



July 29, 2019

Submitted Online

U.S. Department of Transportation
Docket Management Facility
1200 New Jersey Avenue SE
Washington, DC 20590-0001

Re: Comments Concerning Safe Integration of Automated Driving Systems-Equipped Commercial Motor Vehicles, Docket Number: FMCSA-2018-0037-0136

The Consortium for Citizens with Disabilities (CCD) Transportation Task Force is pleased to submit comments in response to the Federal Motor Carrier Safety Administration (FMCSA) ANPRM concerning safe integration of automated driving systems-equipped commercial motor vehicles (ADS-CMV). CCD is the largest coalition of national organizations working together to advocate for Federal public policy that ensures the self-determination, independence, empowerment, integration and inclusion of children and adults with disabilities in all aspects of society. The Transportation Task Force urges FMCSA to reconsider physical qualification restrictions regarding operation and monitoring of ADS-CMVs, and eliminate the restrictions placed on deaf and hard of hearing applicants for ADS and Non-ADS commercial driver's licenses (CDLs).

CCD recognizes and appreciates Secretary Chao's stated commitment to ensuring improved mobility for disabled travelers. We commend the Office of the Secretary and all agency staff for the particular attention paid to AV accessibility reflected in *Preparing for the Future of Transportation, AV 3.0* (AV 3.0). Inaccessible transportation is a barrier to employment. People with disabilities have significantly lower employment rates. According to the Bureau of Labor Statistics, only 21% participate in the labor force, while 8% are unemployed compared to 68% and 4% of non-disabled individuals respectively.ⁱ

The deployment of AVs can increase employment opportunities of people with disabilities through mobility and in monitoring and controlling ADS-CMVs.

Questions: 4.1. Should some of the physical qualification rules be eliminated or made less stringent for humans remotely monitoring or potentially controlling ADS-equipped CMVs? 4.2. If so, which of the requirements should be less restrictive for human operators who would take control of an ADS-equipped CMV remotely?

FMCSA's regulations in 49 C.F.R. §391.41(3) include Physical Qualifications Standards for individuals operating CMVs. As noted in the ANPRM notice, the standards were originally established in the late 1930s and have been modified since that time, including a recent September 19, 2018 rule allowing individuals with diabetes to qualify for CDLs. DREDF and NAD encourage FMCSA to engage in the same process for disabled individuals seeking to monitor or control ADS-CMV.

Physical Qualification Standards restrictions prohibit qualification of people with neuromuscular disease or limited prehension or power grasping, epilepsy, psychiatric disorders which may interfere, and users of habit-forming drugs, deaf and hard of hearing drivers, among others. Amputees or those with limb impairment may be granted a skill performance evaluation (SPE) certificate as a waiver (49 C.F.R. §391.49).

Restrictions should be lifted to allow people with disabilities to remotely monitor or control an ADS-CMV if they are able to meet the same requirements as people without impairments, with or without accommodation. A SPE certificate process could be developed. Motor carriers or ADS-CMV operators could submit an application jointly.

Deaf and Hard of Hearing Applicants

The Physical Qualification Standards currently require drivers to be able to hear a forced whisper (49 C.F.R. §391.41(b)(11)). This physical standard does not correlate to any known studies justifying such a requirement. In fact, the DOT conducted a study proving that deaf and hard of hearing drivers have no increased crash risk compared to other drivers, and documented this in a 2008 Executive Summary.ⁱⁱ

On February 1, 2013, the DOT agreed to grant exemptions to drivers who are deaf and hard of hearing and who meet the other standards for the CDL. While 612 have been granted, such exemptions are not a long-term solution. State departments of transportation or motor vehicles routinely deny deaf and hard of hearing individuals the opportunity to use the DOT exemptions on the basis of state licensure requirements that mirror the DOT's Physical Qualification Standards.

Question 4.3. Should the Agency consider less restrictive rules for humans who have the benefit of ADS technology to assist them in controlling the vehicle (e.g., technologies that would enable individuals with limb impairments to operate at a level comparable to individuals without such impairments)?

FMCSA should consider loosening restrictions for humans who benefit from ADS technology to assist them in controlling the vehicle. ADS can provide accommodations that allow disabled individuals to operate vehicles on par with non-disabled drivers, assisting in alleviating the current driver shortage and benefiting the nation's economy. DOT already allows amputees with a SPE to qualify, and recently allowed individuals with diabetes to qualify as well.

In order to reach their full potential and allow for the most diverse workforce, ADS-CMV's should be accessible. Vehicles should be physically accessible whenever possible, and must provide multiple modes of communication in the human machine interface including audible and visual communications.

Repeal Existing Discriminatory Testing Guidelines

In addition, and in accordance with Executive Order 13771, we strongly urge repeal of two regulations which currently discriminate against deaf and hard of hearing CDL applicants. In 2011 DOT implemented inappropriate regulations mandating speaking requirements such as in 49 C.F.R. § 391.11(b)(2) and prohibiting the use of interpreters during examinations such as in 49 C.F.R. § 383.133(b)(3) and (c)(5). These regulations are not compliant with Section 504 of the Rehabilitation Act of 1973 which prohibit discrimination against individuals with disabilities, and have allowed state entities to deny opportunities to otherwise qualified applicants.

Disabled individuals want an opportunity to participate in the AV workforce of the future. Please work with us to eliminate outdated and misguided regulations that create unnecessary barriers.

Thank you again for your commitment to mobility for all, and for increasing access to employment through the development and deployment of AVs. We look forward to remaining engaged in these vital conversations. Please do not hesitate to contact Carol Tyson, ctyson@dredf.org, with any questions.

Sincerely,

Lee Page
Paralyzed Veterans of America

Claire Stanley
American Council of the Blind

Carol Tyson
Disability Rights Education and Defense Fund

ⁱ Persons with a Disability: Labor Force Characteristics - 2018, Press Release. February 26, 2019. Bureau of Labor Statistics. <https://www.bls.gov/news.release/pdf/disabl.pdf>

ⁱⁱ See Executive Summary: Hearing, Vestibular Function and Commercial Motor Vehicle Driver Safety, August 26, 2018. <https://www.fmcsa.dot.gov/sites/fmcsa.dot.gov/files/docs/Hearing-Evidence-Report-Final-Executive-Summary-prot.pdf> (“Executive Study”).