

concludes their ability to drive safely can be projected into the future.

We believe the applicants' intrastate driving experience and history provide an adequate basis for predicting their ability to drive safely in interstate commerce. Intrastate driving, like interstate operations, involves substantial driving on highways on the interstate system and on other roads built to interstate standards. Moreover, driving in congested urban areas exposes the driver to more pedestrian and vehicular traffic than exists on interstate highways. Faster reaction to traffic and traffic signals is generally required because distances between them are more compact. These conditions tax visual capacity and driver response just as intensely as interstate driving conditions. The veteran drivers in this proceeding have operated CMVs safely under those conditions for at least 3 years, most for much longer. Their experience and driving records lead us to believe that each applicant is capable of operating in interstate commerce as safely as he or she has been performing in intrastate commerce. Consequently, the FMCSA finds that exempting these applicants from the vision standard in 49 CFR 391.41(b)(10) is likely to achieve a level of safety equal to that existing without the exemption. For this reason, the agency is granting the exemptions for the 2-year period allowed by 49 U.S.C. 31315 and 31136(e) to the 30 applicants listed in the notice of April 6, 2005 (70 FR 17504).

We recognize that the vision of an applicant may change and affect his/her ability to operate a commercial vehicle as safely as in the past. As a condition of the exemption, therefore, the FMCSA will impose requirements on the 30 individuals consistent with the grandfathering provisions applied to drivers who participated in the agency's vision waiver program.

Those requirements are found at 49 CFR 391.64(b) and include the following: (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, or keep a copy in his/her driver's

qualification file if he/she is self-employed. The driver must also have a copy of the certification when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

Discussion of Comments

The FMCSA received two comments in this proceeding. The comments were considered and are discussed below.

Ms. Barb Sachau believes allowing monocular drivers to operate large trucks may increase the likelihood of a crash resulting in a fatality. The discussion above under the heading, "Basis for Exemption Determination," explains why FMCSA believes the monocular drivers included in this notice have demonstrated their ability to drive safely in conditions similar to interstate driving by operating in intrastate commerce for 3 years prior to their applications and will continue to operate safely.

An anonymous tractor-trailer combination driver does not believe exemptions should be granted, but all drivers should be held to the same criteria for the safety of the motoring public. Although this comment was introduced into the docket without attribution and, thus, would not ordinarily receive consideration, we will address the issue raised because it relates to a matter of general applicability to the vision exemption process and is not specific to this comment. The discussion above under the heading, "Basis for Exemption Determination," explains why FMCSA believes monocular drivers who have met the qualifying conditions of the vision exemption program are likely to have adapted to their vision deficiency and will continue to operate safely.

Conclusion

Based upon its evaluation of the 30 exemption applications, the FMCSA exempts Edmund J. Barron, Eddie M. Brown, Tony Cook, Jeffery W. Cotner, John K. Fank, Bobby G. Fletcher, Lonny L. Ford, Larry G. Garcia, Robert E. Hendrick, Jonah G. Higdon, Daniel J. Hillman, Ronald A. Johnson, Clyde H. Kitzen, Joe S. Lassiter III, Gene A. Leshner, Jr., Eugene A. Maggio, Anthony R. Miles, Raymond E. Morelock, Kenneth L. Nau, David L. Peebles, David W. Peterson, Frederick G. Robbins, Jose C. Sanchez-Sanchez, Boyd D. Stamey, Scott C. Teich, Emerson J. Turner, Daniel E. Watkins, Dean E. Wheeler, Michael C. Williams, Sr., and Louie E. Workman from the vision requirement in 49 CFR 391.41(b)(10), subject to the requirements cited above (49 CFR 391.64(b)).

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

Issued on: May 20, 2005.

Rose A. McMurray,

Associate Administrator, Policy and Program Development.

[FR Doc. 05-10691 Filed 5-27-05; 8:45 am]

BILLING CODE 4910-EX-P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2005-21254]

Qualification of Drivers; Exemption Applications; Vision

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

ACTION: Notice of applications for exemption from the vision standard; request for comments.

