

this agreement upon a ninety (90) day written notice to all other signatories.

**David C. Lawton,**  
Assistant Division Administrator, Federal Highway Administration, Pennsylvania Division.

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Transportation Program Manager, Regulatory Branch, U.S. Army Corps of Engineers, Baltimore District.  
[FR Doc. 00-9279 Filed 4-13-00; 8:45 am]  
BILLING CODE 4910-22-P

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2000-7006]

#### Qualification of Drivers; Exemption Applications; Vision

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

**ACTION:** Notice of petitions and intent to grant applications for exemption; request for comments.

**SUMMARY:** This notice announces the FMCSA's preliminary determination to grant the applications of 61 individuals for an exemption from the vision requirements in the Federal Motor Carrier Safety Regulations (FMCsRs). Granting the exemptions will enable these individuals to qualify as drivers of commercial motor vehicles (CMVs) in interstate commerce without meeting the vision standard prescribed in 49 CFR 391.41(b)(10).

**DATES:** Comments must be received on or before May 15, 2000.

**ADDRESSES:** Your written, signed comments must refer to the docket number at the top of this document, and you must submit the comments to the Docket Clerk, U.S. DOT Dockets, Room PL-401, 400 Seventh Street, SW., Washington, DC 20590-0001. All comments will be available for examination at the above address between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped envelope or postcard.

**FOR FURTHER INFORMATION CONTACT:** For information about the vision exemptions in this notice, Ms. Sandra Zywokarte, Office of Bus and Truck Standards and Operations, (202) 366-2987; for information about legal issues related to this notice, Ms. Judith Rutledge, Office of the Chief Counsel, (202) 366-2519, FMCSA, Department of Transportation, 400 Seventh Street,

SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

#### SUPPLEMENTARY INFORMATION:

##### Electronic Access

Internet users may access all comments received by the U.S. DOT Dockets, Room PL-401, by using the universal resource locator (URL): <http://dms.dot.gov>. It is available 24 hours each day, 365 days each year. Please follow the instructions online for more information and help.

An electronic copy of this document may be downloaded using a modem and suitable communications software from the Government Printing Office's Electronic Bulletin Board Service at (202) 512-1661. Internet users may reach the office of the **Federal Register**'s home page at: <http://www.nara.gov/fedreg> and the Government Printing Office's database at: <http://www.access.gpo.gov/nara>.

##### Background

On October 9, 1999, the Secretary of Transportation transferred the motor carrier safety functions performed by the Federal Highway Administration (FHWA) to the Office of Motor Carrier Safety, a new office created in the DOT. This transfer was performed pursuant to section 338 of the Fiscal Year 2000 Department of Transportation and Related Agencies Appropriations Act (Pub. L. 106-69, 113 Stat. 986, at 1022, October 9, 1999, as amended by Pub. L. 106-73, 113 Stat 1046). The Motor Carrier Safety Improvement Act of 1999 (Pub. L. 106-159, 113 Stat. 1748), transferred the functions to the FMCSA, a new administration within the DOT, effective January 1, 2000.

Sixty-one individuals have requested an exemption from the vision requirement in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce. Under 49 U.S.C. 31315 and 31136(e), the FMCSA may grant an exemption for a renewable 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 such exemption." Accordingly, the FMCSA has evaluated each of the 61 exemption requests on its merits, as required by 49 U.S.C. 31315 and 31136(e), and preliminarily determined that exempting these 30 applicants from the vision requirement in 49 CFR 391.41(b)(10) is likely to achieve a level of safety equal to, or greater than, the level that would be achieved without the exemption.

#### Qualifications of Applicants

##### 1. John W. Arnold

Mr. Arnold, 47, has amblyopia in his left eye. His best corrected visual acuity is 20/20 in the right eye and 20/80 in the left eye. Mr. Arnold was examined in 1999 and his optometrist stated that, "I see no visual reason why John Arnold could not sufficiently operate a commercial vehicle."

Mr. Arnold has 22 years of experience driving tractor-trailer combinations, and drives 50,000 miles annually. He holds a Kentucky Class AC License and has had no accidents or convictions of moving violations in a CMV for the past three years.

##### 2. James H. Bailey

Mr. Bailey, 60, has had a chorioretinal scar in the macular area of his left eye since childhood. His best corrected visual acuity is 20/25 in his right eye and 20/400 in his left eye. In a 1999 examination, his optometrist stated, "In my medical opinion Mr. Bailey has sufficient vision to perform the driving tasks required to operate a commercial vehicle."

Mr. Bailey has driven straight trucks for 7 years and a total of 175,000 miles. He holds a Louisiana Class B commercial driver's license (CDL). His official driving record for the last 3 years shows no accidents or convictions of moving violations in a CMV.

##### 3. Victor F. Brast, Jr.

Mr. Brast, 37, has been blind in his left eye since 1989 due to trauma. His visual acuity in the right eye is 20/20. Mr. Brast was examined in 1999, and his optometrist stated, "Mr. Brast has more than sufficient vision for operating a commercial vehicle."

Mr. Brast has driven straight trucks and tractor-trailer combination vehicles for 16 years each, averaging more than 60,000 miles per year. He holds a Texas CDL and has no accident or convictions of moving violations in a CMV on his driving record for the last 3 years.

##### 4. James P. Brooks

Mr. Brooks, 32, suffered an injury to his right eye in 1981. His best corrected visual acuity is 20/20 in the left eye and hand motions at 1 foot in the right eye. In a 1999 examination, his ophthalmologist stated, "In my opinion, he has sufficient vision to perform driving tasks required to operate a commercial vehicle."

