flexibility that the HOS regulations allow drivers transporting explosives, i.e., to use 30 minutes or more of on-duty attendance time to meet the HOS rest break requirements, provided they do not perform any other work during the break.

National Star Route Mail Contractors Association

On March 16, 2016 (81 FR 14189), FMCSA announced that it denied the National Star Route Mail Contractors Association's (NSRMCA) application to exempt its contract carrier members from the "14-hour rule" of FMCSA's HOS regulations. NSRMCA requested that a driver of a CMV transporting U.S. mail be allowed to follow an alternative HOS regimen consisting of no more than 10 hours of driving following 8 consecutive hours off duty; the driver would also be prohibited from driving after having been on duty for 15 non-consecutive hours following 8 consecutive hours off duty. FMCSA reviewed NSRMCA's application and the public comments received, and denied the application because available information did not allow FMCSA to conclude that the proposed exemption would achieve a level of safety that is equivalent to, or greater than, the level of safety that would be obtained absent the exemption.

American Trucking Associations (ATA)

On March 28, 2016 (81 FR 17240), FMCSA announced its denial of the application from ATA for an exemption from the 14-hour provision of FMCSA's HOS regulations to enable certain drivers to exclude waiting time from their calculations of on-duty time. Currently, only specially trained drivers of CMVs that are specially constructed to service oil and natural gas extraction sites may employ this provision. The ATA proposed that FMCSA issue a limited 2-year exemption to permit exclusion of such waiting time by drivers of CMVs who are engaged exclusively in servicing oil and natural gas extraction sites and can obtain rest while waiting at such sites. FMCSA concluded that ATA did not demonstrate how the CMV operations under

such an exemption would achieve a level of safety equivalent to, or greater than, the level of safety obtained in the absence of the exemption.

Oregon Department of Transportation

On April 5, 2016 (81 FR 19703; 81 FR 86067), FMCSA announced its decision to grant the Oregon Department of Transportation (ODOT) a limited exemption from the commercial learner's permit (CLP) requirement in 49 CFR 383.25(c) and 49 CFR 383.73(a)(2)(iii). All State Driver's Licensing Agencies (SDLAs) may use this exemption at their discretion. The exemption allows ODOT and participating SDLAs to extend to 1 year the 180-day timeline for the CLP from the date of issuance without requiring the CLP holder to retake the general and endorsement knowledge tests. Under the exemption, an applicant wishing to have a new CLP after the previous one expires is required to take all applicable tests before a new CLP is issued.

American Pyrotechnics Association

On July 5, 2016 (81 FR 43701), FMCSA announced its decision to grant the American Pyrotechnics Association an exemption from the HOS regulation prohibiting drivers of CMVs from driving after the 14th hour after coming on duty. The "Fixing America's Surface Transportation Act" (FAST Act) extended the HOS exemptions in effect on the date of enactment of that Act to 5 years from the date of issuance. Because the FAST Act also authorized new exemptions for a period of up to 5 years, FMCSA granted 4-year exemptions to four new companies that were not included in prior exemptions. FMCSA determined that the terms and conditions of the exemption ensured a level of safety equivalent to or greater than the level of safety achieved without the exemption.

Farruggio's Express

On August 10, 2016 (81 FR 52953), FMCSA announced its decision to grant Farruggio's Express (Farruggio), an exemption from the timecard requirements for its drivers who may not meet the conditions for use of the logbook exception for operations within a 100 air-mile radius of the normal work reporting location. This exemption enables Farruggio's drivers who stay within the 100 air-mile radius, but may occasionally exceed the 12-hour limitation, from having to complete a daily record of duty status (RODS). Instead, the drivers would use an electronic logging system called Geotab to track HOS data, including real-time vehicle locations. FMCSA analyzed the exemption application and the public comments and determined that the exemption, subject to the terms and conditions imposed, would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption.