SUMMARY: This notice publishes the FMCSA's receipt of applications from 24 individuals for an exemption from the vision requirement in the Federal Motor Carrier Safety Regulations. If granted, 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 June 30, 2005.

ADDRESSES: You may submit comments identified by any of the following methods. Please identify your comments by the DOT DMS Docket Number FMCSA-2005-21254.

- 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.

Instructions: All submissions must include the agency name and docket number 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>.

Background

Under 49 U.S.C. 31315 and 31136(e), the FMCSA may grant 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." The statute also allows the agency to renew exemptions at the end of the 2-year period. The 24 individuals listed in this notice have recently requested an exemption from the vision requirement in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce. Accordingly, the agency will evaluate the qualifications of each applicant to determine whether granting the exemption will achieve the required level of safety mandated by the statute.

Qualifications of Applicants

1. Linda L. Billings

Ms. Billings, age 51, has a congenital coloboma of her left eye. Her best-corrected visual acuity in the right eye is 20/20 and in the left, 20/400. Following an examination in 2005, her ophthalmologist certified, "In my opinion, her condition is stable; if she has been operating a commercial vehicle safely in the past, there is no reason ophthalmologically why she cannot continue to do so." Ms. Billings submitted that she has driven straight trucks for 3 years, accumulating 75,000 miles, and tractor-trailer combinations for less than 1 year, accumulating 12,000 miles. She holds a Class A commercial driver's license (CDL) from Nevada. Her driving record for the last 3 years shows no crashes or convictions for moving violations in a CMV.

2. George L. Cannon

Mr. Cannon, 75, has amblyopia in his left eye. His visual acuity in the right eye is 20/20 and in the left, 20/200. Following an examination in 2004, his optometrist certified, "On the basis of my findings, it is my opinion that present vision is adequate for safe driving." Mr. Cannon submitted that he has driven straight trucks for 50 years, accumulating 5.5 million miles. He holds a Class A CDL from Mississippi. His driving record for the last 3 years shows no crashes or convictions for moving violations in a CMV.

3. Anthony Ciancone, Jr.

Mr. Ciancone, 47, has amblyopia in his right eye. His best-corrected visual acuity in the right eye is 20/80 and in the left, 20/20. Following an examination in 2004, his optometrist noted, "Mr. Ciancone has been driving commercially for over 25 years. He has sufficient vision to perform the driving tasks required." Mr. Ciancone reported that he has driven straight trucks for 2 years, accumulating 10,000 miles, and tractor-trailer combinations for 25 years, accumulating 262,000 miles. He holds a

Class AM CDL from New York. His driving record for the last 3 years shows no crashes or convictions for moving violations in a CMV.

4. Andrew B. Clayton

Mr. Clayton, 27, has a macular scar in his right eye due to trauma in 1998. The visual acuity in his right eye is 20/200 and in the left, 20/25. Following an examination in 2004, his optometrist stated, "I hereby certify that it is my professional opinion that Andrew Clayton has a sufficient level of vision to safely operate a motor vehicle and safely perform the duties required using a commercial driver's license." Mr. Clayton reported that he has driven straight trucks for 7 years, accumulating 140,000 miles, and tractor-trailer combinations for 6 years, accumulating 154,000 miles. He holds a Class A CDL from Tennessee. His driving record for the last 3 years shows no crashes or convictions for moving violations in a CMV.

5. Kenneth D. Daniels

Mr. Daniels, 47, experienced optic neuropathy in his right eye 4 years ago. The visual acuity in his right eye is 20/200 and in the left, 20/30. His ophthalmologist examined him in 2004 and certified, "Based on my entire examination of Mr. Daniels, my medical opinion is that he has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Daniels reported that he has driven straight trucks for 10 years, accumulating 295,000 miles, and tractor-trailer combinations for 14 years, accumulating 490,000 miles. He holds a Class A CDL from Pennsylvania. His driving record for the last 3 years shows no crashes or convictions for moving violations in a CMV.