Mr. Brooks has driven straight trucks for 3 years and a total of 66,000 miles. He holds an Illinois Class B CDL. His official driving record shows no

accidents or convictions of moving violations in a CMV for the last 3 years.

*5. Robert W. Brown*

Mr. Brown is 42 years old, and suffers from amblyopia and exotropia caused by a childhood injury in the left eye. His best corrected visual acuities are 20/20 in the right eye and 20/50 with eccentric viewing in the left eye. An optometrist examined Mr. Brown in 1999 and determined that he "has sufficient vision to operate a commercial vehicle."

Mr. Brown has driven tractor-trailer combinations for 12½ years and straight trucks for 2 years for a total of well over 1 million miles. He holds a Pennsylvania CDL and has had no accidents or convictions of moving violations in a CMV for the past three years.

*6. Benny J. Burke*

Mr. Burke, 45, has amblyopia in his right eye. His best corrected visual acuity is 20/800 in his right eye and 20/20 in his left eye. His optometrist has examined him in 1999 and stated that he has "sufficient vision to operate a commercial vehicle."

Mr. Burke has driven tractor-trailer combination vehicles for 25 years and over 1.2 million miles. He holds a CDL from Alabama and has no accidents or convictions of moving violations in a CMV on his driving record for the past three years.

*7. Derric D. Burrell*

Mr. Burrell, 33, has amblyopia in his right eye. His best corrected visual acuity is 20/20 in his left eye and 20/400 in his right eye. In a 1999 examination, his optometrist stated, "Mr. Burrell has sufficient vision to drive and operate a Commercial Vehicle."

Mr. Burrell has driven tractor-trailer combination vehicles for 4 years and over 200,000 miles. He has also driven straight trucks for 2 months. He holds an Alabama CDL, and his official driving record shows two convictions for non-moving violations in a CMV during the last 3 years. The citations were for "Operating w/o Equipment as Required by Law" and "Failure to Obey Motor Carrier Rules/Regulations." His record shows no accidents in a CMV during the last 3 years.

*8. Anthony J. Cesternino*

Mr. Cesternino, 53, has a prosthetic left eye as the result of a childhood accident. His best corrected visual acuity in his right eye is 20/20. In a 1999 examination, his optometrist stated, "In my opinion, A.J. Cesternino

is visually capable of driving a commercial motor vehicle."

Mr. Cesternino has driven tractor-trailer combination vehicles for over 22 years and a total of 2.9 million miles. He has driven straight trucks for over 1 year and a total of more than 40,000 miles. He holds a Virginia Class A CDL. His official driving record shows no accident involvement in a CMV and one conviction of a moving violation in a CMV in the last 3 years. The citation was for "Disobey Traffic Signal."

*9. Ronald W. Coe, Sr.*

Mr. Coe, 53, has amblyopia in the left eye. His corrected vision in the right eye is 20/20 and 20/400 in the left eye. An optometrist examined him in 1999 and stated that, "It is my opinion that Mr. Coe has sufficient vision to perform the driving tasks required to operate a commercial vehicle, and has been doing that for many years."

Mr. Coe has 9½ years of experience driving straight trucks and six months driving tractor-trailers. He has driven a total of 500,000 miles. Mr. Coe holds a New York CDL and has had no accidents and one non-moving violation in a CMV for the past three years. He received a citation for "No/Improper Trip Permit."

*10. Richard A. Corey*

Mr. Corey, 47, has hyperopia with congenital amblyopia in the left eye. His best corrected visual acuity is 20/20 in the right eye and 20/200 in the left eye. Mr. Corey was examined in 1999 and his optometrist stated, "Mr. Corey has sufficient vision the [sic] perform driving tasks for a commercial vehicle."

Mr. Corey has 15 years of experience driving tractor-trailer combination vehicles for over 1.7 million miles. He holds a Washington CDL and his driving record for the last 3 years contains no convictions of moving violations or accidents in a CMV.

*11. James A. Creed*

Mr. Creed, 38, has had a corneal scar on his left eye since childhood. His best corrected vision is 20/15 in his right eye and 20/100 in his left eye. In a 1999 examination, his optometrist stated that "decreased vision of left eye due to old injury is stable and does not present any problem for the safe operation of a commercial vehicle."

Mr. Creed has driven straight trucks for 9 years, averaging 28,000 miles per year and tractor-trailer combinations for 12 years, averaging 8,000 miles per year. He holds a Virginia CDL and has no accidents or convictions of moving violations in a CMV for the past three years.

*12. William G. Croy*

Mr. Croy, 31, has a macular scar in the left eye with corrected vision of 20/200. His corrected vision in the right eye is 20/20. An optometrist examined him in 1999 and stated, "In my medical opinion his vision is sufficient to handle commercial driving as the peripheral vision is excellent and only the central fine detailed vision is affected in the left eye."

Mr. Croy has driven straight trucks for 8 years and approximately 250,000 miles. He holds a Wyoming CDL and has had no accidents or convictions of moving violations in a CMV for the past three years.

*13. Craig E. Dorrance*

Mr. Dorrance, 45, has reduced vision in his left eye due to trauma 20 years ago. In a 1999 examination, his visual acuity was correctable to 20/20 in the right eye and less than 20/400 in the left eye. His optometrist stated that he "has sufficient vision to operate [a] commercial vehicle."

