

examination in 2001 his optometrist concluded, "He has no apparent eye pathology and has no visual field restriction in either eye. His amblyopia should not affect his ability to drive a commercial vehicle." Mr. Pearcy reported that he has 8 years and 576,000 miles of experience operating straight trucks, and 3 years and 273,000 miles of experience operating tractor-trailer combinations. He holds a Class A CDL from Oregon, and there are no accidents or convictions for moving violations in a CMV on his driving record for the last 3 years.

### *30. Robert H. Rogers*

Mr. Rogers, 45, has been blind in his left eye since the age of 3 due to trauma. The unaided visual acuity in his right eye is 20/20. Following an examination in 2001, his ophthalmologist stated, "Mr. Rogers" vision is sufficient to perform the driving tasks required to operate a commercial vehicle." Mr. Rogers reported that he has driven straight trucks for 2 years, accumulating 30,000 miles, and tractor-trailer combinations for 8 years, accumulating 1.0 million miles. He holds a Class A CDL from Mississippi, and his driving record for the last 3 years shows no accidents or convictions for moving violations in a CMV.

### *31. Bobby C. Spencer*

Mr. Spencer, 60, has had a macular scar in his right eye since 1960. His best-corrected vision is 20/200 in the right eye and 20/20 in the left. His optometrist examined him in 2001 and certified, "Mr. Spencer has sufficient vision for driving a commercial vehicle." Mr. Spencer reported that he has driven tractor-trailer combinations for 15 years, accumulating 342,000 miles. He holds a Tennessee Class A CDL, and in the last 3 years he has had no accidents or convictions for moving violations in a CMV.

### *32. Mark J. Stevwing*

Mr. Stevwing, 38, has amblyopia of the left eye. His uncorrected visual acuity is 20/20 in the right eye and 20/70 in the left. An optometrist examined him in 2001 and stated, "It is my opinion that Mark has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Stevwing reported that he has 14 years of experience driving straight trucks, totaling 364,000 miles. He holds a Pennsylvania Class B CDL and has had no accidents or moving violations in a CMV for the past 3 years.

### *33. Clarence C. Trump, Jr.*

Mr. Trump, 74, has amblyopia in his left eye. His best-corrected visual acuity is 20/40+3 in his right eye and 20/200-1 in his left. His ophthalmologist examined him in 2001 and stated, "As the patient has been driving without significant incident over the past 50 years, in my opinion he has sufficient vision to perform the driving tasks required to operate a commercial motor vehicle." Mr. Trump submitted that he has driven straight trucks and tractor-trailer combinations for 56 years, accumulating 448,000 miles in the former and 112,000 miles in the latter. He holds a Class AM CDL from Pennsylvania. His driving record shows no accidents or convictions for moving violations in a CMV for the last 3 years.

### *34. Dennis R. Ward*

Mr. Ward, 54, has amblyopia in his right eye. He has visual acuity of 20/300 in the right eye and 20/20 in the left. Following an examination in 2001, his optometrist stated, "In my professional opinion, Mr. Ward has more than sufficient vision to perform the driving tasks required to operate a commercial vehicle." According to Mr. Ward's application, he has driven straight trucks for 35 years, accumulating 248,000 miles. He holds a Class C driver's license from Nebraska, and his driving record shows no accidents or convictions for moving violations in a CMV during the last 3 years.

### *35. Frankie A. Wilborn*

Mr. Wilborn, 45, has amblyopia in his left eye. His best-corrected visual acuity is 20/20 in the right eye and 20/400 in the left. His optometrist examined him in 2001 and stated, "Considering the 120 Point Humphrey Visual Field testing shows good peripheral vision, I believe and certify in my medical opinion that Mr. Wilborn with current 20/20 vision with both eyes is quite capable of continuing his current profession as a commercial truck driver." Mr. Wilborn reported that he has driven tractor-trailer combinations for 6 years, accumulating 562,000 miles. He holds a Class AM CDL from Georgia. He has had no accidents and one conviction for a moving violation—Improper Turning—in a CMV during the past 3 years.