6. Jerry A. Davidson

Mr. Davidson, 60, has had a macular scar in right eye since he was 15 years old. His best-corrected visual acuity in the right eye is light perception and in the left, 20/20. Following an examination in 2004, his optometrist noted, "Mr. Davidson has driven a commercial vehicle safely for many years and I feel his vision is sufficient to perform the driving tasks required to operate a commercial vehicle." Mr. Davidson submitted that he has driven tractor-trailer combinations for 37 years, accumulating 4.0 million miles. He holds a Class C driver's license from North Carolina, but at the time of his application he held a Class A CDL. His driving record for the last 3 years shows no crashes or convictions for moving violations in a CMV.

7. *Richard D. Espey, Jr.*

Mr. Espey, 29, has amblyopia in his right eye. His best-corrected visual acuity in the right eye is 20/400 and in the left, 20/20. Following an examination in 2004, his optometrist certified that "in his medical opinion, Mr. Richard Donald Espey, Jr. has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Espey submitted that he has driven straight trucks for 7 years, accumulating 385,000 miles. He holds a Class C driver's license from Maryland, but at the time of his application he held a Class B CDL. His driving record for the last 3 years shows no crashes or convictions for moving violations in a CMV.

8. *Allen R. Fasen*

Mr. Fasen, 59, has a congenital optic nerve hypoplasia of the left eye. The best-corrected visual acuity in his right eye is 20/15 and in the left, 20/400. His ophthalmologist examined him in 2004 and noted, "I believe Mr. Allen Fasen, based on these results and his excellent driving history, has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Fasen submitted that he has driven straight trucks for 33 years, accumulating 1.3 million miles, and tractor-trailer combinations for 10 years, accumulating 400,000 miles. He holds a Class A CDL from the State of Washington. His driving record for the last 3 years shows two crashes and no convictions for moving violations in a CMV. According to the police report for the first crash, Mr. Fasen struck a vehicle that entered his traffic lane after being struck by another vehicle. Mr. Fasen was not cited. According to the police report for the second crash, Mr. Fasen was making a wide right turn in a tractor-trailer combination, when another driver attempted to turn right from the curb lane. The investigating officer found the other driver at fault and cited him for "inattention." Mr. Fasen was not cited.

9. *Tommy K. Floyd*

Mr. Floyd, 44, has had a macular scar in his left eye since childhood. The visual acuity in his right eye is 20/20 and in the left, 20/200. His optometrist examined him in 2005 and noted, "It is in my medical opinion that Mr. Floyd has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Floyd submitted that he has driven tractor-trailer combinations for 21 years, accumulating 2.6 million miles. He holds a Class AM CDL from Tennessee.

His driving record for the last 3 years shows no crashes or convictions for moving violations in a CMV.

10. *Franklin G. Hermann*

Mr. Hermann, 46, had surgery for a retinal detachment in his right eye in 1992. The best-corrected visual acuity in his right eye is 20/200 and in the left, 20/25. His ophthalmologist examined him in 2004 and certified, "In my medical opinion, this patient has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Hermann reported that he has driven straight trucks for 15 years, accumulating 675,000 miles, and tractor-trailer combinations for 12 years, accumulating 1.4 million miles. He holds a Class A CDL from Florida. His driving record for the last 3 years shows no crashes or convictions for moving violations in a CMV.

11. *William W. Hodgins*

Mr. Hodgins, 55, has amblyopia in his left eye. His best-corrected visual acuity in the right eye is 20/20 and in the left, 20/50. Following an examination in 2004, his ophthalmologist noted, "In my opinion, he has sufficient vision to perform the driving tasks required to operate a commercial vehicle based mainly on the fact that he has been doing this for 38 years without incident, to my knowledge." Mr. Hodgins submitted that he has driven straight trucks for 38 years, accumulating 760,000 miles. He holds a Class BCDL from Wisconsin. His driving record for the last 3 years shows no crashes or convictions for moving violations in a CMV.