Mr. Dorrance has operated straight trucks for 20 years and tractor-trailer combinations for 25 years, averaging 50,000 miles per year in each. He holds a Montana CDL and has no accident or convictions of moving violations in a CMV on his driving record for the last 3 years.

*14. Willie P. Estep*

Mr. Estep, 46, has amblyopia in his right eye. His best corrected visual acuity is 20/15 in his left eye and 20/400 in the right eye. In a 1999 examination his ophthalmologist stated, "It is my opinion that you have no visual limitations in performing your occupation as operator af [sic] a commercial vehicle."

Mr. Estep has driven tractor-trailer combination vehicles for 15 years and a total of over 1.8 million miles. He holds an Ohio CDL, and his official driving record shows one conviction for a non-moving "miscellaneous" violation during the last 3 years.

*15. Duane H. Eyre*

Mr. Eyre, 63, sustained an injury to his right eye in 1976. His best corrected vision is 20/20 in his left eye and 20/400 in his right eye. In a 1999 examination, his optometrist stated, "I would consider Mr. Duane H. Eyre to have sufficient vision and visual skills to perform the driving tasks to operate a commercial truck."

Mr. Eyre has driven straight trucks and tractor-trailer combination vehicles for 43 years, totalling 43,000 miles of driving in straight trucks and 6 million miles in tractor-trailer combination

vehicles. He has also driven buses for 2 years with total mileage of 50,000 miles. He holds a Montana Class A CDL. His official driving record shows no accidents in a CMV in the last 3 years. He was convicted of one violation during that period for "Not Licensed to Drive Type of Vehicle Being Operated."

#### *16. James W. Frion*

Mr. Frion, 36, has amblyopia in his right eye. His best corrected visual acuity 20/200 in his right eye and 20/20 in his left eye. In a 1999 examination, his optometrist stated, "In my opinion, Mr. Frion has sufficient vision to operate a commercial vehicle."

Mr. Frion has operated buses for 8 years for a total of 40,000 miles. He holds a Pennsylvania Class B CDL, and his official driving record shows no accidents or convictions of moving violations in a CMV over the last 3 years.

#### *17. Lee Gallmeyer*

Mr. Gallmeyer, 62, has amblyopia in his right eye. He was examined in 1999 and his optometrist found visual acuity corrected to 20/60-in the right eye and 20/20 in the left eye. His optometrist stated, "I believe that despite this problem [amblyopia] that Mr. Gallmeyer has sufficient vision to adequately perform his driving tasks and operate a commercial vehicle."

Mr. Gallmeyer has driven tractor-trailer combination vehicles for 4.5 years and straight trucks for 2 years for a total of over 600,000 miles. He holds an Iowa CDL and has 1 non-moving violation and no accidents in a CMV for the last 3 years.

#### *18. Shawn B. Gaston*

Mr. Gaston, 50, has amblyopia in his right eye. His best corrected visual acuities are 20/20 in the left eye and 20/400 in the right eye. In a 1999 examination his optometrist said, "Mr. Gaston has been driving commercial vehicles for many years. It is my opinion that he has sufficient vision to continue performing such driving tasks."

Mr. Gaston has been driving straight trucks for 31 years and a total of over 3 million miles and tractor-trailer combination vehicles for 10 years and a total of 500,000 miles. Mr. Gaston holds a Pennsylvania Class AM CDL. His official driving record shows no accident or convictions of moving violations in a CMV in the last 3 years.

#### *19. James F. Gereau*

Mr. Gereau, 45, has nonprogressive chorioretinal damage and scar formation in the location of the macula of the left

eye as the result of an accident he had 15 years ago. His uncorrected vision in the right eye is 20/20. He was examined in 1999 and his optometrist stated, "In my opinion, based on past performance, and on the information obtained by vision examination, Mr. Gereau is capable of performing safely, the tasks required to operate a commercial motor vehicle in interstate commerce."

Mr. Gereau has 24 years of experience driving tractor-trailers, and drives approximately 90,000 miles annually. He holds a Wisconsin CDL and has had no accidents or convictions of moving violations in a CMV for the past three years.

#### *20. Rodney M. Gingrich*

Mr. Gingrich, 74 has reduced vision on his left eye due to macular degeneration. His corrected vision in the right eye is 20/25 and 20/300 in the left eye. An ophthalmologist examined him in 1999 and stated to him that "you have, in my opinion, sufficient vision to operate a commercial vehicle."

Mr. Gingrich has 50 years of experience driving straight trucks with over 1 million miles driven and 3 years of experience driving tractor-trailer combinations with 30,000 miles driven. He holds a Minnesota CDL and has had no accidents or convictions of moving violations in a CMV for the past three years.

#### *21. Esteban Gerardo Gonzalez*

Mr. Gonzalez, 46, has amblyopia in his left eye. His best corrected visual acuity is 20/15 in his right eye and 20/100 in his left eye. In a 1999 examination, his optometrist stated that, "By Texas DPS standards, he has a permanent eye condition that affects his visual acuity but doesn't disqualify him from legally driving. Therefore, I feel that he has sufficient vision to perform the driving tasks required to operate a commercial vehicle."

Mr. Gonzalez has driven tractor-trailer combination vehicles for 21 years and over 2 million miles and straight trucks for 5 years and 175,000 miles. He holds a Texas CDL, and his official driving record shows no accidents or convictions of moving violations in a CMV for the past 3 years.