### *36. Jeffrey L. Wuollett*

Mr. Wuollett, 51, has amblyopia in his left eye. His best-corrected vision in the right eye is 20/20 and in the left eye 20/200. Following a 2001 examination, his optometrist stated, "Mr. Wuollett is more than capable of driving and operating a commercial vehicle with his

current visual status." In his application, Mr. Wuollett reported that he has driven straight trucks for 18 years, accumulating 774,000 miles. He holds a Minnesota Class D driver's license, and has had no accidents or convictions for moving violations in a CMV for the past 3 years.

### **Request for Comments**

In accordance with 49 U.S.C. 31315 and 31136(e), 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.

Issued on: March 1, 2002.

**Brian M. McLaughlin,**

*Associate Administrator for Policy and Program Development.*

[FR Doc. 02-5361 Filed 3-6-02; 8:45 am]

**BILLING CODE 4910-EX-P**

## **DEPARTMENT OF TRANSPORTATION**

### **Federal Motor Carrier Safety Administration**

[Docket Nos. FMCSA-99-5578, FMCSA-99-5748 and FMCSA-99-6156 (FHWA-99-5578, OMCS-99-5748 and OMCS-99-6156)]

### **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 announces FMCSA's decision to renew the exemptions from the vision requirement in 49 CFR 391.41(b)(10) for 19 individuals.

**DATES:** This decision is effective March 7, 2002. Comments from interested persons should be submitted by April 8, 2002.

**ADDRESSES:** You can mail or deliver comments to the U.S. Department of Transportation, Dockets Management Facility, Room PL-401, 400 Seventh Street, SW., Washington, DC 20590-0001. You can also submit comments as well as see the submissions of other commenters at <http://dms.dot.gov>. Please include the docket numbers that appear in the heading of this document. You can examine and copy this document and all comments received at the same Internet address or at the Dockets Management Facility from 9 a.m. to 5 p.m., e.t., Monday through

Friday, except Federal holidays. If you want to know that we received your comments, please include a self-addressed, stamped postcard or include a copy of the acknowledgement page that appears after you submit comments electronically.

**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, Mr. Joseph Solomey, Office of the Chief Counsel, (202) 366-1374, 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 and Filing**

You may see all comments online through the Document Management System (DMS) at: <http://dmses.dot.gov/submit>.

## Background

Nineteen individuals have requested renewal of their exemptions from the vision requirement in 49 CFR 391.41(b)(10) which applies to drivers of commercial motor vehicles (CMVs) in interstate commerce. They are Herman L. Bailey, Jr., Mark A. Baisden, William A. Bixler, Brad T. Braegger, Richard J. Cummings, Clifford H. Dovel, Donald D. Dunphy, Daniel R. Franks, Victor B. Hawks, Jack L. Henson, Myles E. Lane, Sr., Dennis J. Lessard, Harry R. Littlejohn, Frances C. Ruble, George L. Silvia, James D. Simon, Wayland O. Timberlake, Robert J. Townsley, and Jeffrey G. Wuensch. Under 49 U.S.C. 31315 and 31136(e), FMCSA may renew an exemption 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 such exemption." Accordingly, FMCSA has evaluated the 19 petitions for renewal on their merits and decided to extend each exemption for a renewable 2-year period.