ArcelorMittal Indiana Harbor, LLC

On September 23, 2016 (81 FR 65574), FMCSA announced its decision to grant ArcelorMittal Indiana Harbor, LLC (ArcelorMittal) exemptions from the HOS and the parts and accessories rules. The exemption from the HOS rule allows ArcelorMittal's employee-drivers with CDLs who transport steel coils between their production and shipping locations on two short segments of public highway in East Chicago, Indiana, to work up to 16 hours per day and return to work

with less than the mandatory 10 consecutive hours off duty. Both points where the vehicles cross are controlled intersections, having either traffic lights or a combination of traffic lights and signs. The first public road the CMVs cross is Riley Road. The crossing is controlled by a four-way traffic signal. The distance traveled is 80 feet. The average number of crossings at this intersection is 24 per day. The second crossing is at Dickey Road and 129th Street. The distance traveled here is .2 miles. The trucks cross 129th Street 24 times per day. Only 3 of the 24 crossings at each noted intersection occur after the 14th hour on-duty. The details of the exemption from the parts and accessories rule are noted under the “Vehicle Exemptions and Waivers” section in this report.

CRST Expedited

On September 23, 2016 (81 FR 65696), FMCSA announced its decision to grant CRST Expedited (CRST) an exemption from the regulation that requires a CLP holder to be accompanied by a CDL holder with the proper CDL class and endorsements, seated in the front seat 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 CRST without being accompanied by a CDL holder in the front seat of the vehicle. The exemption enables CLP holders to drive as part of a team and have the same regulatory flexibility as CRST team drivers with CDLs. FMCSA analyzed the exemption application and the public comments and determined that the exemption, subject to the terms and conditions imposed, would achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.

Table 6. Other Non-Medical Driver Exemptions and Waivers Granted for FY 2016

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
17	15	2	88.23	1	1	0

VEHICLE EXEMPTIONS AND WAIVERS

FMCSA has not received many requests for vehicle exemptions or waivers.

Summaries of Vehicle Exemptions and Waivers Granted or Denied

Atwood Forest Products, Inc.

On December 7, 2015 (80 FR 76064), FMCSA announced its denial of an exemption application from Atwood Forest Products, Inc. (Atwood) to allow the use of a camera system installed at the sides and rear of up to 15 of its CMVs in lieu of rear-vision mirrors as specified in the FMCSRs. Section 393.80 of the FMCSRs requires every bus, truck, and truck tractor to be equipped with two rear-vision mirrors, one at each side, firmly attached to the outside of the motor vehicle, and

so located as to reflect to the driver a view of the highway to the rear along both sides of the vehicle. All such mirrors must, at a minimum, meet the requirements of Federal Motor Vehicle Safety Standard (FMVSS) No. 111, "Rearview mirrors," in effect at the time the vehicle was manufactured. While Atwood wanted to install the camera system on its vehicles for to evaluate the safety and economic benefits of eliminating outside mirrors, it did not provide evidence to enable FMCSA to conclude that motor carriers operating vehicles without any rear-vision mirrors could achieve a level of safety that is equivalent to or greater than the level of safety that would be obtained by complying with the regulation.

Entertainer Motorcoach Council

On December 7, 2015 (80 FR 76062), FMCSA announced its denial of an exemption application from the Entertainer Motorcoach Council (EMC) to allow its members to operate certain vehicles that do not meet the emergency exit requirements in the FMCSRs. The FMCSRs require buses with a gross vehicle weight rating of more than 10,000 pounds, manufactured on or after September 1, 1994, to meet the emergency exit requirements of FMVSS No. 217, "Bus Emergency exits and window retention and release," in effect on the date of manufacture. FMVSS No. 217 requires side exits and at least one rear exit, but when the bus configuration precludes installation of an accessible rear exit, a roof exit is required in the rear half of the bus to provide a means of egress when the bus is overturned on either side. While EMC contends that "Entertainer Coaches" that do not have a rear or roof exit have emergency exit windows that open manually at the rear sides of the vehicle that provide openings large enough to admit unobstructed passage, it did not provide evidence to enable FMCSA to conclude that motor carriers operating such vehicles could achieve a level of safety that is equivalent to or greater than the level of safety that would be obtained by complying with the regulation.