#### *22. Harlan Lee Gunter*

Mr. Gunter, 39, has worn a prosthesis in his left eye since June 1995 due to injury. The visual acuity of his right eye is 20/20 without correction. In a 1999 examination, his optometrist said, "My medical opinion is that Mr. Gunter is able to operate a commercial vehicle because his right eye is completely normal."

Mr. Gunter has driven both straight trucks and tractor-trailer combination vehicles for 20 years. He has driven straight trucks a total of 1 million miles and tractor-trailer combination vehicles a total of over 1.4 million miles. He holds a Virginia Class A CDL. His official driving record shows no convictions of moving violations and involvement in one accident in a CMV in the last 3 years. Mr. Gunter was not charged with a violation in the accident.

#### *23. Thanh Van Ha*

Mr. Thanh Van Ha is a 36-year old man who has amblyopia. His corrected visual acuity is 20/15 in the right eye, and 20/200 in the left eye. An ophthalmologist examined him in 1999 and found him to have "sufficient vision to perform all the driving tasks required to drive and operate commercial vehicles."

Mr. Ha has a Class C California Driver's license. He has operated straight trucks for 10 years, driving approximately 20,400 miles annually. His official State driving record shows no accidents or citations in a CMV for the past 3 years.

#### *24. James O. Hancock*

Mr. Hancock, 61, has a prosthetic right eye due to a 1959 injury. He has 20/20 vision in his left eye. In a 1999 examination, his optometrist stated that he "is very capable of driving a commercial vehicle."

Mr. Hancock has 45 years of experience driving straight trucks, averaging 25,000 miles annually. He holds an Indiana CDL. His official State driving record reveals no accidents or citations in a CMV for the past 3 years.

#### *25. Paul A. Harrison*

Mr. Harrison, 50, is blind in the left eye as the result of an accident he had in 1994. His corrected vision in the right eye is 20/20. An optometrist examined him in 1999 and stated that, "In my opinion, Mr. Harrison has good vision in his right eye that would allow him to operate a commercial vehicle safely."

Mr. Harrison has driven straight trucks for 28 years and over 700,000 miles. He holds a Florida CDL and has had no accidents or convictions of moving violations in a CMV for the past three years.

#### *26. Joseph H. Heidkamp, Jr.*

Joseph Heidkamp, 41, has amblyopia secondary to optic nerve atrophy in his right eye. His best corrected vision is 20/25+ in the left eye and 20/200 in the right eye. According to a 1999 examination, Mr. Heidkamp's optometrist stated, "It is our

determination that Mr. Heidkamp has sufficient vision to perform the driving tasks required to operate a commercial vehicle."

Mr. Heidkamp has driven straight trucks for 21 years and a total of over 1.4 million miles, and tractor-trailer combination vehicles for 2 years and a total of 70,000 miles. He holds a Pennsylvania Class A CDL. His official driving record shows no accidents or convictions of moving violations in a CMV during the last 3 years.

#### *27. Thomas J. Holtmann*

Mr. Holtmann, 57, has amblyopia of the left eye. His corrected vision in the right eye is 20/20 and 20/80 in the left eye. An optometrist has examined him in 1999 and stated, "It is my professional opinion that Tom Holtmann has sufficient vision to perform the driving tasks required to operate a commercial vehicle."

Mr. Holtmann has 38 years of experience driving tractor-trailers and straight trucks, and drives approximately 100,000 miles annually. He holds an Illinois CDL and has had no accidents or convictions of moving violations in a CMV for the past three years.

#### *28. Larry D. Johnson*

Mr. Johnson, 38, has amblyopia in the left eye. His best corrected visual acuity is 20/20 in his right eye and 20/300 in his left eye. He was examined in December 1998, and his optometrist stated that, "Mr. Johnson has sufficient vision to perform the driving task required to operate a commercial vehicle, provided that he has his eyes examined every two years to assess his visual competency."

Mr. Johnson has driven tractor-trailer combination vehicles for 8 years. He drives 70,000 miles annually. He holds an Illinois CDL. For the past three years he has had no accidents or convictions of moving violations in a CMV.

#### *29. Gary Killian*

Mr. Killian, 51, has amblyopia in the right eye. The left eye is correctable to 20/20. His optometrist examined him in 1999 and determined, "[h]is commercial driving record is superb and he should be allowed to continue."

Mr. Killian has driven tractor-trailers for 25 years, and averages 135,000 miles of driving annually. He has a North Carolina CDL and has a driving record free of convictions of moving violations or accidents for the last three years in a CMV.

#### *30. Marvin L. Kiser, Jr.*

Mr. Kiser, 60, has a macular scar in his right eye. His best corrected visual acuity is 20/200 in his right eye and 20/20 in his left eye. In a 1999 examination, his ophthalmologist stated, "However, I do feel that he has sufficient vision to operate a commercial vehicle."

Mr. Kiser has operated tractor-trailer combination vehicles for 37 years and over 1.9 million miles. He holds a North Carolina CDL, and his official driving record shows no accidents or convictions of moving violations in a CMV for the last 3 years.

#### *31. David R. Lambert*

Mr. David Lambert, 59, has been blind from birth in his right eye. His best corrected visual acuity is 20/400 in the right eye and 20/25 in the left eye. Mr. Lambert was examined in 1999, and his optometrist stated, "Given his good driving record and his likely improved vision in his left eye, I feel he has sufficient vision to operate a commercial vehicle."

