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FMCSA Issues Regulatory Guidance on Applicability of Language Requirement to Commercial Drivers Who Do Not Meet the Hearing Standard

On October 2nd, the Federal Motor Carrier Safety Administration (FMCSA) issued regulatory [guidance](#) on driver qualifications and the applicability of language requirements to drivers who do not meet the hearing standard. Existing federal regulations require that interstate drivers must be able to read and speak the English language sufficiently to converse with the general public, understand highway signs and signals, respond to official inquiries, and make entries on reports and records (FMCSR §391.11(b)(2)). FMCSA has issued guidance that the English-language rule should not be the basis to prohibit operations of a commercial motor vehicle (CMV) by hearing impaired drivers who can read and write in the English language but cannot speak.

Currently, FMCSA's physical qualifications (found in FMCSR §391.41(b)(11) – Physical Qualifications for Drivers) require that "drivers be capable of hearing a forced whispered voice in the better ear at not less than 5 feet with or without the use of a hearing aid, or, if tested by use of an audiometric device, does not have an average hearing loss in the better ear greater than 40 decibels at 500 Hz, 1,000 Hz, and 2,000 Hz with or without a hearing aid."

FMCSA is granted authority to grant an exemption from these regulations for a 2-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

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such exemption" with the opportunity to renew that exemption at the end of the 2-year period. FMCSA has made approximately 50 such individual exemptions allowing the driver to operate in interstate commerce for a 2-year period.

The revised guidance states that if a driver fails to meet the medical hearing standard but has obtained an exemption from that requirement from FMCSA and is capable of reading and writing in English, that driver satisfies the English language requirement. The absence of the ability to speak in English is not an indication that the individual cannot read and write in English.

What has not been satisfied by this guidance are the methods by which states can administer skills tests with hearing impaired applicants. Current FMCSA regulation §383.133(5) – Test Methods - states that "interpreters are prohibited during the administration of skills tests. Applicants must be able to understand and respond to verbal commands and instructions in English by a skills test examiner. Neither the applicant nor the examiner may communicate in a language other than English during the skills test."

AAMVA continues to engage FMCSA, the National Association of the Deaf, the Commercial Vehicle Safety Alliance, and other stakeholders, to further clarify this issue for its members and will provide updates as it develops.



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