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DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket Nos. FMCSA-98-3637, FMCSA-99-5578, FMCSA-99-5748, FMCSA-2000-7363, FMCSA-2000-7918, FMCSA-2000-8203, FMCSA-2000-8398, FMCSA-2002-13411, FMCSA-2003-14223, FMCSA-2003-14504]

Qualification of Drivers; Exemption Applications; Vision

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

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

SUMMARY: This notice publishes the FMCSA decision to renew the exemptions from the vision requirement in the Federal Motor Carrier Safety Regulations for 31 individuals. The FMCSA has statutory authority to exempt individuals from vision standards if the exemptions granted will not compromise safety. The agency has concluded that granting these exemptions will provide a level of safety that will be equivalent to, or greater than, the level of safety maintained without the exemptions for these commercial motor vehicle (CMV) drivers.

DATES: This decision is effective June 4, 2005. Comments from interested persons should be submitted by June 15, 2005.

ADDRESSES: You may submit comments identified by DOT DMS Docket Numbers FMCSA-98-3637, FMCSA-99-5578, FMCSA-99-5748, FMCSA-2000-7363, FMCSA-2000-7918, FMCSA-2000-8203, FMCSA-2000-8398, FMCSA-2002-13411, FMCSA-2003-14223, and FMCSA-2003-14504, by any of the following methods:

- *Web Site:* <http://dms.dot.gov>.

Follow the instructions for submitting comments on the DOT electronic docket site.

- *Fax:* 1-202-493-2251.

- *Mail:* Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL-401, Washington, DC 20590-0001.

- *Hand Delivery:* Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Follow the

on-line instructions for submitting comments.

Instructions: All submissions must include the agency name and docket numbers for this notice. For detailed instructions on submitting comments and additional information on the rulemaking process, see the Public Participation heading of the SUPPLEMENTARY INFORMATION section of this document. Note that all comments received will be posted without change to <http://dms.dot.gov>, including any personal information provided. Please see the Privacy Act heading under Regulatory Notices.

Docket: For access to the docket to read background documents or comments received, go to <http://dms.dot.gov> at any time or to Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

FOR FURTHER INFORMATION CONTACT: Dr. Mary D. Gunnels, Office of Bus and Truck Standards and Operations, (202) 366-4001, FMCSA, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590-0001. Office hours are from 8 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Public Participation: The DMS is available 24 hours each day, 365 days each year. You can get electronic submission and retrieval help guidelines under the "help" section of the DMS Web site. If you want us to notify you that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review the Department of Transportation's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477-78) or you may visit <http://dms.dot.gov>.

Exemption Decision

Under 49 U.S.C. 31315 and 31136(e), the FMCSA may renew an exemption from the vision requirements in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce, for a two-year period if it finds "such

exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption." The procedures for requesting an exemption (including renewals) are set out in 49 CFR part 381. This notice addresses 31 individuals who have requested renewal of their exemptions in a timely manner. The FMCSA has evaluated these 31 applications for renewal on their merits and decided to extend each exemption for a renewable two-year period. They are:

Michael C. Boyne
Clifford D. Carpenter
Darryl D. Cassatt
Albion C. Doe, Sr.
Timothy H. DuBois
James M. Eads
Raymond D. Gromley
Alf M. Gronstedt
Dennis K. Harris
David A. Hiller
Donald E. Howell
Tommy T. Hudson
William D. Johnson
Edward J. Kasper
Jimme D. Kline
Spencer E. Leonard
Phillip L. Mangen
Clifford E. Masink
Tommy R. Masterson
Leo L. McMurray
Clarence M. Miles, Jr.
Steven M. Montalbo
Charles J. Rowsey
Vincent Rubino
Randy G. Spilman
Wyatt W. Thayer, Jr.
Thomas S. Thompson
Buford C. Varnadore
Robert A. Wegner
John E. Wertz
Daniel G. Wilson

These exemptions are extended subject to the following conditions: (1) That each individual have a physical exam every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the standard in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file and retain a copy of the certification on his/her person while driving for presentation to a duly authorized Federal, State, or local enforcement official. Each exemption will be valid

for two years unless rescinded earlier by the FMCSA. The exemption will be rescinded if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31315 and 31136(e).

Basis for Renewing Exemptions

Under 49 U.S.C. 31315(b)(1), an exemption may be granted for no longer than two years from its approval date and may be renewed upon application for additional two year periods. In accordance with 49 U.S.C. 31315 and 31136(e), each of the 31 applicants has satisfied the entry conditions for obtaining an exemption from the vision requirements (63 FR 30285; 63 FR 54519; 65 FR 77069; 68 FR 1654; 64 FR 27027; 64 FR 51568; 67 FR 67234; 64 FR 40404; 64 FR 66962; 67 FR 17102; 65 FR 45817; 65 FR 77066; 67 FR 71610; 65 FR 66286; 66 FR 13825; 68 FR 13360; 65 FR 78256; 66 FR 16311; 67 FR 76439; 68 FR 10298; 68 FR 10301; 68 FR 19596; 68 FR 19598; 68 FR 33570). Each of these 31 applicants has requested timely renewal of the exemption and has submitted evidence showing that the vision in the better eye continues to meet the standard specified at 49 CFR 391.41(b)(10) and that the vision impairment is stable. In addition, a review of each record of safety while driving with the respective vision deficiencies over the past two years indicates each applicant continues to meet the vision exemption standards. These factors provide an adequate basis for predicting each driver's ability to continue to drive safely in interstate commerce. Therefore, the FMCSA concludes that extending the exemption for each renewal applicant for a period of two years is likely to achieve a level of safety equal to that existing without the exemption.