Mr. Lambert holds a CDL from New Hampshire, has 23 years of experience driving straight trucks, and drives 10,000 miles annually. His driving record has been clear of accidents and convictions of moving violations for the past three years in a CMV.

#### *32. James R. Lanier*

Mr. Lanier is 55 years old and has amblyopia in the right eye. His visual acuity is light perception in his right eye and 20/20-in the left eye. As the result of a 1999 examination, his ophthalmologist stated that, "Mr. Lanier was found to have sufficient vision to perform his driving tasks as required to operate a commercial vehicle."

Mr. Lanier has 19 years of experience driving tractor-trailer combinations and has driven over 900,000 miles. He holds a North Carolina CDL and has had no accidents or convictions of moving violations in a CMV for the past three years.

#### *33. Donald Eugene Lee*

Mr. Donald Lee, 35, is blind in his left eye as the result of an accident 20 years ago. The visual acuity in his right eye is 20/20+. In a 1999 examination, Mr. Lee's optometrist stated, "In my opinion Mr. Lee's visual abilities are excellent and do not impair his ability to safely operate a commercial motor vehicle."

Mr. Lee has 10 years of experience driving straight trucks for a total of 250,000 miles and 3 years of experience driving tractor-trailer combination vehicles for a total of 300,000 miles. Mr. Lee holds a Virginia CDL, and his official driving record shows no

accidents or convictions of moving violations in a CMV during the last 3 years.

#### *34. James Stanley Lewis*

Mr. Lewis, 42, has amblyopia in his left eye. His best corrected visual acuity is 20/20 in the right eye and 20/200 in the left eye. In a 1999 examination, his optometrist stated, "Mr. Lewis has a very healthy pair of eyes. I believe that he is and will be very able visually to perform the driving tasks required to operate a commercial vehicle."

Mr. Lewis has driven straight trucks for 18 years for a total of over 1.1 million miles and tractor-trailer combination vehicles for 7 1/2 years for a total of over 75,000 miles. He holds an Alabama CDL, and his official driving record shows no accident and one conviction of a non-moving violation ("Expired/No Registration/Title") in a CMV during the last 3 years.

#### *35. Thomas J. Long*

Mr. Long, 30, has amblyopia in the left eye. His visual acuity is 20/400 in the left eye and 20/20 in the right eye. Mr. Long was examined in 1999 and his optometrist cited his successful 9 years of driving commercial vehicles and stated, "As a result of my ophthalmic examination, I see no reason Mr. Long would not be able to maintain his current driving record in operating a commercial vehicle."

Mr. Long has 10 years of experience operating straight trucks, driving approximately 60,000 miles annually. He holds a Maryland CDL and has had no accidents or convictions of moving violations in a CMV for the past three years.

#### *36. Newton Heston Mahoney*

Mr. Mahoney, 51, has reduced vision in his left eye due to trauma in 1969. His best corrected visual acuity is 20/20+ in the right eye and 20/800 in the left eye. As the result of a 1999 examination, his optometrist certified that Mr. Mahoney has sufficient vision to perform the tasks required to operate a commercial motor vehicle.

Mr. Mahoney has driven straight trucks and tractor-trailer combination vehicles for 30 years, averaging 95,000 miles annually. He holds a Maryland CDL and has no accidents and one speeding violation in a CMV during the last 3 years.

#### *37. Ronald L. Martsching*

Mr. Martsching is a 32 year old man with a history of amblyopia in the right eye. A 1999 examination revealed that his visual acuity is 20/20 in the left eye and 20/400 in the right eye. The

optometrist stated the "Mr. Martsching has sufficient vision to perform the driving tasks required to operate a commercial vehicle."

Mr. Martsching has 4 years of experience driving straight trucks over 100,000 miles. He holds an Iowa Class D license with an endorsement allowing operation of vehicles weighing between 16,001 and 26,000 pounds. For the past three years he has had no accidents or convictions of moving violations in a CMV.

#### *38. Robert Evans McClure, Jr.*

Mr. McClure, 24, has had decreased vision in his left eye since 1993 when he developed chorioretinitis. A 1999 medical report indicates that his best corrected visual acuity in his right eye is 20/20 and hand motion in his left eye. His ophthalmologist states, "It is my belief that Mr. McClure does have sufficient vision to perform the driving task required to operate a commercial vehicle when he wears lenses over his right eye."

Robert McClure holds an Alabama class DM operator's license. He has driven straight trucks for 4 years and 40,000 miles. His driving record for the past 3 years reflects no convictions of moving traffic violations and no accidents in a CMV.

#### *39. Duane D. Mims*

Mr. Mims, 27, has only light perception in his right eye due to an accident 16 years ago. His visual acuity in his left eye is 20/20. In a December 1998 examination, his optometrist stated, "Under Alabama and Federal law he has sufficient vision to operate a commercial vehicle."

Mr. Mims has driven straight trucks for 7 years and over 70,000 miles and tractor-trailer combination vehicles for 3 years and 300,000 miles. He holds an Alabama CDL, and his official driving record shows no accidents or convictions of moving violations in a CMV for the last 3 years.

#### *40. James A. Mohr*

Mr. Mohr is 53 years old and has had a prosthetic left eye for over 40 years. His best corrected vision in the right eye is 20/20. In a December 1998 examination, his optometrist stated that, "Jim Mohr has sufficient vision to perform the driving tasks required to operate a commercial vehicle."