12. *Hazel L. Hopkins, Jr.*

Mr. Hopkins, 52, has had retinal scars in his left eye since childhood due to toxoplasmosis. The best-corrected visual acuity in his right eye is 20/20 and in the left, 20/200. His ophthalmologist examined him in 2004 and certified, "In my medical opinion, Mr. Hopkins should have adequate vision to operate a commercial vehicle." Mr. Hopkins submitted that he has driven straight trucks for 20 years, accumulating 200,000 miles, tractor-trailer combinations for 15 years accumulating 375,000 miles, and buses for 3 years, accumulating 3,000 miles. He holds a Class A CDL from Maryland. His driving record for the last 3 years shows no crashes and one conviction for a moving violation "failure to obey traffic device"—in a CMV.

13. *Donald M. Jenson*

Mr. Jenson, 53, has count fingers vision in his right eye due to injury as

a teenager. His best-corrected visual acuity in the left eye is 20/20. Following an examination in 2004, his optometrist certified, "In my opinion I believe Mr. Jenson has the visual ability to operate a commercial vehicle." Mr. Jenson reported that he has driven straight trucks for 3 years, accumulating 75,000 miles, and tractor-trailer combinations for 30 years, accumulating 3.7 million miles. He holds a Class A CDL from South Dakota. His driving record for the last 3 years shows no crashes or convictions for moving violations in a CMV.

14. *Dean A. Maystead*

Mr. Maystead, 42, lost his left eye at age 16 due to trauma. His visual acuity in the right eye is 20/20. Following an examination in 2004, his ophthalmologist noted, "Mr. Maystead has performed as a commercial truck driver since 1981 without problems. I see no medical reason why he should not continue to be able to operate a commercial vehicle." Mr. Maystead reported that he has driven straight trucks for 23 years, accumulating 402,000 miles. He holds a Class CB CDL from Michigan. His driving record for the last 3 years shows no crashes or convictions for moving violations in a CMV.

15. *Jason L. McBride, Sr.*

Mr. McBride, 28, is blind in his left eye as a result of a childhood injury. His best-corrected visual acuity in the right eye is 20/15. Following an examination in 2004, his optometrist noted, "In my opinion, Jason is visually able to perform the tasks required in operation of a commercial vehicle." Mr. McBride reported that he has driven straight trucks for 7 years, accumulating 700,000 miles. He holds a Class CA CDL from Michigan. His driving record for the last 3 years shows one crash and one conviction for a moving violation in a CMV. The moving violation was exceeding the speed limit by 9 mph. According to the police report for the crash, another driver struck Mr. McBride's trailer from the rear. The other driver was charged with "unable to stop in assured clear distance." Mr. McBride was not cited.

16. *Willie J. Morgan*

Mr. Morgan, 65, lost his left eye in 1946 due to complications from a congenital cataract. The best-corrected visual acuity in his right eye is 20/20. Following an examination in 2004 his optometrist noted, "It is my medical opinion that he has the vision necessary to operate a commercial vehicle." Mr. Morgan submitted that he has driven

straight trucks for 41 years, accumulating 2.0 million miles, and tractor-trailer combinations for 20 years, accumulating 100,000 miles. He holds a Class A CDL from Georgia. His driving record for the last 3 years shows no crashes or convictions for moving violations in a CMV.

17. Carl V. Murphy, Jr.

Mr. Murphy, 51, has amblyopia in his right eye. The visual acuity in his right eye is 20/200 and in the left, 20/20. Following an examination in 2005, his ophthalmologist noted, "In my medical opinion, you have sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Murphy submitted that he has driven straight trucks for 31 years, accumulating 775,000 miles, and tractor-trailer combinations for 15 years, accumulating 375,000 miles. He holds a Class A CDL from Texas. His driving record for the last 3 years shows no crashes or convictions for moving violations in a CMV.

18. Donald L. Murphy

Mr. Murphy, 53, lost his left eye due to an accident 21 years ago. The visual acuity in his right eye is 20/20. Following an examination in 2005, his optometrist noted, "I certify that in my medical opinion, Mr. Murphy has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Murphy reported that he has driven straight trucks for 25 years, accumulating 750,000 miles, and tractor-trailer combinations for 5 years, accumulating 25,000 miles. He holds a Class DA CDL from Kentucky. His driving record for the last 3 years shows no crashes or convictions for moving violations in a CMV.