On January 3, 2000, the agency published a notice of final disposition announcing its decision to exempt 40 individuals, including 13 of these applicants for renewal, from the vision requirement in 49 CFR 391.41(b)(10) (65 FR 159). The qualifications, experience, and medical condition of each applicant were stated and discussed in detail at 64 FR 54948 (October 8, 1999). Two comments were received, and their

contents were carefully considered by the agency in reaching its final decision to grant the petitions (65 FR 159). On November 30, 1999, the agency published a notice of final disposition announcing its decision to exempt 33 individuals, including 5 of these applicants for renewal, from the vision requirement in 49 CFR 391.41(b)(10) (64 FR 66962). The qualifications, experience, and medical condition of each applicant were stated and discussed in detail at 64 FR 40404 (July 26, 1999). Three comments were received, and their contents were carefully considered by the agency in reaching its final decision to grant the petitions (64 FR 66962). On September 23, 1999, the agency published a notice of final disposition announcing its decision to exempt 32 individuals, including 1 of these applicants for renewal, from the vision requirement in 49 CFR 391.41(b)(10) (64 FR 51568). The qualifications, experience, and medical condition of the applicant were stated and discussed in detail at 64 FR 27027 (May 18, 1999). Two comments were received, and their contents were carefully considered by the agency in reaching its final decision to grant the petition (64 FR 51568). The agency determined that exempting the individuals from 49 CFR 391.41(b)(10) was likely to achieve a level of safety equal to, or greater than, the level that would be achieved without the exemption as long as the vision in each applicant's better eye continued to meet the standard specified in 49 CFR 391.41(b)(10). As a condition of the exemption, therefore, the agency imposed 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 as follows: (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 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.

## **Basis for Renewing Exemptions**

Under 49 U.S.C. 31315(b)(1), an exemption may be granted for no longer than 2 years from its approval date and may be renewed upon application for additional 2-year periods. In accordance with 49 U.S.C. 31315 and 31136(e), each of the 19 applicants has satisfied the entry conditions for obtaining an exemption from the vision requirements (65 FR 159; 64 FR 54948; 64 FR 66962; 64 FR 40404; 64 FR 51568; 64 FR 27027), and each has requested timely renewal of the exemption. These 19 applicants have submitted evidence showing that the vision in their 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 their records of safety while driving with their respective vision deficiencies over the past 2 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, FMCSA concludes that extending the exemption for a period of 2 years is likely to achieve a level of safety equal to that existing without the exemption for each renewal applicant.

### **Discussion of Comments**

The Advocates for Highway and Auto Safety (AHAS) expresses continued opposition to FMCSA's procedures for renewing exemptions from the vision requirement in 49 CFR 391.41(b)(10). Specifically, AHAS 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 AHAS were addressed at length in 66 FR 17994 (April 4, 2001). We will not address these points again here, but refer interested parties to that earlier discussion.

### Conclusion

In accordance with 49 U.S.C. 31315 and 31136(e), FMCSA extends the exemptions from the vision requirement in 49 CFR 391.41(b)(10) granted to Herman L. Bailey, Jr., Mark A. Baisden, William A. Bixler, Brad T. Braegger, Richard J. Cummings, Clifford H. Dovel, Donald D. Dunphy, Daniel R. Franks, Victor B. Hawks, Jack L. Henson, Myles E. Lane, Sr., Dennis J. Lessard, Harry R. Littlejohn, Frances C. Ruble, George L.

Silvia, James D. Simon, Wayland O. Timberlake, Robert J. Townsley, and Jeffrey G. Wuensch, subject to the following conditions: (1) That each individual be physically examined 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 2 years unless rescinded earlier by 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).

#### **Request for Comments**

FMCSA has evaluated the qualifications and driving performance of the 19 applicants here and extends their exemptions based on the evidence introduced. The agency will review any comments received 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). While comments of this nature will be entertained at any time, FMCSA requests that interested parties with information concerning the safety records of these drivers submit comments by April 8, 2002. All comments will be considered and will be available for examination in the docket room at the above address. FMCSA will also continue to file in the docket relevant information which becomes available. Interested persons should continue to examine the docket for new material.

Issued on: March 1, 2002.