Mr. Mohr has 16 years' experience of driving tractor-trailer trucks and drives 50,000 miles annually. He has a Montana CDL, and his driving record shows no accidents or convictions of moving violations in a CMV for the past three years.

#### *41. William A. Moore*

Mr. Moore, 62, has amblyopia in his right eye. His best corrected visual acuity is 20/20 in his left eye and 20/400 in his right eye. In a 1998 examination, his optometrist stated, "I feel that Mr. Moore can operate a Comerical [sic] vehicle with his current eye condition."

Mr. Moore has driven tractor-trailer combination vehicles for 30 years and a total of 2.4 million miles. He holds a Nevada Class A CDL. His driving record for the last 3 years shows no accidents or convictions of moving violations in a CMV.

#### *42. Leonard James Morton*

Mr. Morton is 53 years old, and has amblyopia in the left eye. His best corrected visual acuity is 20/200 in the left eye and 20/20 in the right eye. In a 1999 examination, his optometrist stated, "In my medical opinion, Mr. Morton has sufficient vision to perform the driving tasks required to operated [sic] a commercial vehicle."

Mr. Morton has 33 years of experience driving tractor-trailer combination vehicles for approximately 1 million miles. He holds a Wisconsin CDL and has had no accidents or convictions of moving violations in a CMV for the past three years.

#### *43. Timothy W. Noble*

Mr. Noble, 32, has amblyopia in his right eye. His best corrected visual acuity is 20/50 in his right eye and 20/20 in his left eye. In a 1999 examination, his ophthalmologist stated, "Mr. Noble has good visual acuity and gross binocular function and should well be able to operate a commercial vehicles as he has done in the past since there has been no change in his ocular condition since he was a child and he has operated a commercial vehicle in the past without any difficulty."

Mr. Noble has operated tractor-trailer combination vehicles for over 3.5 years and a total of over 230,000 miles. He holds a Kentucky Class DA license. In the last 3 years, he was convicted of one moving violation (speeding) in a CMV and was involved in one accident in a CMV. According to the accident report the other driver involved in the accident attempted to change lanes in front of Mr. Noble in slowed traffic and caused him to strike the left side of the first vehicle. Neither driver was charged with a violation in the accident.

#### *44. Kevin J. O'Donnell*

Mr. O'Donnell, 28, has reduced visual acuity in his right eye due to a 1992 injury. His visual acuity is light perception in his right eye and 20/16 in

his left eye. Mr. O'Donnell was examined in 1999 and his ophthalmologist stated, "His visual condition is stable. He can operate a commercial vehicle."

Mr. O'Donnell has operated straight trucks for 6 years and over 120,000 miles. He holds an Illinois CDL and has no accident or convictions of moving violations in a CMV over the last 3 years.

#### *45. Gary L. Reveal*

Mr. Reveal, 53, has had optic nerve damage in his right eye since birth. His best corrected visual acuity is 20/15 in the left eye and no light perception in his right eye. In a 1999 examination, his optometrist stated, "He does have sufficient vision to perform the driving tasks required to operate a commercial vehicle."

Mr. Reveal has driven straight trucks for 34 years and over 1 million miles. He has driven tractor-trailer combination vehicles for 15 years and 300,000 miles. He holds an Ohio Class A CDL. His official driving record shows no convictions of moving violations in a CMV during the last 3 years. He was involved in one accident in a CMV. No moving violations were issued to him in the case.

#### *46. John W. Robbins, Jr.*

Mr. Robbins is 37 years old, and has amblyopia in the right eye. His best corrected visual acuity is 20/200 in the right eye and 20/20 in the left eye. He was examined in 1999 and his optometrist stated that, "Mr. Robbins['] vision is sufficient to perform the driving tasks required to operate a commercial vehicle."

Mr. Robbins has 18 years of experience driving straight trucks over 450,000 miles and 13 years of experience driving tractor-trailer combinations over 400,000 miles. He holds a Mississippi CDL and has had no accidents or convictions of moving violations in a CMV for the past three years.

#### *47. Doyle R. Roundtree*

Mr. Roundtree, 66, has amblyopia in his left eye. The vision in his right eye is 20/20, uncorrected. In a 1999 examination, his optometrist stated that "he is able to function very well at operating a commercial vehicle."

Mr. Roundtree has 37 years of experience driving tractor-trailer combinations, driving approximately 100,000 miles annually. He holds an Ohio CDL and his 3-year driving record shows no accidents. He was issued a speeding citation in a commercial vehicle during his 3-year driving period.

**48. Charles L. Schnell**

Mr. Schnell, 50, has anophthalmos of his right eye which is due to multiple failed surgeries as a child. His best corrected visual acuity is 20/20 in his left eye. He wears a prosthesis in his right eye. In a 1999 examination, his ophthalmologist stated, "In my opinion, Mr. Schnell's current visual acuity is sufficient to enable him to perform the driving tasks required in operating a commercial vehicle."

Mr. Schnell has 8 years of experience operating tractor-trailer combination vehicles for a total of 720,000 miles. He holds a Florida CDL, and his official driving record shows no accidents or convictions of moving violations in a CMV for the last 3 years.

**49. David L. Slack**

Mr. Slack, 47, has a traumatic corneal laceration and cataract in his left eye. His best corrected visual acuity is 20/20+ in the right eye and 20/200 in his left eye. In a 1999 examination, his ophthalmologist stated, "It is my opinion that the patient has significant vision and visual fields to perform the driving tests required to operate a commercial vehicle."