19. Mark D. Page

Mr. Page, 36, has amblyopia in his left eye. The best-corrected visual acuity in his right eye is 20/15 and in the left, 20/200. Following an examination in 2004, his ophthalmologist stated, "It is in my medical opinion that Mark Page has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Page reported that he has driven straight trucks for 4 years, accumulating 200,000 miles, and tractor-trailer combinations for 11 years, accumulating 1.2 million miles. He holds a Class A CDL from Mississippi. His driving record for the last 3 years shows no crashes and one conviction for a moving violation—speeding—in a CMV. He exceeded the speed limit by 12 mph.

20. Larry D. Reynolds

Mr. Reynolds, 55, lost his left eye due to a childhood accident. The best-corrected visual acuity in his right eye is 20/20. His optometrist examined him in 2004 and certified, "In my medical opinion, Mr. Reynolds has sufficient vision to perform the tasks required to operate a commercial vehicle." Mr. Reynolds reported that he has driven straight trucks for 2 years, accumulating 75,000 miles, and tractor-trailer combinations for 15 years, accumulating 1.8 million miles. He holds a Class A CDL from Texas. His driving record for the last 3 years shows one crash and no convictions for moving violations in a CMV. According to the police report, Mr. Reynolds' vehicle was struck by another vehicle that entered his traffic lane in a multi-vehicle crash. Neither Mr. Reynolds nor the driver of the other vehicle was cited in connection with the crash.

21. Thomas D. Reynolds

Mr. Reynolds, 39, has amblyopia in his left eye. His best-corrected visual acuity in the right eye is 20/20 and in the left, 20/60. Following an examination in 2004, his optometrist certified, "In my opinion, Mr. Reynolds has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Reynolds reported that he has driven straight trucks for 3 years, accumulating 15,000 miles, and tractor-trailer combinations for 5 years, accumulating 450,000 miles. He holds a Class A CDL from North Carolina. His driving record for the last 3 years shows no crashes or convictions for moving violations in a CMV.

22. Walter J. Savage, Jr.

Mr. Savage, 46, has amblyopia in his right eye. The visual acuity in his right eye is hand motions only and in the left, 20/20. His optometrist examined him in 2004 and noted, "Based on our evaluation, it appears that Mr. Savage has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Savage submitted that he has driven straight trucks for 17 years, accumulating 204,000 miles. He holds a Class D driver's license from Kentucky. His driving record for the last 3 years shows no crashes or convictions for moving violations in a CMV.

23. Thomas J. Sweeny, Jr.

Mr. Sweeny, 45, has a congenital anomalous optic nerve in his right eye. His best-corrected visual acuity in the right eye is 20/400 and in the left, 20/20. Following an examination in 2004, his ophthalmologist certified, "In my

opinion Mr. Sweeny should have sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Sweeny submitted that he has driven straight trucks for 14 years, accumulating 630,000 miles. He holds a Class BM CDL from Pennsylvania. His driving record for the last 3 years shows no crashes or convictions for moving violations in a CMV.

24. Louis E. Villa, Jr.

Mr. Villa, 28, has amblyopia in his left eye. His best-corrected visual acuity in the right eye is 20/25 and in the left, light perception. Following an examination in 2005, his ophthalmologist certified, "It is my opinion that this patient's visual deficiency is stable and this patient has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Villa submitted that he has driven tractor-trailer combinations for 3 years, accumulating 60,000 miles. He holds a Class A CDL from California. His driving record for the last 3 years shows no crashes or convictions for moving violations in a CMV.

Request for Comments

In accordance with 49 U.S.C. 31315 and 31136(e), the FMCSA requests public comment from all interested persons on the exemption petitions described in this notice. We will consider all comments received before the close of business on the closing date indicated earlier in the notice.

Issued on: May 23, 2005.

Rose A. McMurray,

Associate Administrator, Policy and Program Development.

[FR Doc. 05-10692 Filed 5-27-05; 8:45 am]

BILLING CODE 4910-EX-P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waiver of Compliance

In accordance with part 211 of Title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) has received a request for a waiver of compliance with certain requirements of its safety standards. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being requested, and the petitioner's arguments in favour of relief.