**Brian M. McLaughlin,**

*Associate Administrator for Policy and Program Development.*

[FR Doc. 02-5362 Filed 3-6-02; 8:45 am]

**BILLING CODE 4910-EX-P**

#### **DEPARTMENT OF THE TREASURY**

##### **Guidance to Federal Financial Assistance Recipients on the Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons**

**AGENCY:** Department of the Treasury.

**ACTION:** Policy guidance document.

**SUMMARY:** The United States Department of the Treasury is republishing for additional public comment policy guidance on Title VI's prohibition against national origin discrimination as it affects limited English proficient persons.

**DATES:** This guidance was effective March 7, 2001. Comments must be submitted on or before April 8, 2002. Treasury will review all comments and will determine what modifications to the policy guidance, if any, are necessary.

**ADDRESSES:** Interested persons should submit written comments to Ms. Marcia H. Coates, Director, Office of Equal Opportunity Program, Department of the Treasury, 1500 Pennsylvania Avenue, NW., Room 6071 Metropolitan Square, Washington, DC 20220; Comments may also be submitted by e-mail to: *OEOPWEB@do.treas.gov*.

**FOR FURTHER INFORMATION CONTACT:** John Hanberry at the Office of Equal Opportunity Program, Department of the Treasury, 1500 Pennsylvania Avenue, NW., Room 6071 Metropolitan Square, Washington, DC 20220; (202) 622-1170 voice, (202) 622-0367 fax. Arrangements to receive the policy in an alternative format may be made by contacting Mr. Hanberry.

**SUPPLEMENTARY INFORMATION:** Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, et seq. and its implementing regulations provide that no person shall be subjected to discrimination on the basis of race, color, or national origin under any program or activity that receives Federal financial assistance.

The purpose of this policy guidance is to clarify the responsibilities of recipients of Federal financial assistance from the U.S. Department of Treasury ("recipients"), and assist them in fulfilling their responsibilities to limited English proficient (LEP) persons, pursuant to Title VI of the Civil Rights Act of 1964 and implementing regulations. The policy guidance reiterates the Federal government's longstanding position that in order to avoid discrimination against LEP persons on the grounds of national origin, recipients must take reasonable steps to ensure that such persons have

meaningful access to the programs, services, and information those recipients provide, free of charge.

This document was originally published on March 7, 2001. See 66 FR 13829. The document was based on the policy guidance issued by the Department of Justice entitled "Enforcement of Title VI of the Civil Rights Act of 1964—National Origin Discrimination Against Persons with Limited English Proficiency." 65 FR 50123 (August 16, 2000).

On October 26, 2001 and January 11, 2002, the Assistant Attorney General for Civil Rights issued to Federal departments and agencies guidance memoranda, which reaffirmed the Department of Justice's commitment to ensuring that Federally assisted programs and activities fulfill their LEP responsibilities and which clarified and answered certain questions raised regarding the August 16th publication. The Department of Treasury is presently reviewing its original March 7, 2001, publication in light of these clarifications, to determine whether there is a need to clarify or modify the March 7th guidance. In furtherance of those memoranda, the Department of Treasury is republishing its guidance for the purpose of obtaining additional public comment.

The text of the complete guidance document appears below.

Dated: February 28, 2002.

**Edward R. Kingman, Jr.,**  
*Assistant Secretary for Management and Chief Financial Officer, United States Department of the Treasury.*

#### **Policy Guidance**

##### *A. Background*

On August 11, 2000, President Clinton signed Executive Order 13166, "Improving Access to Services for Persons with Limited English Proficiency." The purpose of this Executive Order is to eliminate to the maximum extent possible limited English proficiency (LEP) as an artificial barrier to full and meaningful participation in all Federally assisted programs and activities.

The EO requires that Federal agencies draft Title VI guidance specifically tailored to their recipients of Federal financial assistance, taking into account the types of services provided, the individuals served, and the programs and activities assisted to ensure that recipients provide meaningful access to their LEP applicants and beneficiaries. To assist Federal agencies in carrying out these responsibilities, the Department of Justice (DOJ) issued a Policy Guidance Document,