Mr. Slack has driven tractor-trailer combination vehicles for 21 years and a total of over 2.8 million miles. He holds a Texas Class A CDL. His official driving record shows no accident in a CMV in the last 3 years and one conviction of a non-moving violation for "Exceed/Violate Weight Limits of Vehicle/Truck."

**50. Everett J. Smeltzer**

Mr. Smeltzer, 46, has amblyopia in his left eye. His best corrected visual acuities are 20/20 in his right eye and 20/200 in his left eye. In a 1999 examination his optometrist stated, "In my opinion, his vision is sufficient for driving a commercial vehicle."

Mr. Smeltzer has driven straight trucks for over 29 years and a total of 870,000 miles. He has driven tractor-trailer combination vehicles for 22 years with mileage totaling over 1.5 million miles. He holds a Montana CDL and his official driving record shows no accidents or convictions of moving violations in a CMV during the last 3 years.

**51. Philip Smiddy**

Mr. Smiddy, 33, has amblyopia in his left eye. His best corrected visual acuity is 20/20 in his right eye and 20/110 in his left eye. His doctor states that "Mr. Philip Smiddy has sufficient vision to perform the driving tasks necessary to operate a commercial vehicle."

Mr. Smiddy has driven straight trucks for 8 years and 40,000 miles and tractor-trailer combinations for 13 years and nearly 600,000 miles. He holds an Ohio CDL. His driving record shows no traffic accidents or convictions of moving violations in a CMV for the past 3 years.

**52. James C. Smith**

Mr. Smith, 53, has amblyopia in his left eye. His best corrected visual acuity is 20/20 in his right eye and 20/100 in his left eye. In a 1999 examination, his optometrist stated, "I see no reason Mr. Smith would not be visually capable of operating a commercial vehicle."

Mr. Smith has driven straight trucks for 33 years and a total of 330,000 miles and tractor-trailer combination vehicles for 15 years and a total of 900,000 miles. Mr. Smith holds a Kentucky Class DA Operator/CDL license. His official driving record shows no accidents or convictions of moving violations in a CMV for the past 3 years.

**53. Terry L. Smith**

Mr. Smith, 53, has amblyopia in his right eye. His best visual acuity is 20/20 in his left eye and 20/300 in his right eye, corrected or uncorrected. He was examined in 1999, and his optometrist stated that, "Mr. Smith should have no problem performing commercial driving tasks."

Mr. Smith has driven straight trucks and tractor-trailer combinations for 21 years and well over 1 million miles. He holds a CDL from Montana and has no accidents or convictions of moving violations on his driving record for the past three years in a CMV.

**54. James N. Spencer**

Mr. Spencer, 69, has a central macular scar in his right eye. A 1999 examination revealed best corrected vision to be 20/100 in the right eye and 20/20 in the left eye. His ophthalmologist stated that, his successful 13-year career as a commercial driver "clearly proves that you have sufficient vision to continue to perform your driving tasks."

Mr. Spencer has driven straight trucks for 48 years and 3.6 million miles and tractor-trailer combinations for 18 years and over 3.3 million miles. He holds a California CDL and has no accidents or convictions of moving violations in a CMV on his driving record for the past 3 years.

**55. Teresa Mary Steeves**

Ms. Steeves, 58, suffered a retinal infection from measles as a child which left her with light perception vision in her left eye. The best visual acuity in her right eye is 20/30. In a 1999

examination, her optometrist stated, "Patient should be able to operate a commercial vehicle."

Ms. Steeves has driven tractor-trailer combination vehicles for 8 years and a total of over 800,000 miles. She holds a Florida Class A CDL. Her official driving record shows no accidents or convictions of moving violations in a CMV during the last 3 years.

**56. Roger R. Strehlow**

Mr. Strehlow, 55, has amblyopia in his left eye. His best corrected visual acuity in his right eye is 20/15+2 and finger counting at 1 foot in his left eye. In a 1999 examination, his optometrist stated, "Visually, he should be able to safely drive both commercial and private vehicles with the following two restrictions: 1. Wear corrective lenses; 2. Left hand outside mirror."

Mr. Strehlow has driven straight trucks for 15 years and a total of 375,000 miles and tractor-trailer combination vehicles for 23 years and a total of over 1.3 million miles. He holds a Wisconsin Class ABCD CDL. His official driving record for the last 3 years shows no accidents or convictions of moving violations in a CMV.

**57. Timothy W. Strickland**

Mr. Strickland, 38, has amblyopia in his right eye. His best corrected visual acuity is 20/15 in his left eye and 20/200 in his right eye. In a 1999 examination, his optometrist stated, "In my opinion, Mr. Strickland could safely operate a commercial vehicle."

Mr. Strickland has operated tractor-trailer combination vehicles for 13 years and a total of 1.3 million miles. He holds a North Carolina Class A CDL. His official driving record shows no accidents or convictions of moving violations in a CMV for the last 3 years.

**58. John T. Thomas**

Mr. Thomas, 57, has had a macular scar in his left eye since childhood. His best corrected visual acuity is 20/20 in his right eye and 20/200 in his left eye. He was examined in 1999, and his optometrist stated that, "I feel that Mr. Thomas has the vision necessary to permit him to operate a commercial vehicle."

Mr. Thomas has 30 years of experience operating tractor-trailer combinations and has driven over 3 million miles. He holds a North Carolina CDL, and has no accidents or convictions of moving violations in a CMV on his driving record for the past three years.