Volvo Trucks of North America

On December 21, 2015 (80 FR 79412), FMCSA announced its decision to grant Volvo Trucks of North America's (Volvo) application for a limited 2-year exemption from 49 CFR 393.60(e)(1) on behalf of motor carriers operating Volvo CMVs to use a rain and ambient light detection sensor mounted in the windshield area at a height lower than what is currently allowed by the regulation. The sensor is part of a hands-free driver aid equipment package intended to improve safety. FMCSA determined that the placement of the rain and ambient light detection sensor in the windshield area would not have an adverse impact on safety and that the terms and conditions of the exemption would likely achieve a level of safety equivalent to, or greater than, the level of safety provided by the regulation.

TowMate, LLC

On February 9, 2016 (81 FR 6927), announced its decision to grant TowMate, LLC's application for a limited 2-year exemption to allow motor carriers to operate rechargeable wireless temporary stop, turn, and tail lighting systems during temporary towing operations. Under the FMCSRs, all required lamps, except battery-powered lamps used on projecting loads, must be powered by the electrical system of the motor vehicle. FMCSA determined that use of rechargeable wireless temporary stop, turn, and tail lighting systems during temporary towing

operations would not have an adverse impact on safety, and that use of these systems under the terms and conditions of the exemption would achieve a level of safety equivalent to, or greater than, the level of safety provided by the regulation. This decision is consistent with an August 2005 amendment to the FMCSRs to allow battery powered lamps on the rear of projecting loads.

ArcelorMittal Indiana Harbor, LLC

As noted above, on September 23, 2016 (81 FR 65574), FMCSA announced its decision to grant ArcelorMittal exemptions from the HOS and parts and accessories rules. The exemption noted in this section enables ArcelorMittal's CMVs that do not meet the parts and accessories requirements in part 393 to use two short segments of public highway to move coils from one part of the plant to another for shipment to its customers. The CMVs operated by ArcelorMittal's drivers are exposed to other traffic for very brief periods. The CMVs cross Riley Road, where they travel 80 feet. The length of the crossing at Dickey Road and 129th Street is .2 mile. The CMVs cross both points 24 times per day.

Table 7. Vehicle Exemptions and Waivers Granted for FY 2016

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
5	3	2	60	0	0	0

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 provide a process for associations, companies, and individuals to seek limited regulatory relief from certain safety requirements, provided safety is not compromised. The majority of the exemptions involve individuals seeking relief through FMCSA's Vision and Diabetes exemption programs. In FY 2016, these programs enabled 1,776 individuals to begin or resume careers as interstate CMV drivers without compromising safety.

FMCSA has observed no adverse impacts on CMV safety regarding the safety impacts of waivers, exemptions and pilot programs. FMCSA'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

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. FMCSA's final decision to grant an exemption request;
2. FMCSA'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 FMCSA'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 FMCSA.

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, FMCSA will request a copy of the violation or crash report from the driver. Should the violation be disqualifying, FMCSA revokes the exemption immediately. In addition, if the exemption holder's driver's license is no longer valid because 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, FMCSA 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, FMCSA 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, FMCSA revokes the exemption immediately. If clarification or additional information is needed, FMCSA contacts the driver directly. In the case of all revocations, FMCSA 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, FMCSA 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, FMCSA notifies the driver by letter and the SDLA by encrypted email.
- **Diabetes Exemption Program** – Three months prior to the exemption's expiration, FMCSA 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. FMCSA issues a renewed exemption 3-4 weeks before expiration to all drivers who remain in good standing with the program. FMCSA notifies the driver by letter and the SDLA by encrypted email.