Comments

The FMCSA will review comments received at any time concerning a particular driver's safety record and determine if the continuation of the exemption is consistent with the requirements at 49 U.S.C. 31315 and 31136(e). However, the FMCSA requests that interested parties with specific data concerning the safety records of these drivers submit comments by June 15, 2005.

In the past the FMCSA has received comments from Advocates for Highway and Auto Safety (Advocates) expressing continued opposition to the FMCSA's

procedures for renewing exemptions from the vision requirement in 49 CFR 391.41(b)(10). Specifically, Advocates objects to the agency's extension of the exemptions without any opportunity for public comment prior to the decision to renew, and reliance on a summary statement of evidence to make its decision to extend the exemption of each driver.

The issues raised by Advocates were addressed at length in 69 FR 51346 (August 18, 2004). The FMCSA continues to find its exemption process appropriate to the statutory and regulatory requirements.

Issued: May 10, 2005.

Pamela M. Pelcovits,

Office Director, Policy, Plan, and Regulation.

[FR Doc. 05-9709 Filed 5-13-05; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2005-20053, Notice 2]

Morgan Motor Company Limited Grant of Application for a Temporary Exemption From Part 581 Bumper Standard

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Grant of application for a temporary exemption from Part 581 Bumper Standard.

SUMMARY: This notice grants the Morgan Motor Company Limited ("Morgan") application for a temporary exemption from Part 581 *Bumper Standard*. In accordance with 49 CFR part 555, the basis for the grant is that compliance would cause substantial economic hardship to a manufacturer that has tried in good faith to comply with the standard.¹

The National Highway Traffic Safety Administration (NHTSA) published a notice of receipt of the application on January 13, 2005, and afforded an opportunity for comment.²

DATES: The exemption is effective from May 1, 2005, until May 1, 2008.

FOR FURTHER INFORMATION CONTACT: George Feygin in the Office of Chief Counsel, NCC-112, (Phone: 202-366-2992; Fax 202-366-3820; e-mail: George.Feygin@nhtsa.dot.gov).

¹ To view the petition, please go to: <http://dms.dot.gov/search/searchFormSimple.cfm> (Docket No. NHTSA-2005-20053).

² See 70 FR 2462.

I. Background

Founded in 1910, Morgan is a small privately owned vehicle manufacturer producing approximately 400 to 500 vehicles per year. The vehicles manufactured by Morgan are uniquely styled open top roadsters. In recent years, the only model exported into the United States was the Morgan Plus 8.³

Petitioner states that in preparing to replace the Morgan Plus 8 with a new model in the U.S., Morgan sought to use a V6 engine and a manual transmission supplied by Ford Motor Company (Ford). However, it later became apparent that Ford would be unable to supply a suitable engine and manual transmission due to the change in the production plans. The planned Morgan replacement vehicle for the U.S. market could not accommodate an automatic transmission. Because no other alternatives were available, Morgan was unable to proceed with designing a replacement vehicle for the U.S. market. Thus, petitioner stopped selling vehicles in the United States in January of 2004.

After an unsuccessful attempt to manufacture a new vehicle that would replace the Morgan Plus 8, Morgan turned its attention to an existing vehicle designed specifically for the European market, the Morgan Aero 8 (Aero 8).⁴ The petition stated, that after prolonged efforts to develop an air bag system and to make other changes to the vehicle, Morgan was able to bring the Aero 8 into compliance with all the Federal motor vehicle safety standards. However, because Aero 8 was not originally intended for the U.S. market and because the petitioner was working on a different vehicle intended for the U.S. market, this latest effort required significant financial expenditures in a short period of time. Petitioner stated that as a consequence, it had not been able to develop bumpers that comply with the requirements of Part 581, *Bumper standard*.

II. Why Morgan Needs a Temporary Exemption

Petitioner indicated that it has experienced substantial economic hardship, especially in light of decreasing sales and substantial costs incurred in bringing Aero 8 into compliance with FMVSSs. Specifically, Morgan indicated that it spent a total of

³ See <http://www.morgan-motor.co.uk/>.

⁴ A description of the Aero 8 vehicle is attached to the petition and can be viewed online at <http://dms.dot.gov/search/searchFormSimple.cfm> (Docket No. NHTSA-2005-20053).