**59. Darel E. Thompson**

Mr. Thompson, 60, sustained an injury to his left eye in 1974 which left his visual acuity poor. His best corrected acuity is 20/400 in his left eye and 20/20 in his right eye. In a 1999 examination, his ophthalmologist stated, "In my opinion he has sufficient vision to perform a driving test required to operate a commercial vehicle, and has been doing so presumably uneventfully for the past 25 years."

Mr. Thompson has driven both straight trucks and tractor-trailer combination vehicles for 42 years, for a total of over 2.5 million miles. He holds a Washington Class A CDL. His official driving record shows no accidents or convictions of moving violations in a CMV for the last 3 years.

**60. Mr. Ralph A. Thompson**

Mr. Ralph Thompson, 56, has amblyopia in his right eye. His visual acuity is 20/20 in his left eye and 20/400 in his right eye. An optometrist examined him in 1999 and certified he "has sufficient vision to perform the tasks needed to operate a commercial vehicle without restrictions."

Mr. Thompson has driven tractor-trailer combination vehicles for 40 years and over 2.4 million miles. He holds a Kentucky Class DA License. His driving record shows no accidents or convictions of moving violations in a CMV during the last 3 years.

**61. Kevin Wayne Windham**

Mr. Windham, 36, has amblyopia in his left eye. His best corrected visual acuity is 20/20 in his right eye and 20/200 in his left eye. In a 1999 examination, his optometrist certified that in his medical opinion, Mr. Windham has sufficient vision to perform the driving tasks required to operate a commercial vehicle.

Mr. Windham has 12 years of experience driving tractor-trailer combination vehicles for a total of 540,000 miles. He holds a Texas CDL, and his official driving record shows no accident or convictions of moving violations in a CMV for the last 3 years.

**Basis for Preliminary Determination To Grant Exemptions**

Independent studies support the principle that past driving performance is a reliable indicator of future safety. The studies are filed in FHWA Docket No. FHWA-97-2625 and discussed at 63 FR 1524, 1525 (January 9, 1998). We believe we can properly apply the principle to monocular drivers because data from the vision waiver program clearly demonstrate the driving performance of monocular drivers in the

program is better than that of all CMV drivers collectively. (See 61 FR 13338, March 26, 1996.) That monocular drivers in the waiver program demonstrated their ability to drive safely supports a conclusion that other monocular drivers, with qualifications similar to those required by the waiver program, can also adapt to their vision deficiency and operate safely.

The 61 applicants have qualifications similar to those possessed by drivers in the waiver program. Their experiences and safe driving records while operating CMVs demonstrate that they have adapted their driving skills to accommodate their vision deficiency. Since past driving records are reliable precursors of the future, there is no reason to expect these individuals to drive less safely after receiving their exemptions. Indeed, there is every reason to expect at least the same level of safety, if not a greater level, because the applicants can have their exemptions revoked if they compile an unsafe driving record.

For these reasons, the FMCSA believes exempting the individuals from 49 CFR 391.41(b)(10) is likely to achieve a level of safety equal to, or greater than, the level that would be achieved without the exemption as long as vision in their better eye continues to meet the standard specified in 49 CFR 391.41(b)(10). As a condition of the exemption, therefore, the FMCSA proposes to impose requirements on the individuals similar to the grandfathering provisions in 49 CFR 391.64(b) applied to drivers who participated in the agency's former vision waiver program.

These requirements are: (1) That each individual be physically examined every year (a) by an ophthalmologist or optometrist who attests that vision in the better eye meets the standard in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests 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 his or her employer for retention in its driver qualification file or keep a copy in his or her driver qualification file if he or she becomes self-employed. The driver must also have a copy of the certification when driving so it may be presented to a duly authorized Federal, State, or local enforcement official.

In accordance with 49 U.S.C. 31315 and 31136(e), the proposed exemption for each person will be valid for 2 years unless revoked earlier by the FMCSA.

The exemption will be revoked 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. If the exemption is effective at the end of the 2-year period, the person may apply to the FMCSA for a renewal under procedures in effect at that time.

**Request for Comments**

In accordance with 49 U.S.C. 31315 and 31136(e), the FMCSA is requesting public comment from all interested persons on the exemption petitions and the matters discussed in this notice. All comments received before the close of business on the closing date indicated above will be considered and will be available for examination in the docket room at the above address. Comments received after the closing date will be filed in the docket and will be considered to the extent practicable, but the FMCSA may issue exemptions from the vision requirement to the 61 applicants and publish in the **Federal Register** a notice of final determination at any time after the close of the comment period. In addition to late comments, the FMCSA will also continue to file in the docket relevant information which becomes available after the closing date. Interested persons should continue to examine the docket for new material.

**Authority:** 49 U.S.C. 322, 31136 and 31315; 49 CFR 1.73.

Issued on: April 6, 2000.

**Julie Anna Cirillo,**

*Acting Deputy Administrator, Federal Motor Carrier Safety Administration.*

[FR Doc. 00-9254 Filed 4-13-00; 8:45 am]

**BILLING CODE 4910-22-P**

**DEPARTMENT OF TRANSPORTATION****Federal Motor Carrier Safety Administration**

**[FMCSA Docket No. 99-6480 (Formerly OMCS Docket No. 99-6480)]**

**Qualification of Drivers; Exemption Applications; Vision**

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

**ACTION:** Notice of final disposition.

**SUMMARY:** The FMCSA announces its decision to exempt 34 individuals from the vision requirement in 49 CFR 391.41(b)(10).